

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

CA (PHC) APN 118/2013

Warnasooriya Patabendige Keerthisena,
Of No.278,
Near the Railway,
Kanthale.

Respondent Petitioner-Petitioner

-Vs-

01 The Secretary,
 Pradeshiya Saba,
 Kanthale.

02 Hon. Attorney General
 Attorney General's Department,
 Colombo.12

Petitioner- Respondent Respondents

CA(PHC)APN 118/2013

HC Trincomalee-HCT/REV/MC 316/2013

Before : A.W.A. Salam, J. &

P.W.D.C. Jayathilake, J.

Counsel : Rakitha Abeysinghe for the Petitioner.

Supported and Decided on: 25.09.2013

A.W.A. Salam, J.

The background to this revision application begins with an application filed by the Kantale Pradeshiya Sabhawa to have an unauthorized construction put up by the appellant demolished. The learned Magistrate having allowed the application of the Pradeshiya Sabhawa, the Respondent to that application invoked the revisionary jurisdiction of the High Court to have the order of the learned Magistrate stayed and revised.

When the matter was taken up for support, the learned High Court Judge not having been satisfied as to the interim relief sought, he had refused to grant interim relief. Consequently, upon such refusal the learned Counsel for the Petitioner had moved to withdraw the petition and the learned Magistrate accordingly had rightly dismissed the petition. Subsequently, four days after the dismissal of the petition, the petitioner made another application to have the revision application restored and the application for withdrawal made on the previous occasion withdrawn. On that application,

the learned High Court Judge on 16.09.2013 made order rejecting the motion. On perusal of the order dated 16.03.2013 it appears that the learned High Court Judge by stating that he rejects the petition has in fact meant that he was rejecting the motion to have the revision application restored to the roll. In the light of the above facts we are unable to see any error committed by the learned High Court Judge although the petitioner attempts to demonstrate that the learned High Court Judge erred in law by making both orders, namely the order of the dismissal of the revision application and the order refusing to restore the revision application to the roll. As we do not see any such errors committed by the learned High Court Judge, we are of the view that the revision is not available as against both orders. In the circumstances, we are compelled to refuse notice.

JUDGE OF THE COURT OF APPEAL

P.W.D.C. Jayathilake, J.

I agree.

JUDGE OF THE COURT OF APPEAL

NR/-