

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA

In the matter of an application for mandate in the nature of *Restitutio in integrum* in respect of the judgment of the case bearing No. 6228/L in the District Court of Negombo under and in terms of Article 138(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka

1. D.R. Dharmawardhana Dissanayaka,
 2. D.R. Pushpakumara Dissanayaka,
- Both of,
No. 159,
Balagalla,
Divlapitiya.

Petitioners

Court of Appeal Case No:
CA/RI/03/2019
District Court of Negombo
Case No: 6228/L

-Vs-

1. Ponnaiah Adhistravelu,
“Vijaya Bhoomi”,
Mirigama Road,
Banduragoda.
2. Commissioner of Local Government
(Western Province),

Department of Local Government (Western
Province),
No. 204,
Denzil Kobbakaduwa Mawatha,
Battaramulla.

3. Assistant Commissioner of Local
Government (Gampaha District),
Office of the Assistant Commissioner of
Local Government (Gampaha District),
Kachcheriya Complex,
Gampaha.
4. Mirigama Pradeshiya Sabhawa,
Mirigama.

Respondents

Before : A.L. Shiran Gooneratne J.

&

Mahinda Samayawardhena J.

Counsel : Dr. Sunil F.A. Coorey with Hemantha Botheju instructed by
Piyumi Tennakoon for the Petitioner.

Supported on : 17/06/2019

Decided on : 20/06/2019

Order

A.L. Shiran Gooneratne J.

Heard Counsel for the Petitioner in support of this application.

The Petitioner states that the central issue of this case is to determine whether the Rent Act applies to the premises in suit, and if so was the Petitioner entitled to the protection of the Rent Act.

By Judgment dated 19/02/2010, the learned District Judge held that the premises in suit were not exempted premises in terms of the provisions of the Rent Act and therefore the Respondent becomes a tenant under the Petitioner after the expiration of the Lease Agreement marked P1.

Against the said Order, the Petitioner filed an appeal in the Civil Appellate High Court of the Western Province holden at Gampaha, the said appeal was dismissed. Thereafter the Petitioner filed a Leave to Appeal Application, where the Supreme Court refused to grant leave.

The Petitioner heavily relies on the document marked P5, in order to decide the annual value of the premises, which was a matter put in issue at the trial stage. However, the Petitioner admits that the said document which the Petitioner claims to be a deciding factor for the Court to have concluded that the premises in suit was exempted premises, was not submitted to the trial court or even at the appeal stage to the Civil Appeal High Court.

The Petitioner having exhausted the appeal process now cannot be permitted to reagitate a matter already put in issue by an application in the nature of Restitutio-In-Integrum. We are mindful that if such an application is permitted at this stage there would be endless litigation with no finality. Therefore, we refuse notice on the Respondent.

Petition is dismissed without costs.

JUDGE OF THE COURT OF APPEAL

Mahinda Samayawardhena, J.

I agree.

JUDGE OF THE COURT OF APPEAL