

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

**SC.FR No. 536/2010**

In the matter of an Application in Revision  
and for the exercise of the inherent power  
and jurisdiction of the Supreme Court.

T.R.Ratnasiri  
23/4, Makola South,  
Makola.

**PETITIONER-PETITIONER**

Vs.

1. P.B.Jayasundara  
Secretary to the Ministry of Finance and  
Planning, The Secretariat Building,  
Colombo 01.
2. Sarath Jayathilake  
117/30, Ananda Rajakaruna Mawatha,  
Colombo 10.
3. Thilak Perera  
Director of Customs,  
40, Main Street,  
Colombo 11.
4. Director General of Customs  
Sri Lanka Customs Department,  
40, Main Street,  
Colombo 12.

**SC.FR No. 536/2010**

Sudharma Karunaratna (May 2010-Jan 2012) Now the Secretary, Ministry of Plantation Industries, 55/75, Vauxhall Lane, Colombo 2.

Neville Gunawardena (Jan 2012-December 2012) Now Director General Trade & Investment Policy, Ministry of Finance , General Secretariat, Colombo 1.

Jagath Wijeweera (Dec 2012 to date)

5. Board of Investment of Sri Lanka,  
West Tower,  
World Trade Centre, Echelon Square,  
Colombo 01.
6. Colombo Dockyard Ltd,  
P.O.Box. 906, Port of Colombo,  
Colombo 15.
7. Mohan Pieris  
Former Attorney General,  
3-14D, Kynsey Road,  
Colombo 8.
8. Attorney-General  
Attorney-General's Department,  
Colombo 12.

**RESPONDENTS-RESPONDENTS**

**BEFORE :** **TILAKAWARDANE, J.**  
**RATNAYAKE, PC, J. &**  
**WANASUNDERA, PC, J.**

**COUNSEL** : N.Kodituwattu with N.R.A.D. Rupasinghe for the  
Petitioner.  
K.Kanag-Iswaran PC with Harsha Cabral PC and  
Buddhika Illangatillake for the 6<sup>th</sup> Respondent.  
Shavindra Fernando DSG with Milinda Gunetilleke  
DSG for the Attorney-General.

**ARGUED &**

**DECIDED ON:** 26.02.2013.

**TILAKAWARDANE, J.**

At the outset of his arguments the learned Counsel for the Petitioner, Mr. Kodituwakku states that he does not wish to make any allegations against anyone in this Application for Revision that he supports today. And if he has made any personal allegations that he agrees to expunge them from the Revision Application filed today. He further concedes, as do all counsel, that the matter comes up today only for the consideration of a limited matter based entirely on a pure question of law, which admittedly is a threshold issue to be determined before the actual application is considered. The question of law is whether a Revision Application could be preferred to the Supreme Court against a Fundamental Rights Application that had been previously determined by this Court.

As this is a pure question of law, Hon Justice P A Ratnayake, PC, J agrees to participate in this case.

Mr. Kodituwakku concedes that his arguments are based solely on the cases of Jeyaraj Fernandopulle Vs. Premachandra de Silva and others (1996 1 SLR page 70) and the case of Vasudva Nanayakkara Vs. P B Jayasundera and others (Case No S C Application No 209/07 SC minutes dated 13<sup>th</sup> October 2009) - both being Fundamental Rights Applications and heard before Divisional Benches. He also conceded that in the latter case, the decision of the former case was followed and both cases decided that this Court had no statutory powers to rehear, revise, review or further consider its decisions.

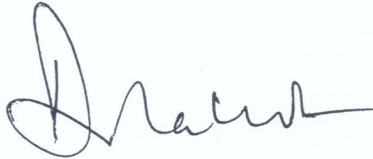
Mr. Kodituwakku concedes that in terms of Article 126 of the Constitution of the Democratic Socialist Republic of Sri Lanka there is no Right of Appeal on Judgments or Orders made in terms of Article 126 of the Constitution.

At the outset of his argument, counsel agree this was entirely a matter of law and on the threshold issue as to whether there were revisionary powers of this Court to review its own order.

In his enthusiasm in making his arguments, Mr. Kodituwakku adverted to a document P20 which is part of the facts of the case in the final decision that had been given on this matter previously. Mr. Fernando, Deputy Solicitor General vehemently objected to these matters being re-canvassed directly or indirectly in view of the five bench decision contained in Jeyaraj Fernandopulle Vs. Premachandra de Silva and others (*supra*) as this application is restricted merely to the question of law which is a threshold issue to be determined at the inception of the hearing of this Application.



Having heard submissions of counsel in this case, this bench sees no reason to vacate the Order dated 01.02.2013. A revision Application would not lie to review a decision in a Fundamental Rights Application. In Jeyaraj Fernandopulle Vs. Premachandra de Silva and others it was held that "the inherent powers of a court are adjuncts to existing jurisdiction to remedy injustice. They cannot be made the source of new jurisdictions to revise a judgment rendered by a court". Accordingly the Application for Revision of the Fundamental Rights Application is dismissed. No Costs.



**JUDGE OF THE SUPREME COURT**

**RATNAYAKE, PC, J.**

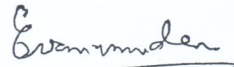
I agree.



**JUDGE OF THE SUPREME COURT**

**WANASUNDERA, PC, J.**

I agree.



**JUDGE OF THE SUPREME COURT**