

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

In the matter of an application for special
leave to appeal in terms of Article 140 of the
Constitution

S.C.(Appeal) No.118/2024
S.C.(SPL) LA No. 170/2023
C.A. Writ Application
No. 10/2020

1. Premini Anushan
2. Umakanthan Anushan
3. Jegathambal Umakanthan

All three of 'Nayanmarkaddu Ayurveda
Vaidoyasalai'
No. 262, Chemmani Road, Nallur.

Petitioner

Vs.

1. Minister of Lands and Parliamentary
Reforms
2. District Secretary Jaffna
3. Divisional Secretary, Nallur
4. Attorney General,
Attorney General's Department,
Colombo 12.

Respondents

And Now Between

1. Premini Anushan
2. Umakanthan Anushan
3. Jegathambal Umakanthan

All three of 'Nayanmarkaddu Ayurveda
Vaidoyasalai'
No. 262, Chemmani Road, Nallur.

Petitioner-Appellants

Vs.

1. Minister of Lands and Parliamentary Reforms
2. District Secretary Jaffna
3. Divisional Secretary, Nallur
4. The Hon. Attorney General,
Attorney General's Department,
Colombo 12.

Respondent-Respondents

Before : Mahinda Samayawardhena, J.
Menaka Wijesundera, J.
K. M. G. H. Kulatunga J.

Counsel : S. Kumarasingham for the Petitioner-Appellants.
Abigail Sooriyakumar Jayakody, SC instructed by Nimalika
Wickremasinghe SSA for the Respondent-Respondents.

Written

Submissions : Written submissions on behalf of the Petitioner-Appellant on
27th November 2024.

Argued on : 10.03.2026

Decided on : 23.07.2026

MENAKA WIJESUNDERA J.

The 1st, 2nd and 3rd Petitioner-Appellants (*hereinafter collectively referred to as the “Appellants” and individually as the “1st Appellant”, the “2nd Appellant”, and the “3rd Appellant”, respectively*), in the instant matter, had sought for a declaration that there was no misrepresentation of facts in their petition or, in the alternative, that there was no misrepresentation of facts which warranted the dismissal of their writ application to the Court of Appeal in Writ application No. 10/2020. The Appellants further sought a declaration that they had the

requisite locus standi to maintain the said application in view of the Hereditary trust deed No. 5189 dated 11.07.1915, together with an order for the Court of Appeal to rehear the matter.

When the matter was supported for leave, this Court had granted leave on the following questions of law on 27.09.2024.

- 1) Have the Honorable Judges of the Court of Appeal erred by failing to consider the scope and content of the order of the District Court of Jaffna in Case No. TR/55?*
- 2) Have the Honourable Judges of the Court of Appeal erred by holding that the Petitioners lacked Uberima Fides in presenting this Application before the Court of Appeal?*
- 3) If the Court answers these questions in the affirmative in favour of the Petitioners, whether the judgment of the Court of Appeal could stand.*

The Appellants had filed the above-mentioned writ application in the Court of Appeal to quash the documents marked and produced as **P1** and **P6** and a writ of prohibition preventing the 3rd Respondent from taking action under Section 38 of the Lands Acquisition Act.

The Appellants have claimed in their petition that the 1st Appellant was the manageress of the Ayurveda Hospital at Nallur, Jaffna, and the 2nd Appellant was the chief occupant of the premises in which the said hospital was based, and the husband of the 1st Appellant, and the 3rd Appellant is the wife of the deceased former manager, Dr. Umakanthan, and the mother of the 2nd Appellant.

The Appellants also have stated that there was a very popular ayurvedic doctor in the hospital by the name of Dr. Vettivelu and he had been the sole trustee and manager of the said hospital.

But on the demise of the said doctor, his son, namely Pandit Mailvaganam, had inherited the right to run the hospital according to the Appellants. During his tenure, the aforementioned Pandit Mailvaganam had taken steps to get the trust deed No. 5189 notarially executed to give the running of the hospital a legal element. The said deed had been marked and produced as **P4**.

On his demise, the running of the hospital had been handed down to his grandson, namely Dr. Ehamparanathan, against whom there had been certain allegations of mismanagement. He had been removed by District Court case TR-55 and the leave to appeal applications in the said case had been heard in the Supreme Court. An order had been made on 10.05.1982 (R1) declaring the

hospital as a public trust and directed to draw up a scheme of management for the trust of the hospital.

Thereafter, the Appellants claim that they had effectively brought into existence the trust deed No. 5189, according to which they claim the son of Dr. Ehamparanathan had been appointed, namely Dr. Umakanthan, as the chief trustee of the hospital and upon his death, his wife, the 3rd Respondent, had become the chief trustee in terms of the trust deed No. 5189.

In the meantime, the Respondents had taken steps to acquire the land where the above-mentioned hospital is stated to be, and the Appellants claim that they had canvassed the matter in the Court of Appeal by way of a writ application.

The Respondents had been represented by the Attorney General, and they had brought to the notice of the Court the order made by the District Judge of Jaffna in case No. TR-55, in which the learned District Judge had acted on the directions of the Supreme Court in an order dated 10.05.1982 and had appointed 7 members to the board of trustees, and he had called for a further report.

Therefore, the Respondents had claimed that the Appellants had no locus standi to carry on with the application.

In the said order of the District Court, the learned judge had not included Dr. Umakanthan as a trustee, and he is the link from whom the Appellants derive title to be on the board of trustees as per the trust deed No. 5189, and the learned State Counsel had averred that the Appellant had no locus standi to maintain the application.

The Respondents had further claimed that in the proposed scheme of management, the Appellant had filed in Court had included Dr. Umakanthan, but in fact, he had not been appointed by the District Court.

Thereafter, the Appellants claim that the learned judges of the Court of Appeal had held with the Respondents and had dismissed the application on the basis that the Appellants had wrongly indicated to the Court that Dr. Umakanthan was appointed to the board of trustees when, in fact, he had not been appointed by the District Court.

The Appellants, being aggrieved by the said order, had filed the instant application.

In view of the material stated above, the above-mentioned hospital had been run by a trust deed No. 5189, according to which the trustees have to be appointed

hereditarily. In the case of TR-55 (*page 136 of brief*), the Appellants had submitted a proposed scheme of management marked as X, in which they had said that Dr. Umakanthan had been appointed as per the Trust Deed No. 5189.

However, the Court of Appeal had observed that the said Dr. Umakanthan was never appointed by the District Court; instead, the Court had appointed 7 other persons and did not include Dr. Umakanthan, and had held that the Appellants had no locus standi to maintain the application because they had misinterpreted facts to the Court.

The Appellants submitted that the District Court had made only an interim order on 29.04.1985 and had called for a further report. They further submitted that, before the matter could be concluded, communal violence broke out, as a result of which Case No. TR-55 remained unresolved. Consequently, in 2023, the Appellants filed the present application before the Court of Appeal against the Respondents, seeking to secure the land attached to the hospital.

Accordingly, the Appellants further submitted that the Court of Appeal erred in law in deciding against them, on the basis that its determination was founded upon Case No. TR-55, which had remained pending for a considerable period and had subsequently abated by reason of the lapse of time.

In view of the material stated above, the Supreme Court, by order dated 10.05.1982, has ordered that the District Judge do the following;

“Reconsider the scheme of management already submitted and any other scheme that may be submitted by either of the parties and decide on a scheme of management for this trust and the appointment of trustees in terms of the scheme of management after hearing both parties and any member of the public who chooses to make representations to the court in respect of this trust. It is further agreed that the scheme of management decided upon by the District Judge and the appointed persons named as trustees under the same shall be final and conclusive and shall not be called in question in any court of law”

Thereafter, the learned District Judge of Jaffna had appointed seven trustees, which did not include Dr. Umakanthan. However, this had been for a period of one year commencing from 02.05.1983. Thereafter, the case was to be called on 02.08.1983 to show income and profits of the institution by the trustees; however, according to the Appellants, communal riots in the Northern peninsula had broken out and there had been no finality to the case No. TR/55. Regardless, the Defendants (The current Appellants) Attorney-at-law had filed a proposed

scheme of management of the defendants in terms of the Supreme Court order, which had been marked and produced as “**X**”, attached to the Court of Appeal brief at *page 206*, which has the seal of the District Court of Jaffna as 20th May 2013. In the said document, the name of Dr. Umakanthan appears as being a chief manager and trustee appointed in terms of the decree and Rule 13 of Deed “**P2**” by the three temple managers, but I observe that this document “**X**” is not a conclusive scheme of management of the Appellants Ayurvedic Hospital submitted to Court, but a proposed scheme of management.

The order of the learned District Judge appointing seven trustees to the board of trustees of the Appellant’s hospital has been made on a temporary basis. A seal bearing the date 5th July 2010 of the Provincial Department of Indigenous Medicine of the Northern Province appears on the said document. It is not physically signed by the District Judge, but a photocopy of an order made by the Court.

Thereafter, another order appears on *page 138* of the Court of Appeal brief, of which there is no date. At the end of the said judgment (*at page 165 of the brief*), there is an order directing parties to submit a scheme of management on 04.11.1970. This judgment has appeared to consider the fact of whether the trust established in the instant matter is a charitable trust or a public charitable trust. On *page 152* of the brief, it has concluded that the evidence and the documents in the case indicate that the Ayurvedic Hospital mentioned in the case had always functioned as a public charitable institution and not as a private trust. It further referred to evidence of mismanagement and neglect following the founder's demise. Therefore, taking into consideration the trust deed referred to by the Appellant, No. 5189 marked as **P2**, has created a public charitable trust and is not by any means a private trust. Accordingly, it directed that new trustees be appointed in terms of Trust Deed No. 5189 and further ordered that, in the interim, a scheme of management be submitted for the approval of the Court to facilitate the appointment of the new trustees.

Therefore, it is obvious that the document marked “**X**” had been prepared as a proposed scheme of management by the Attorney-at-law for the defendants (Appellants in the instant case) in which document Dr. Umakanthan's name had been mentioned.

In view of the orders mentioned above, it is evident that the District Court of Jaffna has appointed seven trustees on a temporary basis in Case No. TR/55, following the order made by the Supreme Court on 10.05.1982. However, the case No. TR/55 had not reached a stage to consider the proposed scheme of

management in document “X”. In those circumstances, it is my considered view that Dr. Umakanthan had never been appointed, although he may have acquired a right hereditarily as per trust document No. 5189. Accordingly, the submission made by the Appellants before the Court of Appeal that Dr. Umakanthan had been duly appointed is incorrect. Therefore, it is my view that the Appellants who derived title from Dr. Umakanthan have *no locus standi* to maintain the instant petition.

For the foregoing reasons, I find no merit in the present application, and I answer the first two questions of law set out above in the negative; for that reason, it is not necessary to answer the third question of law, as it is not applicable.

As such, the judgment of the Court of Appeal is affirmed and the instant application is dismissed.

JUDGE OF THE SUPREME COURT

Mahinda Samayawardhena, J.

I agree.

JUDGE OF THE SUPREME COURT

K. M. G. H. Kulatunga, J.

I agree.

JUDGE OF THE SUPREME COURT