

**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.

**CA (COC) Application No. 0005/2023  
MC(Battaramulla) Case No. 5427**

Dr. Dietmar Hans Doering,  
No. 1032/1, Pannipitiya Road,  
Battaramulla.

**Petitioner**

**Vs.**

1. Agampodige Nadeesha Sandamali Gunasekara,  
No. 99/1, Milinda Silva Mawatha,  
Madampagama, Kuleegoda,  
Ambalangoda.

**Respondent**

**And Now Between**

Dr. Dietmar Hans Doering,  
No. 1032/1, Pannipitiya Road,  
Battaramulla.

**Petitioner-Petitioner**

**Vs.**

1. Agampodige Nadeesha Sandamali Gunasekara,  
No.99/1, Milinda Silva Mawatha,  
Madampagama, Kuleegoda,  
Ambalangoda.

**1<sup>st</sup> Respondent-Respondent**

2. Sarath Gunasekara,  
No. 99/1, Milinda Silva Mawatha,  
Madampagama, Kuleegoda,  
Ambalangoda.

**2<sup>nd</sup> Respondent**

**Before:** **N. Bandula Karunarathna J. P/CA**  
**&**  
**M.C.B.S. Morais J.**

**Counsel:** Migara Kodituwakku instructed by Tilina Navaratne for the Petitioner.  
Ranil Samarasooriya with Wimukthi Weragama for the 1<sup>st</sup> and 2<sup>nd</sup> Respondents.

**Written Submissions:** By the Petitioner – Not Filed.  
By the Respondents – Not Filed.

**Supported on:** 17.10.2023.

**Decided On:** **31.10.2023.**

**M.C.B.S. Morais J**

Heard both counsel in support and in opposition of this Application. We have considered the submissions and documents tendered by both parties, in addition to the video footage of the alleged incident. The Order of the Juvenile Court (P2) dated 2021.11.17 is to allow the Respondent to have access to the child at the Cinnamon Grand Hotel. It is apparent that the child was not taken away from the premises of the Cinnamon Grand Hotel. Therefore on the face of it, the petitioner fails to establish any contemptuous behavior of the Respondent.

Hence, we are of the view that there lacks a *prima facie* case to be looked into, we refuse to issue notice on the Respondents and this application is dismissed.

No costs are ordered.

**Judge of the Court of Appeal**

**N. Bandula Karunarathna J. (P/CA)**

**I agree**

**President of the Court of Appeal.**