

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 Ms. Samitha
Samanmalee Thennakoon,
Attorney-at-Law.*

SC RULE 05/2023

Saman Masakorala
9/1 A,
Pelawatta Para,
Nugegoda.

COMPLAINANT

-Vs-

Samitha Samanmalee Thennakoon,
Attorney-at-Law
No. 164/16,
Liyan Silva Mawatha,
Thalpitiya North,
Panadura.

RESPONDENT

Before : **P. PADMAN SURASENA, J.**
S. THURAIRAJA, PC, J.
K. PRIYANTHA FERNANDO, J.

Counsel : Harithrya Adikary with Dhanushika Dissanayake for
the Complainant.
A.S.M. Perera, PC with Chathurika Vitharana for Respondent.
N. Wigneshwaran, DSG for the Attorney General.
Rohan Sahabandu, PC with Ms. S. Senanayake for the Bar
Association of Sri Lanka.

Argued on : 09-05-2024

Decided on : 20-02-2025

P. PADMAN SURASENA, J.

The Rule dated 14-06-2023 under the hand of the Registrar of this Court has been issued against the Respondent Attorney-at-Law. When the court read out the Rule on 14-06-2023, the Respondent Attorney-at-Law had pleaded not guilty to the charges contained in the Rule. Therefore, the Court had fixed the matter for inquiry.

The Rule dated 14-06-2023 is as follows :

WHEREAS a Complaint has been made to His Lordship the Chief Justice of the Supreme Court of Democratic Socialist Republic of Sri Lanka, by Saman Masakorala (hereinafter referred to as the "Complainant") by letter dated 03-08-2020.

AND WHEREAS in terms of the Complaint of the said Complainant,

- a) *On 18-12-2018, the Complainant, in order to purchase Lot 7B depicted in Plan No. 7308 prepared by Surveyor Gamini Malwenna entrusted you with the sum of five hundred thousand Rupees (Rs. 500,000) and further entrusted you with the sum of thirty thousand Rupees (Rs. 30,000) in order to execute and register the Deed pertaining to the said Lot 7B; and*
- b) *that despite having received instruction from the Complainant to execute and register a Deed of Transfer in his name pertaining to the said Lot 7B you did not register the Deed bearing No. 128 pertaining to the transfer of the aforesaid lot 7B and thereby you acted in contravention of Section 26 (b) of the Notaries Ordinance; and*
- c) *that without a legal basis and proper authority, you provided a right of way over the above mentioned Lot 7B in respect of which you had instructions to register a Deed of transfer in the name of the Complainant, in the Deed bearing No. 126*

dated 26.06.2019 that was executed by you in respect of Lot 7A depicted in the same plan, to Chaminda Pushpa Kumara.

AND WHEREAS it appears that, the said Deed bearing No. 126 had been executed by you even though one of the transferors namely, Lalitha Werapitiya was deceased at the time of the execution of the said Deed.

AND WHEREAS it appears that,

- a) By reason of the aforesaid acts and conduct, you have not exercised your skill with due diligence to the best of your ability and care in the interest of your client and have thus committed the breach of Rule 15 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; and*
- b) by reason of the aforesaid acts and conduct, you have conducted yourself in a manner which would be reasonably regarded as disgraceful or dishonorable by Attorneys-at-Law of good repute and competency and have thus committed 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; and*
- c) by reason of aforesaid act and conduct you have conducted yourself in a manner which would render yourself unfit to remain an Attorney-at-Law and have thus committed breach of Rule 60 of the said Rules; and*
- d) by reason of the aforesaid acts and conduct, you have conducted yourself in a manner which is inexcusable and such as to regarded as deplorable by your fellows in the profession and have thus committed the breach of Rule 60 of the said rules;*
- e) by reason of the aforesaid acts and conduct, you have conducted yourself in a manner unworthy of an Attorney-at-Law, and have thus committed the breach of*

Rule 60 of the said Rules; and

f) By reason of aforesaid acts, you have committed acts of

I. Deceit and/or

II. Malpractice

AND WHEREAS this Court has decided that proceedings for suspension from practice or removal from the office of Attorney-at-Law should be taken against you under Section 42(2) of the Judicature Act No.02 of 1978 read with the Supreme Court Rules (Part VII) of 1978.

This is therefore to command you in terms of Section 42(3) of the Judicature Act No 02 of the 1978, to show cause why should not be suspended from practice or be removed from the office of Attorney-at-Law of the Supreme Court of Democratic Socialist Republic of Sri Lanka, in terms of Section 42(2) of the aforesaid Act.

While the acts alleged against the Respondent Attorney-at-Law are self explanatory from the several paragraphs contained in the Rule as mentioned above, I observe that the Rule issued against the Respondent Attorney-at-Law has alleged breaches of Rule 15 and Rule 60 of the Supreme Court (Conduct of and Etiquette for Attorneys-at-Law) Rules 1988. As per the Rule, there are several acts which the Respondent Attorney-at-Law has allegedly committed in this instance. According to the Rule, it is those acts committed by the Respondent Attorney-at-Law which have rendered the Respondent Attorney-at-Law unfit to remain as an Attorney-at-Law of the Supreme Court in terms of the Supreme Court (Conduct of and Etiquette for Attorneys at Law) Rules 1988.

During the course of the inquiry, the Respondent Attorney-at-Law admitted the following:

1. The fact that she has prepared Deed No. 128 and obtained the signatures which appeared on the said deed.
2. The fact that she has executed Deed No. 126 dated 26-06-2019.
3. The fact that Deed No. 128 has not been registered in the Land Registry.
4. The fact that she has submitted Deed No. 128 to the Land Registry of Panadura for its registration.
5. The fact that Lalitha Werapitiya stood as one of the transferors in Deed No. 126.

6. The fact that Lalitha Werapitiya was deceased at the time of the execution of Deed No. 126 dated 26-06-2019.
7. The fact that she received no instructions from the Complainant to convey the relevant right of way as per Deed No. 126 to another party namely Chaminda Pushpa Kumara.

When the Court was proceeding with the inquiry, half way through, the learned President's Counsel appearing for the Respondent Attorney-at-Law informed Court that the Respondent Attorney-at-Law would withdraw her earlier plea of not guilty entered on 14-06-2023 and would enter a plea of guilty to the charges contained in the Rule dated 14-06-2023. Accordingly, Court proceeded to verify this personally from the Respondent Attorney-at-Law who stated before Court that she is pleading guilty to the charges in the Rule.

Having considered all those circumstances under which 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 Samitha Samanmalee Thennakoon be suspended from engaging in practice as an Attorney-at-Law for 04 years with effect from the date of this Order.

The Registrar of this Court is directed to forthwith take all necessary steps to implement this Order suspending the Respondent Attorney-at-Law from her practice.

JUDGE OF THE SUPREME COURT

S. THURAIRAJA, PC, J

I agree,

JUDGE OF THE SUPREME COURT

K. PRIYANTHA FERNANDO, J

I agree,

JUDGE OF THE SUPREME COURT