

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

*In the matter of an application in terms of  
Article 105(3) of the Constitution of the  
Democratic Socialist Republic of Sri Lanka.*

**SC/ Contempt No.**

1. Senior Prof. Chandraguptha Thenuwara  
60/3A, 9<sup>th</sup> Lane  
Ethul Kotte
2. Prof. Emeritus Hewa Waduge Cyril  
6A, 2<sup>nd</sup> Lane  
Dehiwala
3. Senior Prof. Don Prishanta Gunwardhana  
64/2 Bathiya Mawatha  
Wijayangani Lane  
Kiribathgoda  
Gonawala

**PETITIONERS**

**Vs.**

1. Sarath N. Silva PC,  
Evergreen Park  
Dabare Mawatha  
Colombo 05
2. Attorney General  
Attorney General's Department  
Hulfsdorp

**RESPONDENT**

**On this 13<sup>th</sup> day of December 2018**

**TO: HIS LORDSHIP THE CHIEF JUSTICE AND THEIR LORDSHIPS THE OTHER HONOURABLE JUDGES OF THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA**

The Petition of Petitioners above named appearing by their Attorneys-at-Law **Samararatne Associates** respectfully state as follows;

**The Petitioners**

1. The Petitioners are citizens of the Democratic Socialist Republic of Sri Lanka and;

- a. The 1<sup>st</sup> Petitioner is the Professor of the department of History and Art Theory at the University of the Visual and Performing Arts and the director of Internal Quality Assurance Unit of the University of the Visual and Performing Arts, Colombo. In 1993, he founded the Vibhavi Academy of Fine Arts (VAFA), an artist-run Alternative art school. He studied painting at the Institute of Aesthetic Studies, University of Kelaniya (1978-1981) and Surikov State Art Institute, Moscow, Russia (1985-1992); MPhil at the Post Graduate Institute of Archeology (PGIAR), Kelaniya University(2006).

A curriculum vitae of the 1<sup>st</sup> Petitioner is annexed hereto marked as **P1(a)** and pleaded as part and part and parcel hereof.

- b. The 2<sup>nd</sup> Petitioner is the Senior Professor in Animal Science at the Department of Animal Science, Faculty of Agriculture of the University of Peradeniya. He is qualified with a B.Sc. (Agriculture) 1977, University of Peradeniya, Sri Lanka, M.Sc. (Meat Science) 1982, University of Nottingham, England and Ph.D. 1987, University of Nottingham, England.

A curriculum vitae of the 2<sup>nd</sup> Petitioner is annexed hereto marked as **P1(b)** and pleaded as part and part and parcel hereof.

- c. The 3<sup>rd</sup> Petitioner is the Senior Professor in Archaeology, Department of Archaeology, University of Kelaniya, Sri Lanka. He has obtained his higher education from the University of Kelaniya, Post Graduate Institute of Archaeology, University of Shiga, Japan and Bradford University, England.

A curriculum vitae of the 3<sup>rd</sup> Petitioner is annexed hereto marked as **P1(c)** and pleaded as part and part and parcel hereof.

**The Respondent**

2. The Petitioners respectfully state that;

- a. The 1st Respondent was admitted as an Advocate of the Supreme Court of Sri Lanka in June 1967 and commenced his career in the Attorney General's department in 1968 as a Crown Counsel.
- b. The 1st Respondent was promoted to the position of Senior State Counsel in 1975 and Deputy Solicitor-General in 1979 and subsequently appointed as a Judge of the Court of Appeal in 1987. He was appointed as the President of the Court of Appeal in 1994.
- c. The 1st Respondent was appointed to the Supreme Court in 1995.
- d. In 1996, the 1<sup>st</sup> Respondent was appointed as the Attorney General and therefore relinquished his duties as a Judge. He was appointed as a President's Counsel the same year.
- e. In the year 1999, the 1<sup>st</sup> Respondent who was at the time serving as the Attorney General was appointed as the 41<sup>st</sup> Chief Justice of Sri Lanka. The appointment of the 1<sup>st</sup> Respondent as the Chief Justice was subject to severe criticism in the legal and Judicial circles both locally and internationally.
- f. The 1<sup>st</sup> Respondent held office as the Chief Justice from 16<sup>th</sup> September 1999 to 7<sup>th</sup> June 2009.

### **Impeachment Motion against the Respondent tabled in Parliament**

3. The Petitioners respectfully state that, the 1<sup>st</sup> Respondent was the subject of a number of allegations arising from the conduct of the 1<sup>st</sup> Respondent during the tenure of the 1<sup>st</sup> Respondent as the Attorney General and subsequently as Chief Justice of the Republic.
4. The Petitioners state that it was resolved by the Members of Parliament, in April 2002, under the provisions of Article 107 (2) of the Constitution read with Article 107 (3) thereof and Standing Order 78 A of the Parliament to present an address of Parliament to Her Excellency the President at the time, for the removal of the 1<sup>st</sup> Respondent from the Post of the Chief Justice of the Supreme Court on alleged misbehaviors inter alia that;
  - a. The 1st Respondent had made bias and irrational Orders on 29/11/1999 in considering Fundamental Rights applications, bearing numbers 898/99, 899/99, and 900/99, challenging the validity of the appointment of the 1<sup>st</sup> Respondent as Chief Justice.

The 1<sup>st</sup> Respondent made orders as to the constitution of the bench in proceedings directly concerning himself and appointed a bench in ascending order of seniority omitting the 3 senior most Judges and ordered that if the bench cannot proceed for any reason, he would not constitute another special bench.

- b. The 1<sup>st</sup> Respondent had wrongly, arbitrarily and without legal mandate manipulated disciplinary proceedings against former Additional District Judge of Colombo namely Upali Abeyratne. A divorce case bearing No. 17082/D against one Damayanthi Shirani Jayasekera on the grounds of adultery with the said 1<sup>st</sup> Respondent was heard before the then Additional District Judge Upali Abeyratne. The said Additional District Judge, Upali Abeyratne was transferred to Moneragala as a punishment from the Judicial Zone of Colombo as a punishment and deprived his promotions for a period of 2 years upon being found guilty by the Judicial Services Commission, of handling the case partially in favour of the Respondent.

The Respondent, upon being appointed the ex officio Chairman of the Judicial Services Commission by virtue of his appointment as the Chief Justice of Sri Lanka, cancelled the transfer and appointed the said Upali Abeyratne to the Judicial Zone of Gampaha prior to the expiration of the two year period.

- c. The then Chief Justice G.P.S. De Silva, with the concurrence of the other Judges of the Supreme Court and the exception of 3 Judges decided to entertain a matter filed by Victor Ivan seeking the dis-enrollment of the 1<sup>st</sup> Respondent. The matter was referred to another Judge of the Supreme Court to carry out further investigations. However, the 1<sup>st</sup> Respondent after ascending to the office of Chief Justice subverted the course of Justice and quashed the pending proceedings and thereby abused his position as the Chief Justice to suppress the matter and prevented the due course of justice.
- d. The Respondent, during his tenure as Attorney General suppressed facts and falsely stated, in connection with allegations of embezzlement and rape, against Magistrate Lenin Rathnayake, that no complaints had been made by the victims when in fact the Criminal Investigations Department had compiled a report to the contrary. The said Magistrate Lenin Rathnayake was a relation of the Respondent.

Furthermore the Respondent was on a witch-hunt against the newspaper that published this matter concerning the Magistrate and directed the Criminal Investigations Department to trace all material on a publication made by the Ravaya Newspaper on 24<sup>th</sup> August 1997 allegedly in order to decide whether a prosecution for criminal defamation should be initiated.

- e. A committee comprising of three Judges of the Court of Appeal were appointed by the Judicial Services Commission (JSC) which decided to refer the matter to the Attorney General to consider forwarding indictment against Lenin Rathnayake against the alleged charges.

However, contrary to Article 114(2) of the Constitution, upon being appointed as the Chief Justice and ex-officio Chairman of the Judicial Services Commission, the 1<sup>st</sup> Respondent appointed a one man committee of Retired High Court Judge Sarath Gunatilake and reversed the decision of the JSC.

- f. In a number of matters of collateral interest/misconduct referred to below, the 1<sup>st</sup> Respondent took steps to constitute a bench Presided by him and acted in a partisan manner, voicing utterances insulting the party and the counsel opposing the point of view held by the 1<sup>st</sup> Respondent and in some instances making statements which clearly substantiate a personal connection between the 1<sup>st</sup> Respondent and one of the parties to the matter before him:

- i. SCFR/ 503/99- Ridiculed a Buddhist monk stating that, *“Buddhist monks should not be employed whilst wearing saffron and if they so wish to be employed they should disrobe themselves”*
- ii. SCFR/ 681/ 99- In reference to a Petitioner Doctor in Public Service, *“Government doctors do not perform any work. They are not be found at their stations, they only know how to go on strike, therefore it is appropriate to punish them”*
- iii. SCFR/ 441/ 97- Application to leave to appeal was refused stating that, *“Minister Richard Pathirana came to my house and cried. He told me he never did a thing like this. I know him. He is not a person who will do a thing like this”*

- g. In matters bearing Nos. S.C.F.R. 577/2000, 578/2000, 577/2001, 562/2001, 586/2001 filed Mr. Karu Jayasuriya (MP) on behalf of the United National Party, in relation to the elections held in 2000 and 2001, the 1<sup>st</sup> Respondent, presiding on the bench, dismissed matters without reason or ordered a delayed hearing date rendering the objective of the action nugatory or reserved an order without fixing a hearing date, or failed to make an order and further acted oppressively towards the Petitioner illustrating a clear attitude that he was acting in a partisan manner in favour of the Government at the time.

- h. In instances where the officers of the minor judiciary issued orders against parties who had close affiliations to the 1<sup>st</sup> Respondent, the 1<sup>st</sup> Respondent took steps to terminate

the services of such officers and/or took oppressive steps towards officers with an intent to compel the retirement of the officers contrary to established legal procedure and principles of natural justice;

- i. Magistrate Lawrence Costa was subject to constant harassments and was compelled to give into pressure brought on him to resign merely based on the fact that he was married to the Coordinating Secretary of the Mr. A.C.S Hameed;
  - ii. Demanded the resignation of Magistrate Jayaki De Alwis who had made orders against Police officer who was a Body Guard of a People's Alliance chief Minister and compelled and pressurized the Magistrate to tender her resignation;
  - iii. Maliciously caused termination of service of the former Additional Magistrate Colombo Hiran Ekanayake based on unfounded allegation of being partisan in favour of the Leader of the United National Party in a matter concerning the Chief Minister of the Central Province, Berty Premalal Dissanayake. Furthermore the 1<sup>st</sup> Respondent attempted to influence the same Magistrate Hiran Ekanayake in a matter concerning one Mrs. Hassan Ali. However, the Magistrate refused to succumb to such overtures.
- i. The 1<sup>st</sup> Respondent had employed a convicted criminal named Rohana Kumara as caretaker of Judges Institute. The said Rohana Kumara who had close connections with the 1<sup>st</sup> Respondent was proved to have been in connection with the 1<sup>st</sup> Respondent at the time the said Rohana Kumara was absconding the police and evading arrest whilst being suspected of a double murder;

*(In proof a true copy of the Notice of Resolution dated 20/04/2002 tabled in Parliament is annexed hereto marked "P2" and a true copy of the Complaint against the 1<sup>st</sup> Respondent made by Victor Ivan dated 16/09/1999 to the then Chief Justice, His Lordship G.P.S. De Silva is annexed hereto marked as "P3" and pleaded as part and parcel hereof.)*

5. It is respectfully stated that, in March 2003, the *British Refugee Council* released findings in regards to the Judiciary, citing a report from August 2001 where the *International Bar Association (IBA)* concluded that there was "an overwhelming need for an independent credible judicial system" in Sri Lanka listing instances of lack of accountability, breach of natural justice and potential for undue interference, and further specifying the critical positions that should be protecting the rule of law. The position of Chief Justice was mentioned as one of possible abuse.

6. The Petitioners respectfully state that, irrespective of the number of serious allegations against the 1<sup>st</sup> Respondent, he was not subjected to any Judicial proceedings owing to his political affiliations and the abuse of his position as the Attorney General and subsequently the Chief Justice at the time.
7. The Petitioners state that in the dire craving for power the 1<sup>st</sup> Respondent has from time to time aligned himself with different political parties and politically strong personalities in furtherance of his personal objectives and has made certain controversial statements that caused to send shock waves in the minds of the public and the international community.
8. The Petitioners state that the 1<sup>st</sup> Respondent was a strong critique of the Rajapaksa administration at the time the former President fell out of power in 2015. At the time, the 1<sup>st</sup> Respondent made a public statement with an indirect reference to the Helping Hambanthota Case at a meeting stating that the 1<sup>st</sup> Respondent made a mistake by releasing Mahinda Rajapaksa implicitly referring to the 'Helping Hambantota' corruption case.
9. The Petitioners state that the 1<sup>st</sup> Respondent, speaking at an event held on 17<sup>th</sup> October 2014 thereby admitted that he made an incorrect determination in the matter and begged for the pardon of the nation with an apology to the public at large. A transcription of the statement made by the 1<sup>st</sup> Respondent is as follows:

“ uyskao rdcmlal ;=ud wo T;k bkafka uka yskaod' uu fi <.|s .shd kdrdfyakamsg' uu yeuodu hkjd w.%úksYaphldrhd fj,d bkak ldf,;a uka hkjd Th fmdy fj<|fmd,g' .sys,a,d ;uhs uka nvq .kafka ug wdrlallfhda ljodj;a ysáfha kE thd, uu okakjd ck;d úuqla;s fmruqfKa idudðlfhla uu l;d lrlr bkakfldg msgg ;Ügq l,d' msáka weú,a,d' ug ta jf.a foaj,a lrkak bv fokjd uka' lsjd uy;a;fhda 'l .ek l;dlrkak 'fk kE' Tn;=udg ;snqKd wjia:djla tl jdlHhlska fi ukqiaihd ysf¾g odkak' wehs Tn;=ud tfyu lf¾ ke;af;a ug W;a;rhla fokak' oeka lsh,d' uu lsõjd iudfjkak ifydaorhd lsh,d' uka wdjd tkak' iudfjkak ifydaorhd uq¿ rfgkau uka b,a,d isákjd iudfjkak ug' iudfjkak ug.”

*(In proof of that, a compact disk containing the said speech made by the 1st Respondent is annexed hereto marked as “P3” and pleaded as part and parcel hereof.)*

10. The Petitioners state that these statements further substantiate the fact that the 1<sup>st</sup> Respondent manipulated his position as the Chief Justice to further the personal objectives of the 1<sup>st</sup> Respondent and desecrated the coveted office of the Chief Justice in total abuse of its position and the powers in utter contempt of the esteemed institution and the sacred office.

**Former Chief Justice Sarath N Silva (the Respondent) Violates Constitution By Functioning as Mahinda Rajapakse's Legal Counsel**

11. The Petitioners state that, the 1<sup>st</sup> Respondent acted as the legal counsel of Mahinda Rajapakse when the latter gave a statement to the CID on August 17, 2018 on the abduction of journalist Keith Noyahr and thereby acted in clear violation of the constitution of the Sri Lanka.

12. The Petitioners state that Article 110(3) of the Constitution of Sri Lanka provides as follows:

*No person who has held office as a permanent Judge of the Supreme Court or of the Court of Appeal may appear, plead, act or practise in any court, tribunal or institution as an Attorney-at-law at any time without the written consent of the President.*

13. The Petitioners respectfully state that the 1<sup>st</sup> Respondent has acted in clear violation of the constitution of Sri Lanka, by acting as a private legal counsel of Mahinda Rajapakse subsequent to retiring from the office of Chief Justice.

**Making Contemptuous Utterances in Defiance of the Authority and Dignity of the Judiciary and the Courts**

14. The Petitioners respectfully submitted that, Your Lordships' Court has suspended application of the President's controversial decision to dissolve parliament by granting an interim Order dated 13<sup>th</sup> November 2018 in the case bearing No. SC/FR/ 351/ 2018.

15. The Petitioners state that in consequence of the interim order issued by Your Lordships' Court, the Parliament was reconvened and the move to hold snap elections as directed by president Maithreepala Sirisena was stayed.

*(In proof of that, a true copy of the Journal entry dated 13/11/2018 of the case bearing No. SC/FR/351/2018 is annexed hereto marked as "P4" and pleaded as part and parcel hereof.)*

16. The Petitioners state that, on 3<sup>rd</sup> December 2018 the Respondent, former Chief Justice Sarath N. Silva addressing the large gathering that was present at a public rally at the Maradana junction made a speech in utter contempt of Your Lordships' Court, particularly of the interim order that has been delivered by Your Lordships' Court on 13<sup>th</sup> November 2018 and the interim order delivered by the Court of Appeal on the evening of 3<sup>rd</sup> December 2018, whilst the said meeting was being held, staying the Respondents the matter, being the Prime Minister, the Cabinet of Ministers and other Ministers from officiating in such capacities.



17. The 1<sup>st</sup> Respondent made this call at a rally organized by the ‘Jathika Ekamuthuwa’, a group loyal to Member of Parliament Mahinda Rajapaksa in Maradana to gather public support in pursuit of a general election.

18. The Petitioners state that in the said speech, the 1<sup>st</sup> Respondent deliberately, maliciously and contemptuously made statements in relation to the Court Process, the Judgment and the conduct of Your Lordships’ in the matter bearing No. S.C.F.R. 351/2018 and the order issued by the Court of Appeal in the matter of *Quo Warranto* bearing No. \_\_\_\_\_ filed in connection with the No Confidence Motion passed against the purported Prime Minister Mahinda Rajapakse.

19. The Petitioners state that the contemptuous utterances made by the 1<sup>st</sup> Respondent during his speech at the abovementioned meeting are as follows:

“..ගෞරවණීය මහා සංඝරත්නයෙන් අවසරයි. රුදුස්ව සිටින අනෙකුත් පූජක වරුන් මිනරවරුන්. අද අපේ රට ඉතාමත්ම තීරණාත්මක අර්බුදකාරී තත්වයකට පත්වෙලයි තියෙන්නේ. ඒ නිසයි මෙතෙක් නිහඬව සිට මෙම ගරු ආරාධනය ලැබුණ විට මේ පිරිස ආමන්ත්රනය කිරීමට මම මෙතනට පැමිණීමට තීරණයක් ගත්තේ.

අපේ ජනාධිපතිතුමා, ඔහුට විතරමයි බලයක් තිබෙන්නේ පාර්ලිමේන්තුව විසුරුවා හැරීමට. ඔහු පාර්ලිමේන්තුව විසුරුවා හැරලා, මත් පස්සේ ඒ වගන්ති කියවනවා. මහා මැතිවරණයක් නියම කෙරුවා. ශ්‍රේෂ්ඨාධිකරණයෙන් ඒ විසුරුවා හැරීමේ නියෝගය අත්හිටුවුවා. නිකම් එල්ලලා තිබ්බා. මහා මැතිවරණයක් මේ පැත්තෙන් එල්ලලා තිබ්බා. මහා මැතිවරණයක් මේ පැත්තෙන් එල්ලලා තිබ්බා. එතකොට පාර්ලිමේන්තුවත් එල්ලලා. මහා මැතිවරණයත් එල්ලලා. අද අභියාචනාධිකරණයෙන් කැබිනට් මණ්ඩලයත් එල්ලලා තිබ්බා.

දැන් මිනරවරුන් වෙලා තියෙන්නේ අපේ රටේ, පාර්ලිමේන්තුවත් එල්ලලා තියලා. මැතිවරණයත් එල්ලලා තියලා. කැබිනට් මණ්ඩලයත් එල්ලලා තියලා. මේ නියෝග කරපු ජනාධිපතිත් එල්ලලා තියලා. ඉතින් ඔක්කෝම එල්ලලා ඉන්නවා. ඔක්කෝම එල්ලලා ඉන්නවා. ඒකයි මේ ජනතාව බලාගෙන ඉන්නේ බලාගෙන ඉන්නේ. ඒකයි බලාගෙන ඉන්නේ.

මේකට විසඳුමක් තියෙන්න ඕනෑ. හැම එකම එල්ලලා වන වන නියාගන්න බෑ. රනිල් විකුමසිංහට ඒක ඕනෙ ඇති. හැබැයි අපිට ඕත්තෑ ඒක. අපිට මේ රනිල් විකුමසිංහ වගේ එල්ලලා වැනි වැනි ඉන්න කිසිම අවගන්තාවයක් නෑ. අපිට ඕනෑ ස්ථාවර ආණ්ඩුවක්. ස්ථාවර ආණ්ඩුවක්. අවගන්තාවයි. එහෙම නැතුව මේ හැම එකම එල්ලලා එල්ලලා එතනින් එල්ලලා මෙතනින් එල්ලලා නියාගෙන ඉදලා අපිට කිසිම ප්‍රයෝජනයක් නෑ. ඒ නිසයි මේ හඬ නගන්නේ මහා මැතිවරණයක් පවත්වන්නයි කියලා. ඔබ සියල්ලම ඉල්ලා සිටින්නේ, මහා මැතිවරණයක් පවත්වන්නයි කියලයි.

ඒ නිසයි. මෙවැනි අස්ථිර තත්වයකින් අපිට කාටවත් ප්‍රයෝජනයක් වෙන්නැහැ. මම කරුණාවෙන් ඉල්ලා සිටිනවා මේකට වග කිවයුතු සියළුම සෑම දෙනාගෙන්ම. මෙහෙම මේ රටක් ගෙනියන්න පුළුවන්ද? මෙහෙම ආයතන ඔක්කෝම අස්ථාවර කරලා, ක්‍රමවේද සියල්ලම අස්ථාවර කරලා, මේ ආණ්ඩුක්‍රම ව්‍යවස්ථාව නිකම් අස්ථාවර කරලා, අපිට පුළුවන්ද රටක් ගෙනියන්න. ගෙනියන්න බෑ මිනරවරුන්. එහෙම ගෙනියන්න බෑ. මට මේකේ අත්දැකීම් තියෙනවා අවුරුදු 50කට එහා. කිසිම දාක අපේ සර්වජන පුන්ද බලය ලැබුණේ නවසිය නිස් එකේ. එදා ඉදන් අද දක්වා කිසිම දාක

මෙවැනි අස්ථිර තත්වයක් උදාවෙලා තැ. ඇත්තෙන්ම අපේ ජනතාවට ප්‍රසාදයක් දෙන්න ඕනැ. ඉතාමත්ම ඉවසීමෙන් ඉන්නේ. ඉතාමත්ම ඉවසීමෙන් ඉන්නේ. මේ අස්ථාවර තත්වය යටතේ ඔබතුමන්ලා මේ ඉවසීමෙන් ඉන්න විදියම ඉතාමත්ම උත්තම දෙයක්.

දැන් මිත්රවරුනි අපේ රටේ නියෙනවා, මන් බොහොම කෙටියෙන් කියන්නේ. උත්තරීතර නීතියක්. ඒක තමා ග්‍රී ලංකා ආණ්ඩුක්‍රම ව්‍යවස්ථාව. මේ ව්‍යවස්ථාව කියවන්න වෙලාව ඇවිල්ලයි නියෙන්නේ. මන් බොහොම සුඵල වශයෙන් කියන්නේ. මේක පටන් ගන්නේ තුන් වන ව්‍යවස්ථාවෙන්. ඒ ව්‍යවස්ථාවේ මන් මේ කියන්නේ මේක. ග්‍රී ලංකා ජනරජයේ පරමාධිපත්‍ය. සියලු බලය ජනතාව. ඒ කියන්නේ ඔබ තුමන් කෙරෙහි පිහිටා ඇත්තේය. පරමාධිපත්‍ය අත්හළ නොහැක්කේය. ඔබතුමන්ලටවත් මේක අත්හරින්න බැ. පරමාධිපත්‍යට පාලන බලතල, මූලික අයිතිවාසිකම් සහ ජුන්ද බලය, ජුන්ද බලය ඇතුළත් වන්නේය. දැන් මේක තමුන්ටත් අත්හරින්න බැහැ. දැන් වෙලා නියෙන්නේ මේ තමුන්ගේ මේ අගනා ප්‍රජාතන්ත්‍රවාදී ආණ්ඩුක්‍රම ව්‍යවස්ථාවේ පරමාධිපත්‍යට ඇතුළත්වන ජුන්ද බලය දැන් පැහැරගෙන තිබෙන්නේ. ජුන්ද බලය පැහැරගෙන තිබෙන්නේ. ඒක තමයි වෙලා නියෙන විශාලතම බේදවාචකය. මේ රට මෙවැනි තත්වයකට කවදාකවත් පත්වෙලා තැ.

මිත්රවරුනි පාර්ලිමේන්තුව විසුරුවා හැරීමේ බලය නියෙන්නේ ජනාධිපතිට පමණයි. ඒ බලය පැහැදිලිවම තිස් වන, තිස් තුන්වන ව්‍යවස්ථාවේ සඳහන් වෙලා නියෙනවා. ඒ නිබේදදී ජනාධිපති විසුරුවා හැරියා. දැන් රනිල් වික්‍රමසිංහගේ මිනිස්සු කියනවා මේ බලය හැත්තෑවන ව්‍යවස්ථාවට යටත් ය කියලා. කියලා අඵන් වචන ආදේශ කරලා තමයි දැන් මේ ශ්‍රේෂ්ඨාධිකරණයෙන් මේ නියෝග ලබාගෙන තිබෙන්නේ. අඵන් වචන දාලා හැබැයි පැහැදිලිවම ජනාධිපතිට ඒ බලය නියෙනවා. ඒ නිසා අපි ඉතා උනන්දුවෙන් ඉල්ලා සිටින්නේ, මේ අවස්ථාවේ අපි ඉතා උනන්දුවෙන් ඉල්ලා සිටින්නේ, ආණ්ඩුක්‍රම ව්‍යවස්ථාවට අක්‍රිය කරන්න නෙමෙයි, කිසි කෙනෙක් ඉන්නේ. කිසිම ආයතනයක්, අධිකරණය ඇතුළු කිසිම ආයතනයක් ඉන්නේ ආණ්ඩුක්‍රම ව්‍යවස්ථාව සහ ජනතාවගේ පරමාධිපත්‍ය අක්‍රිය කිරීමට නෙවෙයි. ඒ ඉන්නේ සියල්ලම ඉන්නේ විධායකය, ව්‍යවස්ථාදායකය, අධිකරණය සියල්ලම ඉන්නේ මේ ජනතාවගේ මේ ඔබේ පරමාධිපත්‍ය සක්‍රිය කරන්නයි. ක්‍රියාත්මක කරන්නයි. ඔබේ ජුන්ද බලය ක්‍රියාත්මක කරන්නයි.

එතකොට ඔබේ ජුන්ද බලය කවුරු හරි තවත්වනවනම්, ඒ කියන්නේ ආණ්ඩුක්‍රම ව්‍යවස්ථාවට විශාල වශයෙන්ම විරෝධී දෙයක් කිරීමයි. මම ආයෙන් තැවන වතාවක් කියනවා. මට අත්දැකීමක් නියෙනවා අවුරුදු 50කට වැඩිය. කිසිම දාක මෙවැනි තත්වයක් මේ රටේ උදාවෙලා තැ. ඒක අපේ අහේතුවක්. ඒ නිසා අපි එක හඬින්, එක හඬින් අපි කියා සිටිමු අපිට ඕනෑ මහා මැතිවරණයක්. අපිට ඕනෑ මහා මැතිවරණයක්. ඒක ගබ්බනගා කියන්න. ඒ මැතිවරණයෙන් අපිට පුළුවන්, අපිට අවශ්‍ය ආණ්ඩුවක් පිහිටුවා ගන්න. රනිල් වික්‍රමසිංහට පක්ෂ අය රනිල් වික්‍රමසිංහට ජුන්දේ දෙයි. මහින්ද රාජපක්ෂට පක්ෂ අය මහින්ද රාජපක්ෂට ජුන්දේ දෙයි. එතකොට කාටවත් ප්‍රශ්නයක් තැහැ. මේක තමා නීතියේ සර්ව සාධාරණත්වය. ඇයි මේ අය ජුන්දයකට බය. ඇයි? මේ අය ජුන්දයකට බය. දැන් පළාත් 6ක පළාත් හයක ආණ්ඩු දැන් අක්‍රිය වෙලා. මධ්‍යම ආණ්ඩුවත් දැන් අක්‍රිය වෙලා.

ඉතින් මේ රට දිනෙන් දින කඩා වැටීම පුදුමයක්ද? මේකට වගකිවයුත්තන්ට ඇස් අරෙන්නේ තැද්ද? බලන්ඩ බැර්ද? මේ රට කඩා වැටෙන විදිය. ආර්ථිකය කඩා වැටෙනවා. ඩොලරය ඉහළ ගනිනවා. දැන් දෙසිය දක්වා ඉහළ ගනිනකම් මේ අන්ධ බුනගේ, මේ අන්ධ බුනගේ උඩ බලන් ඉදලා කියයි, අනේ අපේ රට බංකොලොත්, අනේ අපේ රට බංකොලොත්, බංකොලොත් කරපු මිනිස්සුන්ට වග කියන්න ඕනෑ මතු පරම්පරාවන්ට. එසේ බංකොලොත් භාවයක් ඇතිකරපු මිනිස්සු සෑම දෙනෙක්කටම මේ රටේ ගාපය වදිනවා. මෙවැනි අපරාධයක් කරලා ගැලවෙන්න බැ. ගැලවෙන්න බැ. ඒ නිසා අපි

අනතුරු ඇඟවීමක් කරන්නේ. කරුණාකරලා දැන්වත් ඇස් ඇරලා බලන්න. ආණ්ඩු ක්‍රම ව්‍යවස්ථාවේ විධිවිධාන දිහා ඇස් ඇරලා පැහැවන්නව බලන්න. මොලේ ඇතුට බලන්න. ඇස්දෙක පියාගෙන මේක දිහා බලන්න එපා. ඇස් ඇරලා බලලා මේකෙ ඇති විධිවිධාන අනුව අපි මහා මැතිවරණයක් පවත්වලා මේ ප්‍රශ්නේ නිරාකරණය කරන්න පුළුවන්.

මත් රනිල් වික්‍රමසිංහ මහත්තයට කියනවා. කවදාහරි, කවදාහරි ජුන්දයක් නියත්න ඕනැනේ. ඒ මනුස්සයට ඉන්න පුළුවන්ද ජුන්දේ නියත්නැනිව. දැන් පළාත් පාලන ආයතනවල ජුන්දේ කල් දැම්මා. අවුරුදු දෙක හමාරක් කල් දැම්මා. කුණු කඳු ගැහිලා ගිණි අරං ජරාවෙලා ඔක්කොම උනාට පස්සේ නියලා අත්ත පරාජයකට ලක් උනා. ඇයි මේ මනුස්සයා ප්‍රජාතන්ත්‍රවාදී මහා මැතිවරණයකට බය. ඇයි එක්සත් ජාතික පක්ෂය බය. කියන්ඩ. නිර්භීත වෙන්ඩ. එන්ඩ මැතිවරණයකට මුහුණ දෙන්න. එව්වරයි අපේ ඉල්ලීම. ග්‍රී ලංකා ජනතාවට ජයවේවා! අපේ ප්‍රජාතන්ත්‍රවාදී අයිතිවාසිකම් වලට ජයවේවා!”

*(In proof of that, a compact disk containing the said speech dated 3/12/2018 made by the 1st Respondent is annexed hereto marked as “P5” and pleaded as part and parcel hereof.)*

20. The Petitioners state that the 1<sup>st</sup> Respondent has by the aforesaid contemptuous statements made the following aspersions against Your Lordships’ Court in regards to the interim order of Your Lordships’ Court in case bearing No. S.C.F.R. 351/2018 and that of the Court of Appeal in Case bearing No. \_\_\_\_\_:

- a) By the issuance of the interim order by Your Lordships’ Court in case bearing No. S.C.F.R. 351/2018, the 1<sup>st</sup> Respondent states that Your Lordships’ court has simply ‘hung’, ‘hung’ the Parliament, ‘hung’ the general election and ‘hung’ the office of the President.
- b) By the issuance of the interim order by the Court of Appeal in case bearing No. \_\_\_\_\_, the Court of Appeal has ‘hung’ the Cabinet.
- c) Your Lordships court has in effect destabilized the institutions of the government, undermined the due procedures and weakened the application of the constitution.
- d) The franchise of the people has been looted by Your Lordships’ Court in violation the Constitution.
- e) Contrary to the opinion of Your Lordships’ Court as per the order issued on 13<sup>th</sup> November 2018, the authority to dissolve Parliament is vested in none other than the President as per Article 30 and Article 33 of the Constitution.
- f) These orders have been obtained from the Supreme Court by substituting new words through Article 70 of the Constitution.

- g) The role of the all institutions including the Judiciary should not be to render the authority of the constitution and the sovereignty of the people to be nullified.
- h) If any person is taking steps to render the franchise of the people annulled, then such persons are acting against the constitution.
- i) Is it a surprise that our country is going down day by day? Why can't those responsible open their eyes. The manner in which that the country is falling apart. The economy is falling apart. The dollar is rising. These blind ghosts will look up and wait until the dollar rises to Rs.200/-. Those who have made our country bankrupt should be responsible to the people and the future generations. All those who created such bankruptcy are cursed. They can't get away from such crime. **Therefore we are cautioning. Please open your eyes. Look at the constitutional provisions intelligently with open eyes. Do not look at it with closed eyes. Open your eyes and we will have a general election as provided for and resolve the issue.**

21. The petitioners state that the above statements have serious effect and impact on the esteem of Your Lordships' Court as perceived and held by the ordinary citizens of this country who do not possess much of a legal knowledge. The terminology and the manner in which these words have been couched by a former Chief Justice in a manipulative manner and put across to the public gathering is evidently with an intent to lower the respect and the dignity in which Your Lordships' Court has been held for decades since the establishment of this coveted temple of justice and ignite an acrimony amongst the public. It is even more regrettable and unpardonable as such words have been uttered by a person who himself has dealt with so many other people alleged for having committed contempt of court and punished with imprisonment during his tenure as Chief Justice.
22. The Petitioners state that by making the statements illustrated above the 1<sup>st</sup> Respondent was making clear and obvious futile attempts, to influence the minds of Your Lordships' Court on a matter in which specific dates had been fixed enabling all parties concerned to intervene and make submissions, at the time of the speech of the 1<sup>st</sup> Respondent.
23. The Petitioners respectfully state that the aforesaid speech delivered on 3<sup>rd</sup> December 2018 by the 1<sup>st</sup> Respondent is grossly contemptuous in that the subject matter and contents of the speech are not only malicious, false and erroneous but misleading, especially having regard to the fact that these statements have far reaching effect on the dignity of Your Lordships' Court whilst directing a threat by way of a caution in reference to the interim order made by Your Lordships' Court.
24. The Petitioners respectfully state that the conduct of the 1<sup>st</sup> Respondent obstructs the due administration and the course of justice in that the said conduct of the 1<sup>st</sup> Respondent attributes improper motives to a matter *sub judice* applying undue pressure on Your

Lordships' Court and the Honorable Attorney General and/or coercing other authorities to apply pressure on your Lordship's Court in order to enter Judgement as favoured by the Respondents in the matter.

25. The Petitioners further state that the interim order of Your Lordships' Court dated 13<sup>th</sup> November 2018 in the case bearing No. SC/FR/ 351/ 2018 had been extended and the case was pending before Your Lordships of the Supreme Court of the Democratic Socialist Republic of Sri Lanka at the time of the statement being made by the 1<sup>st</sup> Respondent and therefore the aforesaid conduct of the 1<sup>st</sup> Respondent was calculated to influence the judicial process in an ongoing and pending matter awaiting final determination before Your Lordships of the Supreme Court.
26. The Petitioners further state that the said obnoxious conduct of the 1<sup>st</sup> Respondent inter alia causes grave prejudice on the esteemed authority of Your Lordships Court and in turn will disturb the public confidence on Your Lordships' Court as the supreme institution upholding the rule of law.
27. The Petitioners state that the said threats, insinuations, comments and statements have been uttered in public by the 1<sup>st</sup> Respondent and thus the said acts of the 1<sup>st</sup> Respondent amount to a gross contempt of Court.
28. The Petitioners further state that the said impugned speech was made by the 1<sup>st</sup> Respondent with the full knowledge and with the express intent that the same would result in prejudicing and impeding judicial proceedings and creating an environment of real and substantial prejudice against the Rule of Law, thus subverting the due process of law, the administration of justice and preventing the General public from receiving a fair hearing particularly in the 1<sup>st</sup> Respondent seeking to achieve a collateral purpose.
29. The Petitioners state that the said speech made by the 1<sup>st</sup> Respondent at public meeting held under topic of 'Jathika Ekamuthuwa' on 03.12.2018. at the public rally at Maradana, referred to above amounts to Contempt of Court punishable by Your Lordships' Court in the exercise of the power vested in Your Lordships' Court in terms of Article 105 (3) of the Constitution of the Democratic Socialist Republic of Sri Lanka.
30. The Petitioners state that the said speech made by the 1<sup>st</sup> Respondent at the 'Jathika Ekamuthuwa' on 03.12.2018 is;
  - a. oppressive, arrogant and insulting in their tone and tenor, violative of the Rule of law, norms and standards expected in a free society.
  - b. violative of all norms of decency expected of any ordinary citizen and contemptuous of the Courts, judicial system, due process of law and the administration of justice.

- c. calculated to give the listener an impression and create in the mind of the public the sinister innuendo that Your Lordships Court has acted and is further attempting to deliver justice in an unfair manner.
- 31.** The Petitioners respectfully state that the 1<sup>st</sup> Respondent's conduct in making the said speech including the aforesaid utterances, is unbecoming of an Attorney at Law. Therefore the circumstances demand that 1<sup>st</sup> Respondent be dealt with for his conduct in making the said speech as his professional conduct has fallen far short of the required standard of conduct of an Attorney at Law.
- 32.** In the aforesaid premises the Petitioners respectfully state that in addition to the 1<sup>st</sup> Respondent being dealt with for his conduct unbecoming of an Attorney at Law, it is also respectfully urged that Your Lordships' Court deal with the 1<sup>st</sup> Respondent in terms of the jurisdiction vested in Your Lordships Court by Article 105 (3) of the Constitution of the Democratic Socialist Republic of Sri Lanka and punish the 1<sup>st</sup> Respondent for committing the offense of Contempt of Court.
- 33.** The Petitioners state that they owe a public duty to invoke the Jurisdiction of Your Lordships' Court under article 105(3) of the Constitution and respectfully urges Your Lordships' Court to exercise the power vested in Your Lordships Court under Article 105 (3) of the Constitution and punish the Respondents according to law.
- 34.** In the aforesaid circumstance the Petitioners very respectfully plead that the 1<sup>st</sup> Respondent whilst being aware of the fact that the Supreme Court being the Superior Courts of record committed and made in-correct, unfounded, misleading and false allegations on the conduct of Judges/Judge of the Supreme Court, influencing the minds of the Judges that are expected to hear such a case and/or cases and the 1<sup>st</sup> Respondent had again committed the offence of contempt of Court punishable under Article 105(3) of the Constitution.
- 35.** The Petitioners are of the firm belief that all citizens of the Democratic Socialist Republic must regard Your Lordships Court in a sacred and dignified manner and that no person should be allowed to tarnish the high esteem in which Your Lordships Court is held by all citizens and refrain from committing any act that would have any effect on the Supreme Court and or challenge its Jurisdiction, the power that is vested in it by the Constitution.
- 36.** The Petitioners further state that the Petitioners are invoking the Jurisdiction of Your Lordship's Court solely under and by virtue of article 105 (3) of the Constitution of the Republic of Sri Lanka in order to uphold the dignity and independence of the Judiciary in the Republic of Sri Lanka and in order to ensure the maintenance of its high esteem.
- 37.** The Petitioners therefore seek summons/rule to be issued in the 1<sup>st</sup> instance on the 1<sup>st</sup> Respondent and be directed to plead and show cause as to why he should not be punished for

his Contemptuous conduct in gross scandalization of Your Lordships Court and take steps to deal with him as provided for by virtue of article 105(3) for the offence of contempt of the Supreme Court.

38. The Petitioners very respectfully states that the Complainants have not invoked the jurisdiction of Your Lordships Court's under Article 105 (3) of the Constitution previously in this matter.

**WHEREFORE THE PETITIONERS RESPECTFULLY PRAY THAT YOUR LORDSHIPS COURT BE PLEASED TO: -**

- (a) In the first instance to issue Summons/Rule on the 1<sup>st</sup> Respondent to show cause as to why he should not be punished by Your Lordships' Court for committing the offense of Contempt of Court of the Supreme Court;
- (b) In the first instance to issue Summons/Rule on the 1<sup>st</sup> Respondent to show cause as to why he should not be struck off from the role of the Attorneys at Law;
- (c) Issue notice on the Attorney General to appear and assist court amicus curiae;
- (d) Charge the 1<sup>st</sup> Respondent on the offence of Contempt of the Supreme Court under Article 105(3) of the Constitution of the Republic of Sri Lanka;
- (e) Take steps against the 1<sup>st</sup> Respondent as per Article 105(3) of the Constitution on the offences of Contempt of the Supreme Court by the Speech made by the 1<sup>st</sup> Respondent at the public rally 'Jathika Ekamuthuwa' on 03.12.2018.
- (f) Grant and issue an interim order restraining and/or preventing the 1<sup>st</sup> Respondent from committing, making and/or publishing further Contemptuous statements/articles scandalizing the Supreme Court until the conclusion of this case;
- (g) Impose sentence on the 1<sup>st</sup> Respondent as provided for in article 105(3) of the Constitution of the Republic of Sri Lanka.
- (h) grant costs, and;
- (i) such other and further relief as to Your Lordships' Court shall seem meet.

**Attorney-at-Law for  
the Petitioners**