

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

*In the matter of an application in terms of
Article 105(3) of the constitution of the
Democratic Socialist Republic of Sri Lanka
Court of Appeal read together with Section
183B of the Civil Procedure Code.*

Nature Resort (Private) Limited,
No. 14, Upatissa Road,
Colombo 04.

And now
No. 19/3,
Warna Road,
Colombo 06.

Plaintiff

Vs.

Court of Appeal Application
No: **COC/06/21**

1. Pramuka Savings and Development Bank
Ltd.,
No.30/63 J, Longdon Place,
Colombo 07.
2. Pramuka Holdings limited,
No. 30/63 M, Longdon Place,
Colombo 07.
3. Sri Lanka Savings Bank Limited,
No. 265, Ward Place,
Colombo 07.

Defendants

And now between

Upul Jayasuriya
Pahalawela Road
Pelawatte

Petitioner

Vs.

Senarath Pathirannahalage Ratna
Prabath Senanayake
Assistant Manager
Sri Lanka Savings Bank Limited,
No. 265, Ward Place,
Colombo 07.

Respondent

BEFORE : Menaka Wijesundera J
Neil Iddawala J

COUNSEL : Neil Ubamboowe with Tersha Nanayakkara
instructed by Sachintha Rodrigo for the
Petitioner

Supported on : 24.05.2022

Decided on : 18.07.2022

Iddawala – J

The matter was supported by the counsel for the petitioner on 24.05.2022 and the Court reserved the order for notice.

The petitioner impugns an averment made by the respondent in his written objections/affidavit in Case No 878/L/2020 instituted in the District

Court of Kaduwela whereby the petitioner alleges that the respondent has made numerous false and contemptuous statements alluding to the petitioner, engineered to misdirect the Court. It is the petitioner's contention that such fabricated statements are continually maintained before Court and that such fact amounts to *ex facie* contempt of Court as envisioned under Article 105(3) of the Constitution. The counsel for the petitioner submitted that as he is not a party to the said District Court case, petitioner has no other means of redress but to invoke the jurisdiction of the Court of Appeal under Article 105(3) of the Constitution.

This Court is of the view that it should have the benefit of the position of the respondent before taking a decision on whether or not to formally issue summons on the respondent. In the circumstances, Court directs the petitioner to issue notice (all papers) directly on the respondent and submit proof thereof to the Registry within two weeks hereof.

Notice returnable on 09 August 2022. It is to be noted that Court has not issued formal notice or summons at this stage.

JUDGE OF THE COURT OF APPEAL

Menaka Wijesundera J.

I agree.

JUDGE OF THE COURT OF APPEAL