

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

*In the matter of a Rule in terms of Section
42(2) of the Judicature Act No. 2 of 1978,
against Wickramage Don Dharmasiri
Karunaratne.*

SC Rule No. 16/2023

W. S. B. S. Fernando
Registrar of the Court of Appeal,
Superior Courts Complex,
Colombo 12

COMPLAINANT

-Vs-

Wickramage Don Dharmasiri Karunaratne
No. 57,
Baseline Road,
Colombo 08

No. 1,
M.D.H. Jayawardenapura,
Pelawatte,
Battaramulla.

RESPONDENT

BEFORE : P. PADMAN SURASENA, J¹

KUMUDINI WICKREMASINGHE, J

ACHALA WENGAPPULI, J

COUNSEL : Shanil Kularatne, PC with Ms. Hashini Opatha, SSC for the Attorney-General.

Yalith Wijesurendra for the Respondent.

Rohan Sahabandu, PC with Ms. Chathurika Elvitigala, Ms. Sachini Senanayake and Ms. Pubudu Weerasuriya for the BASL.

INQUIRY ON : 11-12-2024

18-02-2025

DECIDED ON : 06-08-2025

P. PADMAN SURASENA, CJ

This Court having considered a complaint made by the Registrar of the Court of Appeal, has caused the Rule dated 28-08-2024 issued against the Respondent Attorney-at-Law, under the hand of the Registrar of this Court. The said Rule has alleged that the Respondent Attorney-at-Law has engaged in the following acts:

- (a) applying to peruse the case record of the case bearing No. COC-0011-22 from the main record room of the Court of Appeal Registry which is situated at the Kaluthota Building, No. 19, Sangharaja Mawatha, Colombo 10;
- (b) furnishing a false name i.e., Mr. C Fernando (Mr. Chandrasiri Fernando) when applying for permission to peruse the said record;

¹ As he was, at the time of hearing this matter.

- (c) proceeding to tear two pages (four sides) from the afore-said case record, (torn pages contain the caption of the case and notice issued to the Respondent which contained the charges) which was detected by the staff of the said record room of the Court of Appeal;
- (d) stating to the staff of the record room that he was a relative of one Jayathunga (an Attorney-at-Law) who is the Petitioner in the case bearing No. COC-0011-22 which is the case relevant to the case record he had tampered with;
- (e) not providing any further explanation in respect of causing damage and mischief to the said case record and removing pages from the same;
- (f) engaging in that act with an intention to cause the theft of the said pages;

Upon the staff of the record room detecting the afore-said acts of the Respondent Attorney-at-Law and upon complaint, the officers of Maradana Police Station took him into custody and produced him before the Magistrate of Maligakanda who has enlarged him on two surety bail of Rs. 500,000.00 on or around 25.01.2023. This was on the basis that he is a heart patient and a diabetic.

Thus, there is a case pending against the Respondent Attorney-at-Law in the Magistrate's Court of Maligakanda under case bearing No. B/3285/23 based on the above-mentioned incidents.

The Rule having considered the serious, felonious nature and the fraudulent tenor of his actions, has alleged as follows:

- (a) by the fraudulent and felonious actions in submitting a false name to peruse the Case Record of case bearing No. COC-0011-22 and tearing two pages of the same, the Respondent Attorney-at-Law has committed a breach of Rule 11 of the Supreme Court (Conduct of and Etiquette for Attorneys-at-Law) Rules 1988 made under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka;
- (b) the aforesaid conduct amounts to acts of deceit, malpractice, crime or offence which warrants the Respondent Attorney-at-Law's suspension

from office or removal from office under Section 42(2) of the Judicature Act No. 2 of 1978;

- (c) by reason of the aforesaid conduct which cannot be countenanced, the Respondent Attorney-at-Law has conducted himself in a manner which would reasonably be regarded as disgraceful or dishonourable of Attorneys-at-Law of good repute and competence and has thus committed a breach of Rule 60 of the Supreme Court (Conduct of and Etiquette for Attorneys-at-Law) Rules 1988 made under Article 136 of the Constitution of the Democratic Socialist Republic of Sri Lanka;
- (d) by reason of the aforesaid acts and conduct, the Respondent Attorney-at-Law has conducted himself in a manner which is inexcusable and such as to be regarded as deplorable by his fellows in the profession and has thus committed a breach of Rule 60 of the said Rules;
- (e) by reason of the aforesaid acts and conduct, the Respondent Attorney-at-Law has conducted himself in a manner unworthy of an Attorney-at-Law and has thus committed a breach of Rule No 61 of the said Rules.

It is on the above basis that the Rule has commanded the Respondent Attorney-at-Law in terms of Section 42(3) of the Judicature Act No.2 of 1978, to show cause as to why he should not be suspended from practice or be removed from the office of Attorney-at-Law of the Supreme Court of the Democratic Socialist Republic of Sri Lanka in terms of Section 42(2) of the Judicature Act.

When the Court read out the Rule on 02-04-2024, the Respondent Attorney-at-Law pleaded not guilty to the charges contained in the Rule.

The learned Additional Solicitor General led before Court, the evidence of three witnesses. The learned Counsel who appeared for the Respondent Attorney-at-Law cross-examined them. After the learned Additional Solicitor General closed his case, the Respondent Attorney-at-Law gave evidence under oath before Court. It is in that background that I commence evaluating the evidence placed before Court.

The witness, Mapitigama Sumedha Priyadarshana Perera, who was first called to give evidence before Court is a Binder attached to the Registry of the Court of Appeal. In the course of his evidence, the following items of evidence have been revealed:

- i. He was on duty in record room No. 01, housed in the Kaluthota building on 24-01-2023;
- ii. This serves as a part of the main record room of the Court of Appeal; it is housed on the third floor of Kaluthota building which is about 500-800 metres away from the main Courts Complex;
- iii. The incident relevant to this case had occurred at around 2:30 p.m. - 3:00 p.m. on 24-01-2023;
- iv. At that time, the Respondent Attorney-at-Law had come there and obtained the record of the case bearing No. COC/11/2022 for inspection. The record room officials had released this record for the Respondent Attorney-at-Law to inspect and study, upon entering the name of the applicant lawyer, the case number, etc. on the register maintained by the Registry for that purpose;
- v. A little while later, he had heard a sound of tearing of papers. He then came close to the Respondent Attorney-at-Law from behind. It was at that time that he had seen that the Respondent Attorney-at-Law had torn some pages from the record of the case bearing No. COC/11/2022; that was the case record the Respondent Attorney-at-Law had obtained from the record room officials for his inspection and study;
- vi. The Binder Sumedha Priyadarshana Perera had seen this incident at a close range. He also had seen the Respondent Attorney-at-Law placing the papers torn from the record in the file he had brought when he came requesting for this case record for inspection;
- vii. The Binder Sumedha Priyadarshana Perera had then immediately proceeded to keep Jude Dhanushka Perera informed about this incident. Sumedha Priyadarshana Perera has also stated that thereafter Jude Dhanushka Perera too went and questioned the Respondent Attorney-at-Law as to why he had done such a thing. Thereafter, Jude Dhanushka Perera having informed the Assistant Registrar

Shamali had proceeded to bring this incident to the immediate attention of the Deputy Registrar of the Court of Appeal Maheshi Welagedara.

Although the learned Counsel for the Respondent Attorney-at-Law has cross-examined this witness (Sumedha Priyadarshana Perera), the material elicited from the cross-examination has only enabled the witness Sumedha Priyadarshana Perera to repeatedly reiterate the facts of this incident, i.e., the incident of the Respondent Attorney-at-Law tearing some pages from the case bearing No. COC/11/2022 which he had obtained from the record room officials for his inspection and study.

After the conclusion of the evidence of the witness Sumedha Priyadarshana Perera, it was Gurunnanselage Jude Dhanushka Perera who was called to give evidence as the second witness before Court.

Jude Dhanushka Perera has stated in his evidence that it was Sumedha Priyadarshana Perera who drew his attention to this incident on the date of the incident. Upon him being told by Sumedha Priyadarshana Perera that something suspicious was happening, he too had come close to the Respondent Attorney-at-Law and had observed the Respondent Attorney-at-Law inserting some torn papers into the file the Respondent Attorney-at-Law had brought. He had observed that these papers were the two pages from the record of the case bearing No. COC/11/2022.

The learned Counsel for the Respondent Attorney-at-Law has also cross-examined Jude Dhanushka Perera at length. However, the learned Counsel for the Respondent Attorney-at-Law has not been able to elicit any important factor which could have been capable of assailing the evidence of Jude Dhanushka Perera. It must be noted that all that has happened during the cross-examination is only the fact that Jude Dhanushka Perera has got a second opportunity to repeat whatever he has stated in his evidence-in-chief.

It was the Deputy Registrar of the Court of Appeal, Maheshi Anurika Premarathna Welagedara, who came to give evidence before Court as the third witness. She is an Attorney-at-Law who had taken oaths in that position in 2005. On the date of the incident, she was preparing an official letter along with the Assistant Registrar Shyamali Sriyalatha, when Jude Dhanushka Perera had come to inform them about this incident. Then, the Deputy Registrar Maheshi Welagedara had rushed to the place of the incident, along with Jude Dhanushka Perera and Assistant Registrar Shyamali Sriyalatha. Deputy Registrar Maheshi Welagedara had then

inspected the record of the case bearing No. COC/11/2022 and had observed that two pages had been torn from that case record.

Deputy Registrar Maheshi Welagedara has also found that the two pages torn from the said case record had been inserted into another personal file. She has also observed that the Respondent Attorney-at-Law was seated there. Deputy Registrar Maheshi Welagedara already knew the Respondent Attorney-at-Law by his name as a lawyer. However, when she had inspected the register in which the name of the requesting lawyer was supposed to have been inserted before the record room officials could have released the record, she had observed that the name of the requesting lawyer has been inserted as "Chandrasiri Fernando." Thus, according to the evidence of the Deputy Registrar Maheshi Welagedara it has been revealed that the Respondent Attorney-at-Law has inserted a name which is different from his name in the register to obtain this case record from the record room. This must be viewed as a deliberate act to suppress his identity. The only inference I can draw from the suppression of his identity is that it is a part of the preparation engaged in by the Respondent Attorney at Law to commit an illegal act when inspecting/studying the case record which the Respondent Attorney-at-Law had obtained from the record room officials.

Deputy Registrar Maheshi Welagedara has been cross-examined by the learned Counsel for the Respondent Attorney-at-Law. However, similar to the previous two witnesses, all that has happened during the cross-examination is that this witness too has got a second opportunity to reiterate whatever she had said in evidence-in-chief. The learned Counsel for the Respondent Attorney-at-Law did not elicit through cross-examination any material which Court could have considered in favour of his client.

Thus, at the close of the case by the learned Additional Solicitor General, the evidence adduced by the three witnesses against the Respondent Attorney-at-Law remained uncontroverted.

It was thereafter that the Respondent Attorney-at-Law Wickramage Don Dharmasiri Karunaratne commenced giving evidence. He has admitted going to the record room of the Court of Appeal housed in the Kaluthota building on the date of the incident and at the time of the incident. He has also admitted that he has requested, obtained and inspected the case record of the case bearing No. COC/11/2022 from the said record room. He also has confirmed the presence of the second witness Jude Dhanushka Perera at the said record room at that time. He has admitted that he studied the said case record at that point of time. However, he has denied that he removed any paper from the record. Thus, the only point which is not

admitted by the Respondent Attorney-at-Law is the fact that he has removed two papers from the record as alleged by the witnesses called by the learned Additional Solicitor General.

The learned Additional Solicitor General has cross-examined the Respondent Attorney-at-Law. During the cross-examination, the Respondent Attorney-at-Law has not been able to place before Court any acceptable reason as to why he had wanted to inspect that case record. The reason the Respondent Attorney-at-Law had placed before Court in that regard is the fact that he wanted to study how the petition in that case had been drafted as he was contemplating drafting a similar petition. Upon being asked as to how he got to know that a similar type of petition is available in that case record, his reply was that he found it through a Google search. However, when asked about the way in which he had previously launched a Google search in order to find the case number of this record, the Respondent Attorney-at-Law has failed to give any acceptable answer. It is the position of the learned Additional Solicitor General that the Respondent Attorney-at-Law could not have found the case No. COC/11/2022 through a Google search conducted in the way the Respondent Attorney-at-Law claims to have done.

I have considered the evidence of the Respondent Attorney-at-Law and the answers he has given to the questions asked by the learned Additional Solicitor General in cross-examination. Having considered them, I am of the view that the explanation offered by the Respondent Attorney-at-Law as to the purpose for which he has obtained the record of the case bearing No. COC/11/2022 is unacceptable. Therefore, I am compelled to take the view that the Respondent Attorney-at-Law has applied and obtained this record, not for the purpose he claimed in his evidence, but for the surreptitious removal of certain papers which he had indeed done after the record was released to him by the record room officials. Another reason as to why I am compelled to come to this conclusion is the fact that the Respondent Attorney-at-Law has ensured that his name is not inserted in the register to conceal the fact that it was he who had applied for the said case record. This was to ensure that no link to him will be established, even at a later point of time. The absence of any acceptable explanation as to any useful purpose that would have served the Respondent Attorney-at-Law by the inspection/study of the said case record is another factor which indicates that the Respondent Attorney-at-Law has obtained this case record for an undisclosed and surreptitious purpose and not for the purpose he has claimed in his evidence.

On the other hand, the Respondent Attorney-at-Law, in his evidence under oath, has stated from the witness box in no uncertain terms the following: that he knew Deputy Registrar Maheshi Welagedara for a long time; that he knew the Deputy Registrar Maheshi Welagedara

to be an honest, hardworking and genuine officer; and that Deputy Registrar Maheshi Welagedara did not have any reason to fabricate false evidence against him. The above positions taken up by the Respondent Attorney-at-Law has transpired in his own evidence, and therefore I would reproduce the following portion from this evidence below:

ප්‍ර : එතැන කොල වගයක් ගැලවිලා තිබුනා?

උ : එහෙමයි ස්වාමීනි. ඒක මම නෝටිස් කලෙන් නැහැ. මොකද ඒක ඒ රෙකෝඩ් එක අස්සෙමයි තිබුනේ. එහෙම නැතිව ඒක මගේ රෙකෝඩ් එකේ තිබුනේ නැහැ. මොකද ඒක ඔප්පු කරන්න පුළුවන් ශ්‍රියාලතා මහත්මිය ඔය සිද්ධියෙන් පස්සේ අරගොල්ලෝ, අර දැන් කලින් සාක්ෂි දුන්න මහේෂ් වෙළඟෙදර හම්බු වෙන්න යන අතරේදී ශ්‍රියාලතා මහත්මිය මං ගාවට ඇවිල්ලා කෝ බලන්න ඔයාගේ ෆයිල් එක කියලා මගේ මම අරන් ගිය ෆයිල් එක වෙක් කළා.

ප්‍ර : මහේෂ් වෙළඟෙදර මහත්මිය තමන් දන්නවා ද?

උ : මහේෂ් වෙළඟෙදර මහත්මිය මම දන්නවා. දන්නවා කියන්නේ මම කාලයක් තිස්සේ ගිහින් තියෙනවා එයා සමග නොයෙකුත් රාජකාරි සඳහා.

ප්‍ර : එයාව හම්බුවෙලා කතා බහ කරලා තියෙනවා ද?

උ : එහෙමයි ස්වාමීනි.

ප්‍ර : හුගක් කාලයක් තිස්සේ දන්නවා?

උ : එහෙමයි.

ප්‍ර : හම්බු වෙන ඔනෑම වෙලාවක් කතා කරනවා?

උ : සාමාන්‍යයෙන් ගියාම වැඩක් කරලා දෙනවා. මොකක් හරි ප්‍රශ්නයක් ගිහින් කිව්වාම.

ප්‍ර : ඒ කියන්නේ මහත්මයාට සහයෝගයක් තිබුනා?

උ : එහෙමයි.

ප්‍ර : ඒ කියන්නේ හොඳ නිලධාරියෙක්?

උ : ඔව්. එහෙම තමයි මගේ අවබෝධය.

ප්‍ර : හොඳට කාර්යක්ෂමව රාජකාරි කරන නිලධාරියෙක්?

උ : ඒක නම් මට හරියටම කියන්න බැහැ. නමුත් ඇය දක්ෂ නිලධාරියෙක් හැටියට මම පිළිගන්නවා.

ප්‍ර : ඒ වගේම අවංක නිලධාරියෙක්?

උ : ඒකත් වෙනත් පුළුවන්.

ප්‍ර : වෙනත් පුළුවන්ද, පිළිගන්නවා ද?

උ : පිළිගන්නවා ස්වෘතී.

ප්‍ර : එතකොට මහත්මයාත් එක්ක මොකක් හරි ප්‍රශ්නයක් තිබුණා ද?

උ : නැහැ ස්වෘතී.

ප්‍ර : එහෙම නම් මහත්මයාට විරුද්ධව බොරු සාක්ෂියක් කියන්න කිසියම් හේතුවක් නැහැ?

උ : ඔව්, ඇයට මට විරුද්ධව සාක්ෂියක් කියන්න හේතුවක් නැහැ. නමුත් අර අනික් අයට.

ප්‍ර : අනික් අය කියන්නේ කවුද?

උ : දැන් අර මම ගිහිල්ලා වාඩිවෙන්න ඉල්ලපු තැන.

ප්‍ර : නැහැ, නැහැ මම අහන්නේ රෙගිස්ටාර් වෙළඳෙදර මහත්මිය ගැන. ඒ නිලධාරියා මහත්මයාත් එක්ක ප්‍රශ්නයක් නැහැ නේ?

උ : නැහැ.

ප්‍ර : බොරු සාක්ෂියක් ගොතලා කියන්නත් කොහොමටත්ම හේතුවක් නැහැ නේ?

උ : නැහැ.

I have already mentioned above that at the close of the case by the learned Additional Solicitor General, evidence adduced by the three witnesses against the Respondent Attorney-at-Law remained uncontroverted. It was thereafter that the Respondent Attorney-at-Law gave evidence. In his evidence, the Respondent Attorney-at-Law has not adduced any different sequence of events regarding the facts of the case. This is so in his evidence as well as in the line of cross-examination of the three witnesses by his Counsel. Indeed, the Respondent Attorney-at-Law has not been able to discredit their testimony. The only point of evidence denied by the Respondent Attorney-at-Law is the fact that he has removed two papers from the record.

As I have already stated, the Respondent Attorney-at-Law does not produce any reason as to why the three witnesses should implicate him in this incident by fabricating false evidence. Moreover, the Respondent Attorney-at-Law, in his evidence, has categorically stated that the Deputy Registrar Maheshi Welagedara is a person known to him, and is an honest and efficient officer. Therefore, what is embedded in that statement is the fact that the Deputy Registrar Maheshi Welagedara could never have fabricated and given false evidence against him. This is the thinking of the Respondent Attorney-at-Law in the course of his evidence. Moreover, I find that the evidence of all three witnesses led by the Additional Solicitor General have mutually corroborated each other with no discrepancies amongst them. All these three witnesses are persons who have independently observed the events narrated by them.

Having considered all the above material I am convinced that the three witnesses, whose evidence was led by the Additional Solicitor General, have given truthful evidence before Court.

Having considered the totality of evidence I am not prepared to accept the denial by the Respondent Attorney-at-Law that he has not removed two papers from the record. In my view it is a false denial put forward as an attempt to escape from the responsibility for the act he had done. I cannot see any possibility of drawing a different inference upon consideration of the above facts. Thus, upon consideration of the totality of the evidence adduced in this case,

I conclude that the Respondent Attorney-at-Law, on the date of the incident, having obtained the record of the case bearing No. COC/11/2022 from the record room of the Registry of the Court of Appeal, by misleading the record room officials to believe that he was one "Chandrasiri Fernando." by inserting that false name in the register, had thereafter surreptitiously torn two pages from the said record and inserted those torn pages into a personal file he had brought along with him.

In the aforesaid circumstances, and for the foregoing reasons, I hold that the above-mentioned charges set out in (a), (b), (c), (d), (e) of the Rule dated 28-08-2024 have been proved to the satisfaction of Court and that the said acts amount to acts of deceit and/or malpractice and/or crime and/or offence in terms of Section 42(2) of the Judicature Act. Therefore, I find the Respondent Attorney-at-Law guilty of the said acts of deceit, malpractice, crime and offence referred to above in paragraphs (a) to (e) of the Rule dated 28-08-2024. I order that the Rule be confirmed.

The Respondent Attorney-at-Law has not been sincerely and truly repentant over the above breaches for which he is clearly liable. Instead, he was determined to the last stages of the inquiry to contest the said allegations. That necessarily indicates the absence of any remorse on his part in relation to the said acts of defiance.

Rule 60 of the Supreme Court (Conduct of and Etiquette for Attorneys-at-Law) Rules 1988 published in the Gazette Extraordinary of the Democratic Socialist Republic of Sri Lanka No. 535/7 dated 07-12-1988 states as follows.

"An Attorney-at-Law must not conduct himself in any manner which would be reasonably regarded as disgraceful or dishonourable by Attorneys-at-Law of good repute and competency or which would render him unfit to remain an Attorney-at-Law or which is inexcusable and such as to be regarded as deplorable by his fellows in the profession."

It is also relevant to note that while Rule 61 states that an Attorney-at-Law shall not conduct himself in any manner unworthy of an Attorney-at-Law, Rule 62 states that these rules are not exhaustive.

In terms of Section 42 of the Judicature Act, the Supreme Court has been vested with the power to suspend from practice or remove from office, any Attorney-at-Law who is found to be guilty of any deceit, malpractice, crime or offence.

It must be borne in mind that this Court admits and enrolls as Attorneys-at-Law in terms of Section 40 of the Judicature Act, only persons of good repute and of competent knowledge and ability. Such Attorneys-at-Law once enrolled cannot engage in any deceit, malpractice, crime or offence. It is a reasonable expectation of both the public and those involved in the administration of justice in the country. If an Attorney-at-Law is unable to maintain the expected standard, then such an Attorney-at-Law cannot be permitted to continue to function in that capacity any more. Section 42 has entrusted this Court with the responsibility of maintaining the aforesaid standards. Thus, this Court has a duty to take into consideration, the interests and aspirations of the general public that only persons of good repute and of competent knowledge and ability function as Attorneys-at-Law. It also has a duty to maintain the quality of the administration of justice, and the need to maintain the standards expected from the members of the legal fraternity when deciding the course of action it should take in a case of this nature.

In the above circumstances, I do not think it is necessary for me to give further reasons to show how the actions of the Respondent Attorney-at-Law has tarnished the image of the legal profession of this country as a whole.

Having considered all those circumstances, as the Respondent Attorney-at-Law has been found guilty of an act of deceit which is also a malpractice, acting in terms of Section 42 of the Judicature Act, I direct that the Respondent Attorney-at-Law Wickramage Don Dharmasiri Karunaratne be removed from office as an Attorney-at-Law forthwith.

The Registrar of this Court is directed to take all necessary steps to implement this order removing the Respondent Attorney-at-Law from office as an Attorney-at-Law forthwith.

CHIEF JUSTICE

KUMUDINI WICKREMASINGHE, J

I agree.

JUDGE OF THE SUPREME COURT

ACHALA WENGAPPULI, J

I agree.

JUDGE OF THE SUPREME COURT