

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

In the matter of an Application for Revision  
under and in terms of Article 138 of the  
Constitution of the Democratic Socialist  
Republic of Sri Lanka.

**Court of Appeal Case No:**

**CA/REV/0004/2023**

**Saurudeen Casimdeen**

No.55, Hijra Town,  
Kinniya

**Plaintiff**

**Vs**

1. **L. Mayuran,**  
No. 25/11, 03rd Lane,  
Linga Nagar,  
Trincomalee.
2. **Aruna Tilakaratne,**  
District Manager,  
Softlogic Retail (Pvt) Ltd  
No. 475/32,  
Kotte Road,  
Rajagiriya.
3. **Softlogic Retail (Pvt) Ltd**  
No. 475/32,  
Kotte Road,  
Rajagiriya.

**Defendants**

And now between

**Softlogic Retail (Pvt) Ltd**

No. 475/32,  
Kotte Road,

Rajagiriya.

**03<sup>rd</sup> Defendant Petitioner**

Vs.

**Saurudeen Casimdeen**

No.55, Hijra Town,  
Kinniya.

**Plaintiff Respondent**

1. **I. Mayuran,**  
No. 25/11, 03rd Lane,  
Linga Nagar  
Trincomalee.
2. **Aruna Tilakaratne,**  
District Manager,  
Softlogic Retail (Pvt) Ltd  
No. 475/32,  
Kotte Road,  
Rajagiriya.

**Defendant Respondents**

And now between

**Softlogic Retail (Pvt) Ltd**

No. 475/32,  
Kotte Road,  
Rajagiriya.

Correctly

No. 14,

de Fonseka Place,  
Colombo 05.

**03<sup>rd</sup> Defendant Petitioner-Petitioner**

Vs.

**Saurudeen Casimdeen**

No.55, Hijra Town  
Kinniya.

**Plaintiff Respondent-Respondent**

1. **I. Mayuran,**  
No. 25/11, 03<sup>rd</sup> Lane,  
Linga Nagar,  
Trincomalee.
2. **Aruna Tilakaratne,**  
District Manager,  
Softlogic Retail (Pvt) Ltd  
No. 475/32,  
Kotte Road,  
Rajagiriya

**Defendant Respondents-Respondents**

Before: **M. T. MOHAMMED LAFFAR, J.**  
**W. A. KALUARACHCHI, J.**

Counsel: Iresh Senevirathna with Prathap Nanayakkara, instructed by  
Lasitha Muhandriam for the 3<sup>rd</sup> Defendant-Petitioner-Petitioner.

Supported on: 25.09.2023

Decided on: 26.10.2023

**MOHAMMED LAFFAR, J.**

This is an Application for Revision seeking to revise, *inter alia*, the order of the learned District Judge of Trincomalee dated 22<sup>nd</sup> of August 2023.

When the matter was taken up for support on the 25<sup>th</sup> of September 2023 this Court raised a jurisdictional issue as follows;

“In terms of the provisions of the High Court of the Provinces (Special Provisions) (Amendment) Act , No. 54 of 2006 whether the Petitioner can maintain the instant Application for Revision before this Court”

Under Section 5A of the High Court of the Provinces (Special Provisions) (Amendment) Act , No. 54 of 2006, it is expressly stipulated that Orders and judgments delivered by District Courts may be subject to review and reconsideration within the jurisdiction of the High Court established within the respective province under the said Act , referred to as the Civil Appellate High Court. The said Section is reproduced as follows

*“(1) A High Court established by Article 154P of the Constitution for a Province, shall have and exercise appellate and revisionary jurisdiction in respect of judgments, decrees and Orders delivered and made by any District Court or a Family Court within such Province and the appellate jurisdiction for the correction of all errors in fact or in law, which shall be committed by any such District Court or Family Court, as the case may be.”*

It is implied from Section 5A(2) of the said Act in respect of Appeals and Revisions from the District Court, that the Provincial High Courts and Court of Appeal exercise concurrent jurisdiction, which reads

*“(2) The provisions of Sections 23 to 27 of the Judicature Act , No. 2 of 1978 and Sections 753 to 760 and Sections 765 to 777 of the Civil Procedure Code (Chapter 101) and of any written law applicable to the exercise of the jurisdiction referred to in subSection (1) by the Court of Appeal, **shall be read and construed as including a reference to a High Court established by Article 154P of the Constitution for a Province** and any person aggrieved by any judgment, decree or order of a District Court or a Family Court, as the case may be, within a Province, may invoke the jurisdiction referred to in that subSection, in the High Court established for that Province :”*

The learned Counsel for the Petitioner contended that since the Civil Appellate High Court and the Court of Appeal are exercising concurrent jurisdiction, it is optional for the parties to invoke either the Civil Appellate High Court or Court of Appeal against the judgments or Orders of the District Courts.

If the submission made by the learned Counsel for the Petitioner were to be accepted, it would raise fundamental questions regarding the purpose of establishing the Civil Appellate High Courts and the legislative intent behind the Amendment Act No. 54 of 2006. Allowing parties the discretion to choose between the Provincial Civil Appellate High Court and the Court of Appeal as their appellate forum for Orders and judgments delivered by District Courts could potentially render the entire amendment Act meaningless.

Moreover, such an interpretation could open the floodgates to an influx of litigation, as all provincial Appeals might converge on the Court of Appeal, which would be contrary to the legislative intent behind the amendment. This would effectively roll back the legal landscape to the pre-amendment era.

In light of these considerations, this Court, while recognizing that both the Provincial Civil Appellate High Courts and the Court of Appeal exercise concurrent jurisdiction over judgments and Orders of District Courts, is of the considered view that the parties should invoke the appellate jurisdiction of the Provincial Civil Appellate High Court with respect to Orders and judgments emanating from the District Courts within their respective provinces.

An additional question arises at this juncture, namely, whether Applications or Appeals filed before this Court, instead of being filed before the Provincial Civil Appellate High Court, can be dismissed. In this regard, reference is made to Section 5D(1) of Amendment Act No. 54 of 2006, which reads as follows:

*"(1) Where any appeal or Application in respect of which the jurisdiction is granted to a High Court established by Article 154P of the Constitution by Section 5A of this Act is filed in the Court of Appeal, such appeal or Application, as the case may be, may be transferred for hearing and determination to an appropriate High Court as may be determined by the President of the Court of Appeal and upon such reference, the said High Court shall hear and determine such appeal or the Application, as the case may be, as if such appeal or Application was directly made to such High Court"*

In accordance with Section 5D(1) of the aforementioned Act, it is explicitly stated that Appeals or Applications filed before the Court of Appeal may, under certain circumstances, be transferred to the appropriate Provincial Civil Appellate High Court, and this transfer shall be carried out by the President of the Court of Appeal. Once such a reference is made, the specific Civil Appellate High Court designated to receive the appeal or Application is mandated to hear and adjudicate upon it as though the appeal or Application was originally filed directly with that High Court.

The intention of the legislature that the Appeals and Applications against the Orders and Judgements of the District Courts should be preferred to the Civil Appellate High Court is further substantiated by 5D of the said Act by which the President of the Court of Appeal is empowered to transfer such Appeals and Application filed in the Court of Appeal to the Civil Appellate High Court of the particular province in concern.

Consequently, this Court, in consideration of the aforementioned legal provisions, deems it appropriate and fitting to request the transfer of this Application to the Civil Appellate High Court of Trincomalee, and this request shall be made to the President of the Court of Appeal.

Matter is referred to the President of the Court to Appeal for an appropriate Order.

To be mentioned before the President of the Court of Appeal on the 30<sup>th</sup> of October 2023.

***JUDGE OF THE COURT OF APPEAL***

**W. A. KALUARACHCHI, J.**

I agree

***JUDGE OF THE COURT OF APPEAL***