

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

**SC Appeal No. 188/ 2019**

SC/ SPL/ LA/ 204/ 2017

WP/COL/ HCASA/ 01/2016

Agrarian Board of Review Case

No.AGBR/KA/2015/07/09(19)

*In the matter of an Appeal in terms of Section 5C of the High Court of the Provinces (Special Provisions) Act No. 19 of 1990 as amended by Act No. 54 of 2006, against a judgement delivered by the Provincial High Court exercising its jurisdiction under Section 5A of the said Act.*

W.H. Mayya

Godagandeniya,

Rambukkana.

**PLAINTIFF**

Vs.

1. S.H. Rana  
Godagandeniya, Rambukkana.
2. Thissa Beligodapitiya  
Beligodapitiya, Walawwa,  
Godagandeniya, Rambukkana.
3. S.J. Nandawathi  
Alawwa Kade, Kiriwallapitiya, Rambukkana.
4. J.A. Siril  
Alawwa Kade, Kiriwallapitiya, Rambukkana.
5. W.A. Punyawardana  
Weerasooriya Stores, Kiriwallapitiya,  
Rambukkana.

**RESPONDENTS**

**AND**

W.H. Mayya  
Godagandeniya,  
Rambukkana

**PLAINTIFF-APPELLANT**

1. S.H. Rana  
Godagandeniya, Rambukkana.
2. Thissa Beligodapitiya  
Beligodapitiya, Walawwa,  
Godagandeniya, Rambukkana.
3. S.J. Nandawathi  
Alawwa Kade, Kiriwallapitiya, Rambukkana.
4. J.A. Siril  
Alawwa Kade, Kiriwallapitiya, Rambukkana.
5. W.A. Punyawardana  
Weerasooriya Stores, Kiriwallapitiya,  
Rambukkana

**RESPONDENTS- RESPONDENTS**

**AND BETWEEN**

3. S.J. Nandawathi  
Alawwa Kade,  
Kiriwallapitiya, Rambukkana.

Appearing through her power of Attorney  
Holder C.S.M. Rajapakshe of Alawwa Kade,  
Kiriwallapitiya, Rambukkana.

4. J.A. Siril  
Alawwa Kade,  
Kiriwallapitiya, Rambukkana.

**3RD AND 4TH RESPONDENTS-  
RESPONDENTS-PETITIONERS**

Vs.

W.H. Mayya  
Godagandeniya,  
Rambukkana.

**PLAINTIFF- APPELLANT-  
RESPONDENT**

1. S.H. Rana  
Godagandeniya, Rambukkana.
2. Thissa Beligodapitiya  
Beligodapitiya, Walawwa, Godagandeniya,  
Rambukkana
5. W.A. Punyawardana  
Weerasooriya Stores, Kiriwallapitiya,  
Rambukkana

**1ST, 2ND AND 5TH RESPONDENTS-  
RESPONDENTS-RESPONDENTS**

**AND NOW BETWEEN**

3. S.J. Nandawathi (Deceased)  
3A. J.A. Nandasena  
3B. J.A. Kusuma Jayasooriya

3C. Asanka Rajapaksha  
Alawwa Kade,  
Kiriwallapitiya, Rambukkana.

4. J.A. Siril  
Alawwa Kade,  
Kiriwallapitiya, Rambukkana.

**3RD & 4TH RESPONDENTS-**  
**RESPONDENTS-PETITIONERS-**  
**APPELLANTS**

Vs.

W.H. Mayya  
Godagandeniya,  
Rambukkana.

**PLAINTIFF-APPELLANT-**  
**RESPONDENT-RESPONDENT**

1. S.H. Rana  
Godagandeniya, Rambukkana.
2. Thissa Beligodapitiya  
Beligodapitiya,  
Walawwa, Godagandeniya, Rambukkana
5. W.A. Punyawardana,  
Weerasooriya Stores, Kiriwallapitiya,  
Rambukkana.

**1ST, 2ND AND 5TH RESPONDENTS-**  
**RESPONDENTS-RESPONDENTS-**  
**RESPONDENTS**

**Before:** Yasantha Kodagoda PC., J.

Achala Wengappuli J.

Dr. Sobhitha Rajakaruna J.

**Counsel:** Manohara de Silva, PC with Hirosha Munasinghe for the 4th Respondent-Respondent-Petitioner-Appellant.

Dr. Sunil Abeyratne with Eshini Perera, Dulshani Hemachandra and Dulmini Adikari for the Plaintiff-Appellant-Respondent-Respondent and for the 2nd Respondent-Respondent-Respondent-Respondent.

**Written Submissions:** 4th Respondent-Respondent-Petitioner-Appellant -

13 October 2020, 10 May 2021, 13 March 2026

Plaintiff-Appellant-Respondent-Respondent –

19 October 2020

**Argued on:** 30 January 2026

**Decided on:** 31 March 2026

**Dr. Sobhitha Rajakaruna J.**

The proceedings originated from a complaint lodged with the Agrarian Service Commissioner, alleging that the 3rd and 4th Respondents-Respondents-Petitioners-Appellants, namely S.J. Nandawathie and J.A. Siril (hereinafter referred to as the ‘3rd and 4th Respondents’), had unlawfully dispossessed the Plaintiff-Appellant-Respondent-Respondent (hereinafter referred to as the ‘Plaintiff’) of their rights as tenant cultivator over the subject paddy land known as “*Uda Kumbura*”. The Plaintiff contended that the 3rd and 4th Respondents had forcibly entered the land and taken over its cultivation, despite the Plaintiff’s prior occupation and cultivation of it. Following an inquiry, the inquiry officer rejected the said complaint by order dated 1 July 1999.

Dissatisfied with this decision, the Plaintiff appealed to the Agrarian Board of Review. On 20 January 2016, the said Board issued an order directing the restoration of the Plaintiff to possession of the subject paddy land. The 3rd and 4th Respondents subsequently appealed this order to the Provincial High Court of the Western Province holden in Colombo (“High Court”). At the outset of the proceedings before the High Court, the Plaintiff raised a preliminary objection, contending that the Provincial High Court of the Western Province holden in Colombo lacked jurisdiction to entertain and determine the matter. By its order dated 1 August 2017, the High Court ruled that it lacked jurisdiction to entertain the appeal, holding that any such appeal should properly have been filed in the Provincial High Court of the Sabaragamuwa Province.

Pursuant to the instant Application before this Court, the Questions of Law upon which the Leave to Appeal was granted can be articulated, based on the contents of paragraph 7(b) of the Petition dated 11 September 2017, as follows:

“Did the High Court fail to properly consider that the order impugned before the High Court of Colombo was an Order of the Agrarian Board of Review of Colombo dated 20/01/2016, and therefore misdirect itself and err in law by holding that the High Court of Colombo had no jurisdiction to hear the appeal in view of Section 7(6C) of the Agrarian Development Act No. 46 of 2000 as amended by Agrarian Development (Amendment) Act No. 46 of 2011?”

***Summary of the Submissions of the ‘3rd and 4th Respondents’***

The 3rd and 4th Respondents (who are the Appellants of the instant Application) contend that, since the order dated 20 January 2016 was issued by the Agrarian Board of Review in Colombo, any appeal against it must be lodged with the Provincial High Court exercising jurisdiction over that province, namely, the Provincial High Court of the Western Province sitting in Colombo. They submit that the High Court erred in law and misdirected itself by ruling that it lacked jurisdiction to entertain the appeal, particularly in light of Section 7(6C) of the Agrarian Development Act No.46 of 2000 (hereinafter referred to as the ‘Act’), as amended by the Agrarian Development (Amendment) Act No.46 of 2011. The said Section 7(6C):

"The landlord or the person evicted who is aggrieved by the decision of the Board of Review may, within thirty days of the communication of the decision to him,

appeal to the High Court of the Province against such decision on a question of law. A copy of the appeal shall be sent to the Commissioner-General by registered post at the time when the appeal is made."

The 3rd and 4th Respondents further argue that, pursuant to Section 7(6A) of the Act, appeals from decisions of the Agrarian Tribunal are submitted to the Commissioner-General, who then refers them to an appropriate panel. Consequently, the selection of the Colombo Board of Review (or any other Board of Review) rests with the Commissioner-General. They assert that the Board of Review so designated by the Commissioner-General possesses the requisite jurisdiction to hear and determine the matter in accordance with Section 7(6A) of the Act.

### *The Plaintiff's Contention*

The Plaintiff asserts that he duly appealed, by petition dated 30 July 1999, to the Agrarian Board of Review of the Sabaragamuwa Province against the order of the relevant inquiry officer. He maintains that this appeal was properly lodged with the Sabaragamuwa Board of Review in strict compliance with Section 5(6) of the relevant legislation (Agrarian Services Act No. 58 of 1979 amended by Amendment Act No. 04 of 1991), as the land in question lies within the territorial boundaries of the Sabaragamuwa Province.

The Plaintiff further submits that, subsequent to the filing of his appeal, the Agrarian Services (Amendment) Act No. 4 of 1991, together with its parent enactment (Act No. 58 of 1979), was repealed and replaced by the aforesaid Agrarian Development Act No. 46 of 2000 ('Act'). Consequently, the Plaintiff contends that his appeal, which was pending before the Sabaragamuwa Board of Review at the time, was automatically transferred to the Agrarian Tribunal (introduced by the said Act No. 46 of 2000) in Colombo, probably the first Tribunal established under the said Act, which came into operation on 18 August 2000.

Notably, Section 99(2)(e) of the said Act expressly prescribes the transitional procedure applicable to any applications or inquiries that remained pending under the Agrarian Services Act No. 58 of 1979, and its amendments as at the date of commencement of the aforesaid Act (Agrarian Development Act No. 46 of 2000). In accordance with this provision, any proceedings then pending before an inquiring officer or a Board of Review

under the repealed legislation are deemed to have been instituted before the Agrarian Tribunal established under the said Act and are required to be concluded by that Tribunal.

The Plaintiff argues that this transfer was effected solely for the limited purpose of enabling the completion of proceedings already commenced under the former regime. He submits that the transitional provisions do not operate retrospectively to alter substantive rights of appeal existing under the old law. In particular, the Plaintiff maintains that the appeal rights conferred by Section 42B(14) of the repealed legislation (Act No 58 of 1979) continue to apply to decisions rendered in respect of such transferred proceedings. According to the Plaintiff, the 3rd and 4th Respondents possess no right of appeal against the order of the Agrarian Board of Review of Colombo, dated 20 January 2016 (at page 23 of the brief). The Plaintiff, therefore, contends that the appeal lodged by the Respondents before the Provincial High Court of the Western Province sitting in Colombo is unlawful and that the said High Court lacks jurisdiction to entertain it.

### *Analysis*

The core issue for determination by this Court is the proper appellate forum for a party aggrieved by a decision of the Agrarian Tribunal in Colombo, to which the Plaintiff's application (originally pending before the Agrarian Board of Review in the Sabaragamuwa Province) stood transferred upon the enactment of the said Act (Act No. 46 of 2000). As the Plaintiff rightly submitted, proceedings instituted before the Agrarian Tribunal established under the Act must be concluded by that Tribunal.

Upon careful scrutiny of Section 99 of the said Act (Act No. 46 of 2000), which repealed the Agrarian Services Act, No. 58 of 1979, and Section 7(6C) as introduced by the Agrarian Development (Amendment) Act, No. 46 of 2011, it is evident that the legislative intent underlying the transitional arrangements was to ensure the seamless continuation and completion of all pending proceedings before an inquiry officer or a Board of Review under the repealed Act (Act No. 58 of 1979). Such proceedings were to proceed and conclude before the Agrarian Tribunal without abatement, discontinuance, or prejudice to the parties upon the applications arising from the repeal of Act No. 58 of 1979. The legislature did not, in the amending Act No. 46 of 2011 or otherwise, make express provision altering the appellate pathway for proceedings pending at the commencement of Act No. 46 of 2000 in a manner that would override the clear jurisdictional framework

established under the new regime, including the right of appeal to the High Court of the Province as stipulated in Section 7(6C) of the said Act.

Section 7(6C) of the Act expressly provides that an aggrieved party may appeal to the "High Court of the Province" against such a decision. The statutory language clearly directs that an appeal lies to the High Court of the Province in which the decision under challenge was rendered. Once the Commissioner-General refers a matter to a particular Board of Review, that Board acquires jurisdiction over the dispute. In this instance, the referral to the Colombo Board of Review necessarily entails that any appeal against its decision must be preferred to the respective Provincial High Court of the Western Province. Furthermore, the Plaintiff raised no objection or reservation whatsoever regarding the transfer or referral of the appeal to the Colombo Board of Review. It follows that, where the Board of Review in question is located in Colombo, Section 7(6C) mandates that any appeal be lodged with the Provincial High Court of the Western Province.

In light of the reasons given above I cannot agree with the Plaintiff's arguments based on Section 42B(14) of the Act No. 58 of 1979. Moreover, the Plaintiff's contention that the appeal was originally lodged with the Sabaragamuwa Board of Review and that transitional provisions under Section 99(2)(e) of the Act automatically transferred it to the Agrarian Tribunal, thereby preserving appeal rights under the repealed legislation and precluding any right of appeal to the High Court, is misconceived.

### ***Conclusion***

In terms of Section 7(6C) of the Act, an aggrieved party may, within thirty days of the communication of such a decision, appeal to the High Court of the Province against the decision on a question of law. The statutory provision unequivocally directs that the appeal lies to the High Court of the Province in which the decision was rendered. Since the decision emanated from the Colombo Agrarian Tribunal, the appropriate appellate forum is the Provincial High Court of the Western Province holden in Colombo.

The transitional mechanism discussed above does not operate to divest the jurisdiction expressly vested in the Provincial High Court by the clear language of Section 7(6C), particularly where the Agrarian Tribunal concerned is situated in Colombo. In any event, the question further arises as to which Provincial High Court, among those within the

relevant Province, such an appeal properly lies. This issue has been considered and resolved by the Supreme Court in *L.S.I. Fernando v. Jinasena (Pvt) Ltd.*, SC/Appeal/30/2023, SC Minutes of 03 July 2025.

The Supreme Court in the said case of *L.S.I. Fernando*, took the view that a strict literal interpretation of Sections 3 and 5A(1) of the High Court of the Provinces (Special Provisions) Act No. 19 of 1990, allowing appeals from a Provincial court of first instance to be filed in any High Court within the same Province, would encourage forum shopping, cause uneven caseloads, inconvenience litigants, create jurisdictional confusion, undermine judicial impartiality, and disrupt the administrative structure of the courts (including the structure of the Court system amplified through the orders made by the relevant Minister demarcating judicial zones etc). The Supreme Court further held in the said case:

“Regardless of all the provisions cited above, it is apparent that no rules or regulations exist defining the territorial jurisdiction of High Courts established under Article 154P in order to assign appellate and revisionary work systematically among such Courts situated within a particular Province. I am aware that currently in Sri Lanka for administrative convenience, no distinction is maintained among several High Courts in a single station when allocating work. Even the impugned order has been issued by High Court No. 8 of Colombo despite the caption of the respective Petition of the Respondent- Petitioner-Appellant referring to “the High Court of Western Province holden in Colombo- exercising Civil Appellate jurisdiction”. Considering the lack of clear guidelines, I take the view that the criteria outlined in the orders made under Section 3 of the said Judicature Act, by which Sri Lanka has been divided into Judicial Zones, Judicial Districts and Judicial Divisions can be followed with necessary alterations, although such orders are concerning the High Courts (when functioning as a court of first instance) that are identified in Section 2(a) of the said Judicature Act. This arrangement may be maintained until policymakers establish and implement suitable rules and regulations.”

For the reasons set out above, I hold that the High Court erred in law by holding that it lacked jurisdiction to entertain the appeal preferred by the 3rd and 4th Respondents. The Order of the High Court dated 1 August 2017 is set aside. Thus, I proceed to answer the

above Question of Law upon which this Court granted leave to Appeal in favour of the 3rd and 4th Respondents. Accordingly, the Order of the High Court dated 1 August 2017 is hereby set aside and the Provincial High Court of the Western Province holden in Colombo is directed to hear and determine the appeal lodged by the said 3rd and 4th Respondents expeditiously, according to law.

The Appeal is allowed to the extent indicated above. The parties shall bear their own costs in this Court.

**Judge of the Supreme Court**

**Yasantha Kodagoda PC. J.**

I agree.

**Judge of the Supreme Court**

**Achala Wengappuli J.**

I agree.

**Judge of the Supreme Court**