

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

Jayaweera Mudiyansele Chnadrika
Priyadarshani,
Competent Authority,
Ministry of Planation Industries,
No 55/75, Vauxhall Street,
Colombo 02.

CA PHC No: **38/2014**

PHC Nuwara Eliya:
PHC 13/2013 Rev

MC Case No : 64003

Applicant

Vs

Joseph George Christy,
No. 500/8,
Main Street,
Dikoya

Respondent

Joseph George Christy,
No. 500/8,
Main Street,
Dikoya

Respondent- Petitioner

Vs

Competent Authority,

Ministry of Planation Industries,
No 55/75, Vauxhall Street,
Colombo 02

Applicant – Respondent

Joseph George Christy,
No. 500/8,

Main Street,

Dikoya

Respondent- Petitioner – Appellant

Vs

Competent Authority,

Ministry of Planation Industries,

No 55/75, Vauxhall Street,

Colombo 02

Applicant – Respondent - Respondent

Before: **Hon. Prasantha De Silva, J.**
K.K.A.V. Swarnadhipathi, J.

Counsel: Lahiru Galappaththi and Thaviha Sooriyarachchi for the Petitioner-
Appellant.

K.V.S. Ganesharajan with K. Nasiketha for the Respondent-
Respondent.

Written Submissions: Filed on 04/06/2019 by the Respondent- Respondent

Filed on 19/12/2018 by the Petitioner

Decided on: 21.02.2022

Prasantha De Silva, J.

Judgment

When this matter was taken up for hearing, Counsel for the Appellant stated that this is an appeal logged by the Appellant against an Order of the Provincial High Court of Nuwara Eliya in revision application bearing No. 13/2013, whereby the learned High Court Judge held that High Court has no jurisdiction to hear and determine the revision application filed by the Respondent-Petitioner on the basis of a case decided by the Supreme Court namely *The Superintendent, Stafford Estate and Others Vs. Solaimuthu Rasu [2013 (1) SLR 25]*. This Court, in similar matters such as case

No. 20/2020 and 24/2016 had held that the learned High Court Judge has jurisdiction to hear and determine cases pertaining to state lands acting in revision.

In those circumstances, the Respondent-Respondent had informed Court that he has no objection in transferring this matter to the High Court of Nuwara Eliya to hear and determine the merits of the application.

In the case *CA PHC 20/16 – Ella Addara Gedara Dissanayake Vs. J.M.C. Priyadharshini*, Court held that the Court of Appeal has concurrent jurisdiction to here and determine revision applications of this nature. It was also held that refusal by the High Court to issue notices in a revision application is liable to be set aside and sent back to the High Court to try the case on its merits without hearing the matter in the Court of Appeal.

In *Solamuththu Rasu’s case*, it was held held that Provincial High Court has no jurisdiction to issue Writs under Article 154P (4) of the Constitution in matters pertaining to state lands. However, High Courts are empowered under Article 138 of the Constitution to exercise jurisdiction and hear revision applications in respect of state lands, since the power to exercise the appellate or revisionary jurisdiction regarding state lands is not excluded by Article 154 P (3) (b) of the Constitution.

In the case of *Jayawardhane Vs. Deen [2015 (1) SLR 181]*, it was held that the High Court has jurisdiction to hear and determine cases relating to state lands, acting in revision.

Therefore, it is apparent that the learned High Court Judge dismissing the revision application of the Petitioner on 20.09.2017 was made Per Incuriam. Thus we, set aside the Order of dismissal by the learned High Court Judge dated 20.09.2017

It is noteworthy that in the case of *Ella Addara Gedara Dasanayake Vs. J.M.C.Priyadharshini [Supra]*, although the Court of Appeal had jurisdiction to hear and determine the appeal on its merits, the case was sent back to the High Court for a re-hearing of the impugned revision application on its merit. In view of Section 5D (1) of the High Court of the Provinces (*Special Provisions*) Act No. 54 of 2006 as amended, where any appeal or application in respect of which the jurisdiction is granted to a High Court established by Article 154P of the Constitution and by

Section 5A of the said Act, is filed in the Court of Appeal, such appeal or application, may be transferred for hearing and determination to an appropriate High Court. The said High Court shall hear and determine such appeal or application as the case may be, as such appeal or application was directly made to Court of Nuwara Eliya to hear and determine this matter.

In view of the aforesaid reasons, we allow this appeal and send this case back to the Provincial High Court of Nuwara Eliya to take up the revision application bearing No PHC 13/2013 Rev to hear and determine the same on its merit.

Registrar is directed to send the original case record to the Provincial High Court of Nuwara Eliya forthwith.

Appeal is allowed.

JUDGE OF THE COURT OF APPEAL

K.K.A.V.Swarnadhipathi, J.
I agree.

JUDGE OF THE COURT OF APPEAL