

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

***In the matter of an application for Special
Leave to Appeal under Article 128 of the
Constitution of Sri Lanka.***

S.C. Appeal No. 88/21

S.C. S.P.L. Leave to Appeal No.
37/2018

Court of Appeal (PHC)

Application No. 65/2017

High Court of Colombo Case

No. H.C.R.A. 50/2017

Magistrate Court Case No.

21538/A

Officer-in-Charge,
Police Station,
Maharagama.

PLAINTIFF

Vs.

Nadugala Vidhana Pathiranage Piyadasa
Rathuralagewatte,
Hiththatiya Meda,
Matara.

DEFENDANT

AND BETWEEN

Nadugala Vidhana Pathiranage Piyadasa
Rathuralagewatte,
Hiththatiya Meda,
Matara.

DEFENDANT-PETITIONER

Vs.

1. Hon. Attorney General,
Attorney General's Department,
Colombo 12.
2. Officer-in-Charge,
Police Station,
Maharagama.

RESPONDENT-RESPONDENTS

AND BETWEEN

Nadugala Vidhana Pathiranage Piyadasa
Rathuralagewatte,
Hiththatiya Meda,
Matara.

DEFENDANT-PETITIONER-
PETITIONER

Vs.

1. Hon. Attorney General,
Attorney General's Department,
Colombo 12.
2. Officer-in-Charge,
Police Station,
Maharagama.

RESPONDENT-RESPONDENTS-
RESPONDENTS

AND BETWEEN

Nadugala Vidhana Pathiranage Piyadasa
Rathuralagewatte,
Hiththatiya Meda,
Matara.

DEFENDANT-PETITIONER-
PETITIONER-PETITIONER

Vs.

1. Hon. Attorney General,
Attorney General's Department,
Colombo 12.
2. Officer-in-Charge,
Police Station,
Maharagama.

RESPONDENT-RESPONDENTS-
RESPONDENTS-RESPONDENTS

AND NOW BETWEEN

Nadugala Vidhana Pathiranage Piyadasa
Rathuralagewatte,

Hiththatiya Meda,
Matara.

DEFENDANT-APPELLANT

Vs.

1. Hon. Attorney General,
Attorney General's Department,
Colombo 12.
2. Officer-in-Charge,
Police Station,
Maharagama.

RESPONDENT-RESPONDENTS

BEFORE: **S. THURAIRAJA, PC, J.**
MAHINDA SAMAYAWARDHENA, J. AND
ARJUNA OBEYESEKERE, J

COUNSEL: K. Deekiriwewa with Mrs. M. K. Herath and Dr. Kanchana de Silva for
the Defendant-Appellant.

Ms. V. Hettige, SDSG for the Respondent-Respondents.

WRITTEN Defendant-Appellant on 25th April 2022

SUBMISSIONS: Respondent-Respondents on 29th March 2022

ARGUED ON: 03rd May 2024

DECIDED ON: 30th April 2025

THURAIRAJA, PC, J.

1. The Defendant-Appellant, Nadugala Vidhana Pathiranage Piyadasa Rathuralagewatte (hereinafter referred to as "Appellant"), was charged in the Magistrate of Nugegoda on four counts in terms of Section 328 of the Motor Traffic Act in Case No. 21538/A. The Appellant pleaded guilty to all charges. By sentencing order dated 18th January 2017, the Learned Magistrate imposed fines of Rs. 1500, Rs. 2000, Rs. 5000, and Rs. 2000 in respect of the four counts, along with a compensation payment of Rs. 20,000 to the victim.
2. By petition dated 15th March 2017, the Appellant filed a revision application in the High Court of Colombo seeking, *inter alia*, a revision of the Learned Magistrate's order and a stay of proceedings before the Magistrate's Court.
3. By order dated 29th March 2017, the Learned High Court Judge dismissed the application on the grounds of non-compliance with Rule 3(2) of the Court of Appeal (Appellate Procedure) Rules 1990. Specifically, the High Court found that the Appellant had failed to include an averment confirming that the jurisdiction of the Court had not been previously invoked in respect of the same matter.
4. By petition dated 22nd May 2017, the Appellant lodged an appeal before the Court of Appeal, challenging the order of the High Court of Colombo. The Respondent raised a preliminary objection to the maintainability of the appeal, citing the Appellant's failure to submit a certified copy of the impugned proceedings, an omission that constituted non-compliance with Rule 3(1)(a) read with Rule 3(1)(b) of the Appellant Procedure Rules. The Court of Appeal, in upholding such preliminary objection, refused and dismissed the Appellant's application.

5. The Appellant subsequently invoked the jurisdiction of this Court, seeking, *inter alia*, to set aside the judgment of the Court of Appeal and the preceding order of the High Court of Colombo. Notably, rather than filing a singular appeal, the Appellant submitted no fewer than four separate petitions to this Court. The first such petition, dated 2nd March 2018, was filed along with an affidavit and was assigned Case No. SC/SPL/Leave to Appeal No. 37/2018. However, by order dated 05th April 2018, this Court dismissed the application due to the non-appearance of either the Appellant or his Counsel at the hearing.
6. As per journal entry dated 16th May 2018, the Appellant filed motion dated 27th April 2018, explaining, in my view, rather unconvincingly, that the want of appearance when the first petition was taken up before this Court was ascribed to the Counsel being present in the wrong Court. The listing judge, therefore, directed the Appellant to file a proper application to the Court.
7. In compliance with this directive, the Appellant filed a subsequent petition and affidavit by motion dated 24th June 2018. However, when the matter was taken up on 04th July 2018, the petition was found to be defective. By order dated 24th June 2018, this Court dismissed the application, having observed, *inter alia*, that the petition was undated and, critically, lacked a prayer— an essential component without which a petition cannot be entertained. In dismissing the application, the Court, displaying remarkable latitude, granted the Appellant yet another opportunity to file a fresh petition.
8. Subsequently, the Appellant filed a third petition and affidavit dated 6th August 2018. However, at the hearing on 18th September 2018, this Court once again identified fundamental deficiencies. Specifically, the petition failed to annex certified copies of the journal entries and the Supreme Court case record, documents essential to the proper constitution of the application. Perhaps as a testament only to this Court's generosity

and patience, rather than any reflection of the Counsel's diligence, the Court, while dismissing the application, permitted the Petitioner the liberty to file fresh papers.

9. Finally, on 28th January 2019, the Appellant filed an amended fourth petition. The 2nd Respondent-Respondent-Respondent-Respondent objected to this petition by way of an affidavit dated 6th August 2019, arguing that the Appellant had previously withdrawn the petition. However, when the matter was taken up before this Court on 26th October 2021, the Court granted leave to appeal on the following question of law:

"In terms of rule 3(1)(b), is it mandatory to furnish duly certified copies as in rule 3(1)(a) when filing the revision application before the Court of Appeal?"

10. Rule 3(1)(a) of the **Court of Appeal (Appellate Procedure) Rules 1990** reads,

"Every application made to the Court of Appeal for the exercise of the powers vested in the Court of Appeal by Articles 140 or 141 of the Constitution shall be by way of petition, together with an affidavit in support of the averments therein, and shall be accompanied by the originals of documents material to such application (or duly certified-copies thereof) in the form of exhibits. Where a petitioner is unable to tender any such document, he shall state the reason for such inability and seek the leave of the Court to furnish such document later. Where a petitioner fails to comply with the provisions of this rule, the Court may, ex mero motu or at the instance of any party, dismiss such application."

11. Provision 3(1)(b) reads,

"Every application by way of revision or restitution in integrum under Article 138 of the constitution shall be made in like manner together with copies of the relevant proceedings (including pleadings and documents produced), in the Court of First Instance, tribunal or other institution to which such application relates."

12. The Appellant has sought to contend that Rule 3(1)(b) is distinct from Rule 3(1)(a) and that, as a revision application, the former applies independently. The Appellant argues that Rule 3(1)(b) merely requires “copies of the relevant proceedings” and does not explicitly mandate “duly certified copies” as stated in Rule 3(1)(a). The Appellant’s reasoning is that, therefore, non-certified copies should suffice for compliance with the Appellant Procedure Rules.
13. This is an erroneous interpretation of the Court of Appeal (Appellate Procedure) Rules 1990. The Respondents, in their written submissions dated 29th March 2022, cited the case of **Urban Development Authority v. Ceylon Entertainments Limited and Others**¹ which directly addresses the applicability of Rules 3(1)(a) and 3(1)(b) to revision applications. His Lordship Edussuriya, J., in that case clarified that:

“It is settled law that Rule 3 of the Rules of the Court must be adhered to. Since the petitioner had filed an application in revision, Rule 3(1)(a) read with Rule 3(1)(b) would apply.”²

14. Thus, there is no ambiguity in the application of Rule 3(1) to revision applications before the appellate courts. In dismissing the revision application in the aforementioned case, Edussuriya, J. further held:³

*“Although Rule 3(1) (b) does not speak of originals or duly certified copies of the pleadings and documents to be annexed to the application in revision **there can be no doubt that the words “copies of the relevant proceedings (including pleadings and documents produced)” refer to duly certified copies of the same. It must also be borne in mind that the relevant Rule requires the petitioner to file an application in revision in “like manner”.***

¹ (2004) 1 Sri. L.R. 95.

² At p. 97.

³ At p. 98.

[...]

However I find that the petitioner has failed to file in the Court of Appeal duly certified copies (as required by the Rules) of such journal entries and the order of the District Court which are material to the revision application.”⁴

15. In ***Shanmugavaidu v. Kulathilake***,⁵ also cited in the aforementioned case, Bandaranayake J. reiterated that the Supreme Court and the Court of Appeal have emphasised compliance with the Rules of the appellant courts as imperative on numerous occasions. His Lordship Bandaranayake, J. also affirmed the applicability of Rules 3(1)(a) and 3(1)(b) to revision applications such as the one presently before this Court, specifically clarifying that,

*“Rule 3(1)(b) specifically refers to the application made by way of revision or restitutio in integrum and states that **those too should be made in like manner referred to in Rule 3(1)a with copies of the relevant proceedings** including pleadings and documents produced in the Court of First Instance, tribunal or other institution to which such application relates.”⁶*

16. In dismissing the application, Bandaranayake, J. held,

“...in the instant case, the original application made by the appellant to the Court of Appeal on 14.12.2001, did not accompany the originals or certified copies of documents material to that application. Moreover, the appellant had not stated the reasons for such inability and sought leave of the Court to furnish such documents later.

[...]

⁴ Emphasis is mine.

⁵ (2003) 1 Sri. L.R. 215 at p. 220.

⁶ Emphasis is mine.

In a situation where an application was made to the Court of Appeal without the relevant documents being annexed to the petition and the affidavit but has stated the reason for such inability and sought the leave of the Court to furnish such documents on a later date, the Court could have exercised its discretion and allowed the petitioner to file the relevant documents on a later date. However, on this occasion, as pointed out earlier, no such leave was sought by the appellant and in the circumstances, the Court of Appeal could not have exercised its discretion in terms of Rules 3(1) (a) and 3(1)(b) of the Court of Appeal (Appellate Procedure) Rules.”

17. A perusal of the impugned Court of Appeal judgment dated 25th January 2018 confirms that the learned Court of Appeal Judge adopted the same view. His Lordship Surasena, J. (as he was then) held that the Appellant’s failure to annex a certified copy of the impugned proceedings left the Court with no material upon which to consider the application. Furthermore, in the absence of a legitimate justification excusing the failure to furnish certified copies in accordance with Rule 3(1)(a), the Court ruled that the application must be dismissed.
18. I see no reason to depart from the reasoning set out above. Adherence to the rules of appellate courts, particularly the duty of a petitioner to tender certified copies, is essential to ensuring both the authenticity of documents and the responsibility for such authenticity.
19. In the written submission of the Respondent dated 29th March 2022, an attempt was made to establish a discrepancy between the impugned judgment of the Court of Appeal and the case of **Attorney General v Ranjith Weerawickrama**,⁷ which, the Respondent pointed out, was also delivered by His Lordship Surasena, J. in the Court of Appeal a few months prior to the impugned judgment. In **Attorney General v Ranjith**

⁷ CA (PHC) APN/ 74/ 2016.

Weerawickrama (supra), the Court of Appeal dismissed a revision application due to the Complainant-Petitioner's failure to provide a certified copy of the relevant High Court proceedings, thereby violating Rules 3(1)(a) and (b). The Respondents cited following extract from that:

"It is not possible to ascertain as to who has signed or on what authority or basis the said signatory could have stated that it is a true copy. The question that cries out for an answer, would be "what is meant by 'True Copy'?" However, this Court cannot see the existence of any acceptable answer to the above question."

20. The Respondent's submissions attempt to suggest that the observations made in **Attorney General v Ranjith Weerawickrama (supra)**, and those in the impugned judgment are inconsistent, particularly in that the Learned Judge allegedly pointed to a possible lack of clarity or ambiguity in Rule 3(1)(a).
21. This assertion is patently incorrect and appears to be the result of either a fundamental misreading of the judgment or a deliberate attempt to distort judicial reasoning to suit the Respondent's narrative. The full quote of Surasena J in **Attorney General v Ranjith Weerawickrama (supra)** is as follows:

"In order to clearly ascertain the nature of the complaint made to this court by the Complainant Petitioner, this Court must be provided with a duly certified copy of the proceedings material to the application. What has been submitted by the Complainant Petitioner before this Court remains to be a set of papers without an authoritative signature or certification. The signature of an unidentified person in the stamp containing words

*"TRUE Copy
Attorney at Law for Petitioner"*

does not establish that the said set of papers is a duly certified copy. It is not possible to ascertain as to who has signed or on what authority or basis the said signatory could have stated that it is a true copy. The question that cries out for an answer, would be "what is meant by 'True Copy'?" However, this Court cannot see the existence of any acceptable answer to the above question. According to Rule 3 (1) (a) cited above, it is a duly certified copy of the proceedings material to the application and not a 'true copy' that the Petitioner is required to submit with his application. It is not the Attorney at Law for the Petitioner who has the authority to duly certify an extract taken from a case record."

22. As is evident, the Court of Appeal did not attribute any ambiguity or lack of clarity to Rule 3(1)(a). On the contrary, it reaffirmed that compliance with Rule 3(1)(a) and 3(1)(b) is mandatory, and non-compliance will result in the dismissal of the application.
23. Furthermore, in **B.A. Piyasena v. Rupasinghe Arachchige Don Ananda**,⁸ His Lordship Dehideniya J., referencing **Attorney General v Ranjith Weerawickrama (supra)**, stated:

"It is common knowledge that original documents or a duly certified copy of the document (in the absence of the original) are normally presented before the Court. The phrase "duly certified copy" must imply that the authority responsible for its issue certified the copy submitted to Court as a copy duly obtained from the original. Only then Court can rely on and act on such a document. Because Courts make orders based on such documents can occasionally have serious consequences for people. People who are affected by a case are not only always limited to the parties involved. If the Court issues such orders on a set of papers whose legitimacy is later called into question, severe consequences may result."

⁸ SC Appeal 44/2015 SC Minutes of 14th December 2021 at p. 10.

24. Thus, the Appellant's contention that the revision application to the Court of Appeal is in compliance with the Appellant Rules cannot stand. Moreover, while I refrain from making any specific comments as to the disposition of the Counsel in potentially misleading the Court, the fact that the Counsel for the Respondent has clearly shown little to no due interest in prosecuting this application cannot be overlooked. The journal entries in the brief further reveal that, on no fewer than seven occasions across the four petitions, the Counsel caused significant delays by being absent or requesting further dates, thereby unnecessarily prolonging the process.

25. In ***Supramaniam v. Symons***,⁹ Wood Renton CJ stated,

"People may do what they like with their disputes as long as they do not invoke the assistance of the Courts of Law. But whenever that step has been taken they are bound to proceed with all possible and reasonable expedition, and it is the duty of their legal advisors and of the Courts themselves to seek that this is done. The work of the Courts must be conducted on ordinary business principles, and no Judges is obliged, or is entitled to allow the accumulation upon is cause list of a mass of inanimate or semi animate actions."

26. A party is under an obligation to act with all possible and reasonable urgency in prosecuting an action, ensuring that it does not accumulate unduly on the Court's docket. Courts should not be burdened with cases that unnecessarily delay the process, and it is essential that cases be resolved promptly to maintain the efficiency of the judicial system. In the present application, what emerges is a clear pattern of non-diligence in prosecuting this appeal, coupled with a disregard for the valuable yet limited judicial resources at the disposal of this Court. This appeal is dismissed, and the Appellant is ordered to pay Rs. 100,00/- as state cost.

⁹ 18 NLR 229.

Appeal Dismissed.

JUDGE OF THE SUPREME COURT

MAHINDA SAMAYAWARDHENA, J.

I agree.

JUDGE OF THE SUPREME COURT

ARJUNA OBEYESEKERE, J.

I agree.

JUDGE OF THE SUPREME COURT