

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

In the matter of an Application for Writ s of
Certiorari, Prohibition & Mandamus under
Article 140 of the Constitution of the Democratic
Socialist Republic of Sri Lanka.

Court of Appeal Case No.

CA/WRT/152/20

1. Don Gregory Ajith Udugama
No. 11, Bandaranayaka Place,
Pussellawa.

2. Chaminda Kuruppuarachchi
No. 194, Colombo Road,
Peradeniya.

Petitioners

1. A. Bodaragama
The Commissioner General of Excise
Department of Excise,
No. 385, Kotte Road,
Rajagiriya.

2. M. B. Wansooriya
Commissioner of Excise - Revenue and
License
Department of Excise,
No. 385, Kotte Road,
Rajagiriya.

3. K. G. G. Sumith Nishantha
Divisional Secretary - Weligama,
Divisional Secretariat - Weligama,
Samaraweera Place,
Weligama.

4 P. D.T.C. Rajika

Divisional Secretary - Wattala,
Divisional Secretariat - Watta,
Galudupita Road,
Wattala.

5. Honourable Mahinda Rajapaksa,
Honourable Prime Minister and the
Minister of Finance, Economic and
Policy Development,
Ministry of Finance, Economic and
Policy Development,
The Secretariat,
Lotus Road,
Colombo 00100.

6. S. R. Attygalle,
Secretary to the Treasury and Ministry
of Finance,
Ministry of Finance, Economic and
Policy Development,
The Secretariat,
Lotus Road,
Colombo 00100.

7. Cargills Foods
Company (Private)
Limited,
No. 40, York Street,
Colombo 00100.

8. K. Kumarasinghe,
Deputy Commissioner of Excise,
Department of Excise,
No. 353, Kotte Road,
Rajagiriya.

Respondents

9. Amaraweera Wickrama Gunawardhana
Tharanga Nalaka

Weligama Wine Stores,
6, Supermarket
Weligama

Intervenient Petitioner- Respondent

Before: **M. T. MOHAMMED LAFFAR, J.**

Counsel: Sanjeewa Jayawardane, P.C, with Rukshan Senadheera for the
Petitioners.

Kanag Isvaran P.C, with Harsha Amarasekara, P.C, and Lakshman
Jeyakumar, Kanchana Peries, Ransith Gunawardane, instructed
by Paul Rathnayake Associates for the 7th Respondent.

Dulindra Weerasooriya, P.C, with Pasan Malinda for the
Intervenient Petitioner

Ms. C. Sri Nammuni, DSG for the 1st to 6th Respondents.

Argued on: Disposed by way of Written submissions,

Writ ten Submissions on: 27.01.2023 by the Intervenient Petitioner.
06.04.2023 by 7th Respondent.
31.01.2023 by 1st -6th and 8th Respondents.
Not filed by the Petitioners.

Decided on: 17.05.2023

MOHAMMED LAFFAR, J.

This Order relates to the Application filed by the Interventient Petitioner seeking to intervene in this Application.

The Petitioner is seeking *inter-alia* a Mandate in the nature of a Writ of Certiorari, quashing the FL-4 liquor licenses issued to the 7th Respondent (Cargills Foods Company Pvt. Limited) on the grounds stipulated in the Petition. The Interventient Petitioner who is also a liquor license holder, carrying on a business called “Weligama Wine Stores” in the area is seeking to intervene in this Application. The 1st to 8th Respondents are objecting to this Application.

The Supreme Court Rules do not have provisions for a party to intervene in a Writ Application pending before Court.

In **Tyre House (Pvt) Ltd. Vs. Director General Customs**¹ Dr. Ranarajah. J observed that “ *intervention cannot be allowed in Writ Applications in the absence of specific rules formulated by the Supreme Court providing for the procedure permitting third parties to intervene in Writ Applications.*”

This position was considered before a divisional branch of this court in the case of **Weerakoon and another V. Bandaragama Pradeshiya Saba (CA Writ 580/2007) 2012 BLR 310** and Ranjith Silva J after considering several decisions of this court including **Harold Peter Fernando V. The Divisional Secretary Hanguranketha and two others 2005 BLR 120** and **Tyre House (Pvt) Limited V. Director General Customs CA Application 730/95 CA minute dated 05.06.1996**, held that intervention cannot be allowed in Writ Applications in the absence of specific rules formulated by the Supreme Court providing for the procedure permitting third parties to intervene in Writ Applications. This Court, in the case of **Dilmi Kasundara Malshani Suriyarachchi V. Sri Lanka Medical Council and Others CA-Application No.187/ 2016, minute dated 05.10.2016** decided to follow the afore said decision of the Divisional Bench.

However, it appears to me that there are instances where the Court of Appeal has allowed intervention. In **Teejay Lanka PLC Vs. Centre for Environmental Justice**² , D.N. Samarakoon J, allowed intervention in a pending Writ Application. Vide: **Government School Dental Therapist**

¹ CA- Application No. 730/95. CA-Minute dated 05-06-1996.

² CA.Application No. 349-2020. CA-Minute dated 29-03-2022.

Association V Director General of Health Services and Others (CA Writ Application No. 861/93).

Having considered the Written submissions and the decisions of apex Courts with regard to this matter, it is the view of this Court that generally speaking, the intervention cannot be allowed in Writ Applications in the absence of specific rules formulated by the Supreme Court providing for the procedure permitting third parties to intervene in Writ Applications. However, if the intervenient Petitioner can establish the fact that the Court cannot arrive at a final determination without making him a party and/or his rights will be affected by the Petition filed by the Petitioner, the intervention can be allowed.

In the instant Application the intervenient Petitioner is seeking the same reliefs that are prayed for in the Petition. It appears to this Court that the intervenient Petitioner is in support of the Petitioner. There is no impediment for the intervenient Petitioner to challenge the impugned liquor license issued to the 7th Respondent in a fresh Application.

Having considered the facts and circumstances of these Applications, it is the view of this Court that the intervenient Petitioner is not a necessary party for the final determination of the instant Application. Moreover, the Application filed by the Petitioner will not affect the rights of the intervenient Petitioner.

Thus, the Application for intervention is refused.

Application refused. No costs.

JUDGE OF THE COURT OF APPEAL