

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

In the matter of an application for Revision
and/or Restitutio in integrum in terms of
Article 138 of the Constitution read together
with Section 753 of the Code of Civil Procedure
as amended.

CA / RII/ 11/2022

DC Matara Case No: 13865/P

1. Hewa Maddumage Girigoris
Paluparanawatte, Parawahera.
- 1A Hewa Maddumage Premasiri
Paluparanawatte, Parawahera

Substituted 1A Plaintiff

2. Hewa Maddumage Piyadasa
Paluparanawatte, Parawahera
3. Hewa Maddumage Henry
Paluparanawatte, Parawahera

Plaintiffs

Vs.

1. Indurawage Dharamadasa
Kiriwadugoda, Parawahera.
2. Don Juwanis Hewavitharana
Palliyagewatta, Parawahera.
3. Indurawage Francis
Palliyagewatta, Parawahera.

3A Charloet Indurawage

Substituted Defendant

4. Kottawa Liyanage Sirisena
Pieris Watta, Parawahera

4A Sarath Gunasekere of Parawahera

Substituted Defendant

5. Makawita Liyanage Sarath
Gunasekera,
Miriswatta,
Parawahera.

6. Hellie Hewawitharana
Palliyagewatta, Parawahera.

7. Indurawage Premadasa
Kurunduwatta, Parawahera.

8. Hewa Maddumage Mili,
Ungiammawatta, Parawahera.

9. Hewa Maddumage Sarath
Ungiammawatta, Parawahera.

10. Hewa Maddumage Amarasiri,

11. Maddumage Piyadasa

12. Kusumawathi Hewa Maddumage

13. Premawathi Hewa Maddumage

13A. Hewa Maddumage Amarasiri.

Substituted Defendant

14. Maddumage Saman
15. Maddumage Sirisena
16. Kalkiriya Withanage Emalinahami
Above all at Parawahera
17. Hewa Maddumage Samy
26/18 Kohombana, Udana
18. Hewa Maddumage Amarasiri
“Priyanthi”, Parawahera
Kekunadura.
19. Induruwage Abeywickrama
Nandawathi
“Presanna”, Parawahera
Kekunadura.

NOW BETWEEN

8. Hewa Maddumage Mili
Ungiammawatta, Parawahera.
8th Defendant-Appellant

Vs.

1. Hewa Maddumage Girigoris
Paluparanawatte, Parawahera.
- 1A. Hewa Maddumage Premasiri
Paluparanawatte, Parawahera

Substituted 1A Plaintiff

2. Hewa Maddumage Piyadasa
Paluparanawatte, Parawahera

3. Hewa Maddumage Henry
Paluparanawatte, Parawahera

Plaintiff- Respondents

Vs.

1. Indurawage Dharmadasa
Kiriwadugoda, Parawahera.
2. Don Juwanis Hewavitharana
Palliyagewatta, Parawahera.
3. Indurawage Francis
Palliyagewatta, Parawahera.

3A. Charloet Indurawage

Substituted Defendant

4. Kottawa Liyanage Sirisena
Peris Watta, Parawahera

4A. Sarath Gunasekere of
Parawahera

Substituted Defendant

5. Makawita Liyanage Sarath
Gunasekera,
Miriswatta,
Parawahera.
6. Hellie Hewawitharana
Palliyagewatta, Parawahera.

7. Indurawage Premadasa
Kurunduwatta, Parawahera.

9. Hewa Maddumage Sarath
Ungiammawatta, Parawahera.

10. Hewa Maddumage Amarasiri,

11. Maddumage Piyadasa

12. Kusumawathi Hewa

Maddumage

13. Premawathi Hewa Maddumage

13A. Hewa Maddumage Amarasiri.

Substituted Defendant

14. Maddumage Saman

15. Maddumage Sirisena

16. Kalkiriya Withanage Emalinahami

Above all at Parawahera

17. Hewa Maddumage Samy

26/18 Kohombana, Udana

18. Hewa Maddumage Amarasiri

“Priyanthi”, Parawahera

Kekunadura.

19. Indurawage Abeywickrama

Nandawathi

“Presanna”, Parawahera

Kekunadura.

Defendants-Respondents

AND NOW IN BETWEEN

8. Hewa Maddumage Mili
Ungiammawatta, Parawehera
8th Defendant-Appellant-Petitioner

Vs.

1. Hewa Maddumage Girigoris
Paluparanawatte, Parawahera.
1A Hewa Maddumage Premasiri
Paluparanawatte, Parawahera

Substituted 1A Plaintiff

2. Hewa Maddumage Piyadasa
Paluparanawatte, Parawahera

3. Hewa Maddumage Henry
Paluparanawatte, Parawahera

Plaintiff- Respondents-Respondent

5. Indurawage Dharamadasa
Kiriwadugoda, Parawehera.

6. Don Juwanis Hewavitharana
Palliyagewatta, Parawahera.

7. Indurawage Francis
Palliyagewatta, Parawahera.

3A Charloet Indurawage

Substituted Defendant

8. Kottawa Liyanage Sirisena
Pieris Watta, Parawahera

4A Sarath Gunasekera of Parawahera

Substituted Defendant

9. Makawita Liyanage Sarath Gunasekera,
Miriswatta,
Parawahera.

10. Hellie Hewawitharana
Palliyagewatta, Parawahera.

11. Indurawage Premadasa
Kurunduwatta, Parawahera.

12. Hewa Maddumage Sarath
Ungiammawatta, Parawahera.

13. Hewa Maddumage Amarasiri,

14. Maddumage Piyadasa

15. Kusumawathi Hewa Maddumage

16. Premawathi Hewa Maddumage

13A. Hewa Maddumage Amarasiri.

Substituted Defendant

17. Maddumage Saman

18. Maddumage Sirisena

19. Kalkiriya Withanage Emalinahami

Above all at Parawahera

20. Hewa Maddumage Samy
26/18 Kohombana, Udana

21. Hewa Maddumage Amarasiri
Priyanthi”, Parawahera
Kekunadura.

22. Induruwage Abeywickrama
Nandawathi
“Presanna”, Parawahera
Kekunadura.

Defendants-Respondents-Respondents

23. K.G. Thushara
Ungiammawatta, Parawahera

24. Tilkwardana
Kankanamge Watta, Parawahera,
Kekunadura.

25. Lenaduwa Maddumage Leelawathie
Paluparanawatta, Parawahera,
Kekunadura.

26. Lenaduwege Shantha
Paranawatta, Parawahera
Kekunadura.

Before: D.N. Samarakoon, J.
B. Sasi Mahendran, J.

Counsel: N.A. Gunawardena for the 8th Defendant- Appellant-Petitioner

Supported

On : 10.11.2022

Order On : 13.12.2022

B. Sasi Mahendran J.

The 8th Defendant-Appellant Petitioner by Petition dated 18th March 2022 seeks to invoke this Court's revisionary and/or restitutionary jurisdiction in order to, inter alia, set aside the judgment of the District Court, Matara dated 28th February 1995, the interlocutory decree dated 21st February 2000 and the final decree dated 21st February 2000.

When the matter was supported before us on the 10th of November, we observed that the Petitioner had previously preferred an appeal against the judgment of the District Court to this Court (Case No. 125/95(F)), and that appeal had been dismissed. The issue before us is whether we can entertain a revision or restitution application after the same matter has been dealt with and disposed of by this Court. We are of the view that we cannot sit in revision over a previous decision of ours. His Lordship A.W.A. Salam J. in Stephan Gunaratne v. Thushara Indika Sampath CA/PHC/APN/54/2013 decided on 23.09.2013 succinctly observed: "*the Court of Appeal cannot act in revision in respect of a judgment it pronounces in a civil appeal.*" This position is buttressed by the clear wording of Article 138 of the Constitution, from which provision this Court receives its power of revision and restitution.

Further, there is a delay of nearly of twenty years in filing the instant application, for which there is no explanation proffered in the Petition. It is well-settled law that those applicants seeking discretionary remedies of this Court must act with promptitude in making an application. (Vide Sri Lanka Insurance Corporation v. Shanmugam [1995] 1 SLR 55)

For those reasons, we refuse to issue notice to the Respondents. This application is dismissed.

JUDGE OF THE COURT OF APPEAL

D. N. SAMARAKOON, J.

I AGREE

JUDGE OF THE COURT OF APPEAL