

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

C.A. (PHC) 139/2004

PHC Chilaw Case No: 76/2000

(Dead) W.K.M. Pabilis Appuhamy,
Pahala Attanagane,
Nalladaran Kattuwa.

Respondent-Petitioner-Appellant

E.A. **Ukku** Manikhamy,
Pahala Attanagane,
Nalladaran Kattuwa.

**(Party Sought to be substituted as
Substituted Respondent-Petitioner-Appellant)**

Petitioner

Upali Marasinghe
Agrarian Services Assistant Commissioner,
District Office,
Chilaw.

W. W. Patrick Fernando,
Bandarathenna,
Rajakadaluwa.

Respondent-Respondents

Mallika Perera
Bandarahena,
Rajakadal uwa.

Substituted Respondent-Respondent

C.A. (PHC) 139/2004

PHC Chilaw Case No: 76/2000

Before : K.T. Chitrasiri, J. &
Malinie Gunaratne, J.

Counsel : P.K. Prince Perera with M.A. Dilani P Marasinghe for
the substituted Respondent-Petitioner-Appellant.
Kumar Dunusinghe for the 1st Party Petitioner-
Respondent.

Argued &

Decided on : 17.07.2014

K.T. Chitrasiri, J.

At this stage, the following defects/errors are brought to the notice
of Court.

- 1) In the caption to the Petition of Appeal, it is mentioned that this
application had been filed as a petition even though the
petitioner should have filed a Petition of Appeal since the High

Court Judge has exercised original jurisdiction when he made the impugned judgment.

- 2) Also, in the caption to the appeal, it is mentioned that this application is made in terms of Article 154(c) in the Constitution whereas no such Article is found therein.
- 3) The petition filed in this Court is addressed to the President of the Court of Appeal and to the members of a Council. Therefore, this petition has not been properly addressed to this Court.
- 4) In the 1st paragraph to the petition, petitioner's Attorney is named as M.A. Dilani, P Marasinghe where as in the place where she has placed her signature as M.A. Dilani Priyangika.
- 5) The main relief prayed for in the petition, is to set aside a conviction dated 11.03.2004 imposed by the learned High Court Judge. No conviction whatsoever had been imposed by a Judicial Officer in this case. Therefore this Court cannot grant such a relief to the Petitioner.

Learned Counsel for the Petitioner concedes that the defects/errors referred to above are found in the Petition of Appeal. Having considered those circumstances it is our view that the application made in this Petition cannot be maintained in the manner the application is filed.

For the aforesaid reasons, this application is dismissed without costs.

Application dismissed.

JUDGE OF THE COURT OF APPEAL

Malinie Gunaratne, J.

I agree.

JUDGE OF THE COURT OF APPEAL

Jmr/-