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

In the matter of an application for review of judgment delivered in SC/APPEAL/53/2012 dated 14th December 2018, under and in terms of Article 132(3)(iii) of the constitution of the Democratic Socialist Republic of Sri Lanka and/or in the exercise of inherent powers of the Supreme Court of the Democratic Socialist Republic of Sri Lanka.

SC/MISC/03/2019

Suntel Limited,

No. 110. Sir James Peiris Mawatha,

Colombo 02.

Plaintiff

Vs.

Electroteks Network Services Private Limited,

No. 429 D, Galle Road,

Ratmalana.

Defendant.

AND BETWEEN

Dialog Broadband Network (Private) Limited,

No. 475, Union Place,

Colombo 02.

Plaintiff – Appellant.

Vs.

Electroteks Network Services Private Limited,

No. 429 D, Galle Road,

Ratmalana.

Defendant -Respondent.

AND NOW

Electroteks Network Services Private Limited,

No. 429 D, Galle Road,

Ratmalana.

Defendant – Respondent – Petitioner.

Vs.

Dialog Broadband Network (Private) Limited,

No. 475, Union Place,

Colombo 02.

Plaintiff – Appellant – Respondent.

Before: Jayantha Jayasuriya, PC, CJ

Murdu N.B. Fernando, PC, J

P. Padman Surasena J

S. Thurairaja, PC J

E.A.G.R. Amarasekara J

Counsel: The Defendant – Respondent – Petitioner appears through his authorized agent namely, B. A. C. Abeywardena, Managing Director.

Dr. K. Kanag Iswaran, PC with Lakshmanan Jeyakumar, Aruna De Silva and Sahshim Haran for the Plaintiff – Appellant – Respondent instructed by F.J. & G de Saram.

Argued On: 14.09.2020.

Decided On: 19.05.2023

E.A.G.R. Amarasekara, J.

As per the petition dated 30th January 2019, the Original Plaintiff Suntel Limited had instituted an action in the Commercial High Court of the Western Province on 20th November 2001, against the Defendant – Respondent – Petitioner (hereinafter referred to as the Defendant – Petitioner) to recover a sum of Rs. 68,765,407/91 allegedly due as unpaid outstanding as of 3rd October 2000 in terms of an agreement between them. The Defendant Petitioner had filed his answer on 30th May 2002 praying inter alia under its first claim in reconvention for a sum of Rs. 41,040,185/12 being an over payment made and under its second claim in reconvention for a sum of Rs. 4,180 million comprising;

1. Rs. 2,180 million estimated loss of profit for 5 years as a result of the wrongful and unlawful disconnection of the telephone service breaching the agreement, and,

2. Rs.2000 million loss as a result of the loss of good will on that action.

The said petition further states that while the trial was proceeding the Plaintiff withdrew the said case and the Plaintiff's case was dismissed. However, the Defendant Petitioner sought to proceed with its claims in reconvention and the matter proceeded to trial accordingly. Subsequently, on 9th March 2012 learned High Court Judge delivered her judgment granting the Defendant - Petitioner the reliefs as prayed in the claims in reconvention. Being aggrieved by the said judgment of the learned Commercial High Court Judge, Plaintiff preferred an appeal to the Supreme Court on or around 16th March 2012. The said petition further reveals that thereafter, the Plaintiff Company Suntel Limited was amalgamated with the Company named Dialog Broadband Networks Private Limited and all the assets and the liabilities of Suntel Limited became assets and liabilities of Dialog Broadband Networks Private Limited, the present Plaintiff Appellant Respondent (hereinafter referred to as the Plaintiff Respondent). The appeal was taken up by this court before a bench comprising of three judges and the judgment was pronounced on 14th December 2018 in open courts and by the said judgment learned Judges of the Supreme Court held in favor of the Plaintiff –Respondent and allowed the appeal by setting aside the judgment of the Commercial High Court.

Being dissatisfied with the said judgment delivered by this court, the apex court of the country, which exercises the final appellate jurisdiction, the Defendant – Petitioner has preferred this application by the said petition before this court inter alia praying for an order setting aside the judgment dated 14th December 2018 delivered in the Supreme Court case No. SC/Appeal/53/2012. The Defendant-Petitioner further requested for a bench comprising of five or more judges of the Supreme Court be appointed to hear this matter. At the top of the caption to the petition, this application has been described as an application to review the said judgment of this court under Article 132(3)(iii) of the Constitution and / or in the exercise of its inherent powers.

The Defendant - Petitioner preferred this application in this court alleging that the judgment demonstrates extreme bias of the judges towards the Plaintiff Respondent inter alia for the following reasons;

1. Son of the presiding judge, as a junior counsel, has associated the Counsel who appeared for the Plaintiff Respondent in the Commercial High Court and the said Counsel was the junior to the Counsel who appeared in this court for the appeal filed by the Plaintiff Respondent. Nowhere has the Defendant Petitioner said that the said son of the presiding judge had appeared as a junior counsel in the relevant action in the original court or in appeal but he refers only to a different case namely CHC /282/2001. The Defendant Petitioner's allegation is that the son of the presiding judge was in association with the said Counsel of the Plaintiff Respondent almost one year prior to the pronouncement of the judgment and it has created a conflict of interest for his father who had been writing the judgment in the case SC/Appeal/53/2012 during the said association causing a reasonable suspicion as to whether the said justice was impartial in delivering the judgment.
2. There is a serious irregularity of existence of two judgments for the case SC/Appeal/53/2012, one appeared as decided and delivered on 12th December 2018 and another as decided on and pronounced on 14th December 2018. (In this context, the petitioner at no stage claims that the contents of the two judgements are different. However, there is a difference on the date of pronouncement as recorded in the copy published in the Supreme Court web site. This Court notes that the soft copy of the unsigned judgement is published in the web site by the Registry and the valid official version is the hard copy signed by the judges filed of record. Therefore, it appears that a possible typographical error in the soft copy is now being used to form accusations against the judges who heard and delivered the judgment).
3. Although the matter was argued for 10 days, only 2 days of arguments i.e., 18th and 19th of October 2016 have been taken for consideration and that written submissions have not been considered by court. This allegation is made on the basis that just before the body of the judgment and after the caption it is mentioned that the matter was argued on 18th and 19th of October 2016. However, the Defendant Petitioner fails to specifically identify any particular submission or argument that had not been considered in the

judgement. On the other hand, the petition itself in paragraph 47 indicates that no party filed written submissions within the given time.

4. The judge who wrote the judgment has taken quotes from a deleted section of a document in pronouncing the judgment and other judges have consented to the judgment.
5. The said judges have overlooked an available and marked document in the appeal brief while stating that the said document does not form a part of the brief.

Items no.3,4 and 5 mentioned above, if they are true and have affected the final conclusion, might have been considered under the wider interpretation that may be given to per incuriam concept, which wider interpretation is referred to later in this order. With regard to item no.01 above, it must be noted that it is not uncommon for family members of judges or their colleagues in the University or Law College engaging in the legal profession and practicing in courts. They are independent adults who in their own right engage in the profession. The mere fact that such relationship exists between a family member of the judge and a junior counsel of the team of counsel representing one of the parties before the judge per se is not a ground to allege bias against the judge. Other than the presiding Judge's son's association with the Junior counsel for the Plaintiff- Appellant in the Appeal in a different case, no specific interest or a pecuniary interest of the presiding judge has been averred with regard to the subject matter in the instant application. In relation to item no.2 above, as observed above the difference in the date is found in the copy published in the Web and not in the official copy found in the case record. Even a typographical error in a judgement including an error relating to the date can be corrected using the inherent powers of the court. In that context, an error found in a web copy published by the Registry appears to be a far-fetched reason to blame the relevant Judges. Nonetheless, this court need not go into the merits of this allegations and make final conclusion over such allegations due to the preliminary objection taken by the opposite party which has to be upheld due to reasons given later in this order.

When this petition was to be mentioned on 12.06.2019 before the two judges who took part in the previous decision making in delivering the judgment (the other judge had gone on retirement by that time), the Defendant Petitioner has objected and has requested to appoint a bench comprising of 5 judges in terms of the Article 132(3)(iii) of the Constitution – vide minutes dated 17.05.2019 and 30.05.2019. Motions filed on 24.05.2019 by the Defendant Petitioner also indicate that the plea is to appoint a bench of five or more judges to hear the instant application. It is abundantly clear from the contents of the petition dated 30.01.2019 and the motions filed by the Petitioner, that the application of the Defendant Petitioner is not based on per incuriam concept. The Petition and said motions unambiguously indicate that the Defendant Petitioner based his application on bias of the judges, fabricating of false evidence by the judges and certain impugned criminality associated with the judgment on the part of the judges.

When this application was first filed, the learned listing judge had made a direction to support this application on 17th May 2019, and when on that day it was listed for support as usual, the

bench in terms of the decision in **Jayaraj Fernanadopulle V Premachandra de Silva and Others (1996) 1 S L R 70** has directed to list the matter before a bench where two of the learned judges who heard and delivered the impugned judgment would be members – vide minute dated 17.05.2019. It appears by this time the other learned judge who took part in hearing and delivering the said judgment had retired from service. Meanwhile on a motion filed by the Defendant Respondent Petitioner, His Lordship the Chief Justice has referred the present application to be considered and decided by three judges nominated by his lordship, two of them being the two learned judges who were in service after the delivering of the impugned Judgment by them. One of the learned judges who took part in the decision making has directed to support the application in open courts and later on he also went on retirement pending the consideration of this application. The learned Judge who wrote the judgment has recused from considering the application due to the contents of the application. The third judge who was nominated by His Lordship the Chief Justice had expressed the view that this court has no power to go into the allegations relating to the misconduct of the judges of this court. He has also declined from hearing this application due to the reasons recorded in the brief -vide Journal Entry dated 16.06.2020.

As per the brief, the Defendant Respondent Petitioner has filed further motions requesting for a suitably constituted bench and His Lordship the Chief Justice has made certain directives to support all the motions before a bench of 5 judges nominated by his lordship. At the end, this matter was taken up before a bench of 5 judges on 14.09.2020. On that date the Plaintiff Respondent made submissions through his counsel with regard to the preliminary objections raised and the Defendant Respondent Petitioner through his authorized agent, namely B A C Abeywardena addressed the court on the preliminary objections so raised by the Plaintiff Respondent.

It was argued by the learned President's Counsel for the Plaintiff Respondent, that the English principle of finality of a judgment of the final court of appeal in its judicial hierarchy was received into our legal system legislatively, first by the Administration of Justice Law No. 44 of 1973, section 14(5) and by the1978 constitution, through its Article 127(1). Accordingly, it was argued that the Supreme Court is the final appellate court of the country and a judgment of the Supreme Court is final and conclusive and it is the parliament that can intervene to correct a judgment which is alleged to be wrong. Accordingly, prayed for the dismissal of the application due to lack of jurisdiction of this court to hear and determine this matter.

It is worthy to see whether this Court lacks jurisdiction to entertain and hear this type of application. Attention shall first be drawn towards the relevant Articles in the Constitution.

The Article 118 of the Constitution of the Democratic Socialist Republic of Sri Lanka reads as follows;

"*118.The Supreme Court of the Republic of Sri Lanka shall be the highest and final superior Court of record in the Republic and shall subject to the provisions of the Constitution exercise –*

(a) jurisdiction in respect of constitutional matters;

(b) jurisdiction for the protection of fundamental rights;

(c) final appellate jurisdiction;

(d) consultative jurisdiction;

(e) jurisdiction in election petitions;

(f) jurisdiction in respect of any breach of the privileges

of Parliament; and

(g) jurisdiction in respect of such other matters which

Parliament may by law vest or ordain".

This is an application to review the judgment made by this court over a final appeal already made to this court under (c) above and concluded after hearing. This application does not fall within the ambit of (a) to (f) mentioned above. The Defendant Petitioner failed to draw the attention of this court to any law passed by the Parliament that empowers this court to entertain and hear an appeal or review or revision over a decision of this court made in relation to a final appeal and this court is unaware of any such law that gives a right of appeal or revision or review over a judgment of a final appeal made by this court. Hence this application does not fall within the ambit of Article 118(g) mentioned above. As stated in **Jayaraj Fernanadopulle V Premachandra de Silva (1996) 1 S L R 70** our Supreme Court is a Creature of Statute and its powers are statutory. Thus, the scope of its power has to be limited to what is laid down by the Statutes but for the inherent powers any court has to meet the ends of justice and to prevent abuse of process. This court has no statutory jurisdiction conferred by the Constitution or by any other law to rehear, review, alter or vary its decision. Its decisions are final.

In some of the cases decided by this court it has been held that this court has inherent powers to correct its errors and mistakes which are demonstrably and manifestly wrong where it is necessary for the interest of justice. – See **Ganeshanatham V Vivienne Goonewardena and Three Others (1984) 1 Sri L R 321, All Ceylon Commercial & Industrial Workers Union V Ceylon Petroleum corporation and others (1995) 2 Sri L R 295**. Such circumstances may not fall within the restrictive interpretation given to per incuriam rule but may fall within the wider interpretation given to it as referred to later in this order. However, the present application does not refer to an error or mistake caused by this court but is based on the alleged wrongful conduct of the judges who heard the appeal.

The final appellate jurisdiction of the Supreme Court is further outlined by Article 127 of the constitution as follows;

"*127 (1) The Supreme Court shall, subject to the Constitution, **be the final Court** of civil and criminal appellate jurisdiction for and within the Republic of Sri Lanka for the correction of all errors in fact or in law which shall be committed by the Court of Appeal or any Court of First Instance, tribunal or other institution and the judgements and orders of the Supreme Court shall in all cases be **final and conclusive** in all such matters*". (Highlighted by me)

Reading of Article 118(c) and 127(1) clearly indicate that the decision made by this court in a final appeal is final and conclusive. The impugned judgment has been delivered by a bench comprising of three judges. The above quoted Articles do not create any Jurisdiction for a bench comprising of 5 or 7 or any higher number of judges to hear an appeal or a review or a revision over that judgment or decision made by a bench of three judges of this court.

The caption of the present application shows that the application was made under and in terms of Article 132(3)(iii) of the Constitution of and /or inherent powers of the Supreme Court. Article 132 does not empower this court to entertain or hear an appeal, revision or to review a judgment made by this court on a final appeal. Article 132(2) clearly states that this court can exercise its jurisdiction in different matters at the same time by several judges of the court sitting apart. Thus, it is obvious that a decision made by any division of this court is a judgment of this court.

It is worthy to refer to the decision in **Hettiarachchi V Seneviratne, Deputy Bribery Commissioner and Others (No.2) (1994) 3 S.L.R 293 at 296 and 297** at this juncture. The order of the Court made in that case states as follows.

> *"It is quite wrong to assume, as the petitioner does in his motion that the power of the Chief Justice under Article 132(3) to direct that an appeal, proceeding or matter be heard by a bench of five or more judges of, in his opinion, the question involved is one of general and public importance, makes any difference. That provision confers no right of appeal, revision or review." (At page 296)*

> *"It is well established rule that in general a court cannot rehear, review, alter or vary its own judgment once delivered. The rational of that rule is that there must be finality to litigation. Interest republicae ut sit finis litium. A court whose judgments are subject to appeal, cannot set aside or vary its judgment, even if plainly wrong in fact or in law: that can only be done in appeal. It may of course, have a limited power to clarify its judgment, and to correct accidental slips or omissions." (At page 197)*

Right to appeal against an order/ judgment by a court has to be given by law. No such right has been given against a judgment of this court over a final appeal. Further, in the above decision this court held that the decision given by a bench of three judges in that case was a judgment of the Supreme Court and they were not sitting as a fragmented part of the Supreme Court. In the said Order of Court, it was specifically stated that Article 132(3) confers no right of appeal, revision or review. No doubt that article 132(3) confers power on the Chief Justice to direct that an appeal, proceeding or matter be heard by a bench of five or more judges if, in his opinion, the question involved is one of general and public importance, but the said decision indicates that it

does not create a right of appeal to be considered by a higher number of judges of the same court. A similar approach was taken in the case of **Suren Wickramasinghe and others V Cornel Lionel Perera and others (1996) Vol VI Part II Bar Association Law Journal Reports 5**, and Fernando J, stated

> *"Article 132 shows, ex facie, that the power can only be exercised in respect of a pending appeal, proceeding or matter – but not in respect of a concluded matter………..Further, in terms of Article 132(2) a judgment or order delivered by a bench of three judges is the judgment or order of the Supreme Court, and not of "some a fragmented part of the Court"; it is final [of Article 127(1)], and is not subject to appeal to another bench of Court, even if it were to consist of five, or seven, or nine or even all the Judges……."*

The learned Justice further went on to say that using Article 132(3) in a way conferring right of appeal, revision or review would be to usurp legislative power, in order to create an additional right of appeal which the Constitution did not confer; and indeed, an effect to create a right of appeal with leave from the Chief Justice sitting alone. Even in **Jeyaraj Fernandopulle V Premachandra de Silva and Others (supra)** it was held that a decision of this Court is final; it is not subject to any appeal, revision review, re-argument or reconsideration. At page 98, with reference to Article 132 and 132 (3) it was plainly said *"..Article 132 does not confer any jurisdiction on the Court. Nor does Article 132(3) empower the Chief Justice to refer any matter of public or general importance to a Bench of five or more Judges. It empowers him to constitute a Bench of five or more Judges to hear an appeal, proceeding or matter which the court has jurisdiction to entertain and decide or determine. The court has no statutory Jurisdiction to rehear, reconsider, revise, review, vary or set aside its own orders. Consequently, the Chief Justice cannot refer a matter to a Bench of five or more Judges for the purpose of revising, reviewing, varying or setting aside a decision of the Court…*"

In **Ganeshanatham V Vivienne Goonawardene and Others (supra)** it was clearly stated that the Supreme Court has no jurisdiction to act in revision of cases decided by itself, and none of the provisions of the Constitution expressly confers such a jurisdiction on it, nor has the legislature conferred such a jurisdiction by law. It was further stated that the Supreme Court is a court of last resort in appeal and there is finality in its judgment whether it is right or wrong and that is the policy of the Law. I do not see that later amendments to the Constitution have brought any changes to the said policy.

What is discussed above confirms that Article 127 of our Constitution contains the principal of finality. Thus, this court has no jurisdiction to entertain or hear the present application under any statutory provision and as such the Defendant Petitioner's application made under and in terms of Article 132(3) cannot succeed.

Now this court must consider whether this application can be entertained and heard in exercising the inherent powers of this court as the Defendant Petitioner has referred to the inherent powers of this court in invoking the jurisdiction of this court. Inherent powers are to prevent abuse of

process and to meet the ends of justice. There may be very limited occasions where a court would exercise its powers in an already concluded matter or application. For clarification of its order or judgment or to correct any accidental omissions or slips or clerical or arithmetical mistakes, a court may revisit a concluded matter. In the same way courts, to meet the ends of justice may vacate its decisions made in *per incuriam*. In its restricted sense a decision made in *per incuriam* means a decision made in ignorance or forgetfulness of an existing statute or a binding decision. [for restricted interpretation of *per incuriam* concept, see **Huddersfield Police Authority V Watson (1947) 1 All E R 193, Alasupillai V Yavetpillai (1949) 39 C L W 107, Hettiarachchi V Seneviratne, Deputy Bribery Commissioner and Others (No.2) (1994) 3 Sri L R 293**.] However, the dictionary meaning of the Latin term *per incuriam* appears to connote something similar to ''through lack of care". [for a broader meaning of *per incuriam*, see **Gunasena V Bandaratilleke (2000) 1 Sri L R 292 at 301 and 302 and Kariawasam V Priyadharshani (2004) 1 Sri L R 189**]. Adopting the extreme wider meaning represented by the said dictionary meaning may become an obstacle to reach finality in litigation, since lack of care may even appear in evaluation of evidential material after every party is given a chance to present their stances and evidence. Anyway, our courts on certain occasions, where mistake was so obvious, have used the *per incuriam* concept in much wider meaning than Lord Goddard's interpretation in **Huddersfield Police Authority V Watson** above. [for such wider application see **King V Baron (1926) 4 Times of Ceylon Reports 3, The Police Officer of Mawalla V Galapatha (1915) 1 C W R 197, V.A. Ranmenika V B. A. S. Tissera 65 N L R 214, Kariawasam V Priyadharshani (supra) and Gunasena V Bandaratillake (supra**)]. However, it must be noted that this application does not allege any accidental omission or slip or any clerical or arithmetical errors. Neither it requires any clarification of the judgment made in the final appeal nor it alleges any unintentional obvious mistake and/or error. The Defendant Petitioner does not allege that the impugned judgment was made in *per incuriam* whether in its restricted or wider sense. Thus, this application does not fall under those categories to reconsider the order made. If the allegations fell under those categories, it could have been considered in a better way by the same judges who delivered the judgment. It is clear from the record that the Defendant Petitioner was objecting for the same judges who delivered the judgement considering this application. The allegation made in this application contemplates a sort of a new cause of action against the judges who heard and decided the final appeal for them being bias and /or being acted in a fraudulent manner and/or involved in fabricating false evidence etc. which allegedly represents an intentional wrongdoing by the said judges.

It is also worthy to refer to the decision made in **Jeyaraj Fernandopulle v Premachandra De Silva and Others (1996) (supra)** again, since there too was a decision made on an application to revisit the judgment made by a bench comprising of three judges by a higher number of judges. Even though, in the said decision it was clearly said that this court has no statutory jurisdiction to rehear, reconsider, revisit, review, vary or set aside its orders, it also recognized that there are certain circumstances under which a Court has the power to re consider judgments or order given by it using its inherent powers. Some of the circumstances discussed in the said case, where

inherent powers may be used to revisit a decision already made, is tabled below with a comparison to the present application before this court.

1. Orders made *Per incuriam* – In this regard several cases have been referred there in the **Jeyaraj Fernandopulle case**. Some have been referred to above.	Present application as explained above, has not been presented on the premise that it is made *per incuriam*
2. Presence of clerical mistake or error from an accidental slip or omission- Referring to **Marambe Kumarihamy v Perera (1919) VI C W R 325, Padma Fernando V T. S. Fernando (1956) 58 N L R 262 etc.**	Present application is not based on an accidental slip or omission.
3. Where a need arises to vary or clarify the order to carry out its own meaning and where the language used is doubtful to make it plain. Referring to **Lawree V Lees (1881) 7 App.Cas 19.34, Re Swire (1895) 30 CH. D 239, Paul E De Costa & Sons v S Gunaratne 71 N L R 214, Hatton V Harris (1892) A C 547 etc**	Present application is not made for such purposes.
4. Where a party has been wrongly named or described or where the judgment is a nullity owing to the fact that it was delivered against a person who is dead or a non-existing company- **Referring to Halsbury, Vol.26-page 26**	Present application does not relate to such circumstances.
5. Where the order or judgment has been delivered in default or *ex parte*.	Present application is not made on such grounds.
6. Where there is a serious irregularity in procedure that makes the judgment a nullity- for e.g., not serving summons or not following a mandatory provision of law.	Present application is not based on such grounds.

7. To repair an injury caused by an act of court done without jurisdiction (by an invalid order). - for e.g., executing a decree to evict a party without a decree for possession.	Present application is not similar to the said situation. In this occasion the judges were using the jurisdiction they had to hear and decide the matter. Allegation is that they were bias, acted fraudulently in creating new evidence and or ignoring available evidence and there is a criminality attached to such behavior. In a way a new cause of action that purportedly accrued while the case was being heard and decided.
8. Dismissal of an FR application on a misunderstanding of facts placed by the opposite party that the petitioner has been or due to be released from detention. – Referring to **Palitha v O I C Police Station, Polonnaruwa & Others (1993) 1 Sri L R 161**	Present application is not similar to this.
9. An order made on wrong facts given to the prejudice of the Petitioner – Referring to **Wijeysinghe et al V Uluwita (1933) 34 N L R 362**	Present application differs from this and is based on allegations made against the judges.
10. An action to rescind a judgment which has been obtained by fraud. - Referring to **Halsbury vol 26, paragraph 560, page 285** .	In the present application, the allegation is not that the Court was deceived by fraud and obtained the judgment but the court itself was bias, fraudulent and acted in a manner that attracts criminal liability. Thus, as alleged, it is a kind of new cause of action.
11. An action to rescind a judgment on the discovery of new evidence which were not available before. – Referring to **Halsbury vol 26 paragraph 561, Loku Banda V Assen 2 N L R 31**	Present application is not to rescind a judgment based on discovery of new evidence but on certain allegations against judges who heard the appeal.

In my view, most of the instances referred to above in the table under item 2 to 9 may fall within the wider definition of *per incuriam* or obvious mistakes since those instances relate to where the court make such decision in ignorance of certain situation due to lack of care or by being misled by the circumstances etc. On the other hand, the instances discussed in the said **Jeyaraj Fernandopulle case** may not be exhaustive since there may be many occasions that demands the use of inherent powers of the court depending on the circumstances of each case.

However, the situations discussed in the said **Jeyaraj Fernandopulle case** where inherent powers had been used are not similar to facts of the present application. It must be mentioned here that inherent powers are adjuncts to the existing jurisdiction to remedy injustice and cannot be made the source of a new jurisdiction to revise a judgment rendered by a court - vide **All Ceylon Commercial and Industrial Workers Union V Ceylon Petroleum Corporation and Another** (supra**), Ganeshanatham v Goonewardene** (supra). Thus, in my view, the inherent powers this court has are adjuncts to the statutorily given jurisdictions as contemplated by Article 118 of the constitution and do not extend to entertain an application such as one tendered by the Defendant-Respondent-Petitioner.

However, as said before, our Supreme Court is creature of statute. Thus, its powers have to be given by the statute. Our constitution does not give supervisory jurisdiction over its own decisions. As described above inherent powers are adjuncts to existing jurisdiction and cannot use to create new jurisdictions to review, revise or reconsider its own decision.

The Defendant Petitioner in one of the motions has referred to **Bandaranaike V De Alwis and Others (1982) 2 S L R 664** to indicate that this court can hear an application against another judge of this court on allegation of being bias. However, there the impugned decision was not a decision of the Supreme Court, but a decision made as a commissioner of a Presidential Commission. Thus, it has no relevance to the matter at hand.

As stated in **Mohamed V Annamalai Chettiar (1932) 12 C L Rec 228**, the first question that has to be asked is whether this application comes within the scope of inherent jurisdiction of this court and as per the reasons enumerated above answer would have to be in the negative.

For the foregoing reasons, it is my considered view that this application made by the Defendant Petitioner to revisit the judgment dated 14.12.2018 and the motions followed with various applications should not have been entertained by this court since this court has no supervisory jurisdiction to reconsider, review, amend or set aside its own orders on the alleged circumstances.

Hence, the application made by the petition dated 30.01.2019 and the motions that followed filed by the Defendant Petitioners are dismissed with costs.

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Judge of the Supreme Court.

Jayantha Jayasuriya, PC, CJ

I agree.

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The Chief Justice.

Murdu N.B. Fernando, PC, J

I agree.

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Judge of the Supreme Court.

P. Padman Surasena J

I agree.

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Judge of the Supreme Court.

S. Thurairaja, PC J

I agree.

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Judge of the Supreme Court.