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

In the matter of an application for orders in the nature of Writ of Certiorari, Mandamus and Prohibition under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Hammed Shanaz Moahmed Isham
No. 39/3C/1, D. S, Senanayake Avenue, Colombo 08.

CA Application No: CA

WRT/ 498/25

PETITIONER

-Vs.-

1. **Colombo Municipal Council**
   Town Hall,
   Colombo 07.

2. **Palitha Nanayakkara**
   Municipal Commissioner,
   Colombo Municipal Council
   Town Hall,
   Colombo 07.

3. **S. S. Shiroma Nandani**
   Municipal Treasurer,
   Municipal Treasurer's Department,
   Town Hall,
   Colombo 07.

4. **E. M. N. R. Bandara**
   Deputy Municipal Treasurer,
   Municipal Treasurer's Department,

Town Hall,
Colombo 07.

5. **Sadikeen Mohamed Rizwan**
336/1, 1st Lane,
Bopetta,
Goththatuwa,
Angoda.

RESPONDENTS

Before: **M. T. MOHAMMED LAFFAR, J (President C/A)- Acting.**
K. P. FERNANDO, J.

Counsel: Samantha Premachandra, instructed by Piumi Ruwanpathirana for the Petitioner.

R. Cooray with Ms. K. Hewavissa and Ms. S. Abeyrathna, Instructed by L. Nishanthi for the 1st, 2nd and 4th Respondents.

T. Weragoda and S. Marambe, P. Welikumbura, instructed by T. Perera for the 5th Respondents

Supported on: 02. 06. 2025

Decided on: 16. 06. 2025

K. P. Fernando, J

The Petitioners, by way of their Petition dated 29/04/2025, are seeking the following Interim Orders;

1. Grant an Interim Order preventing any one, more or all of the 1st - 4th Respondents and/or their successors in office, agents, representatives and/or subordinates acting under the said

Respondents from the removing and/or evicting the Petitioner from the Chicken Meat Stall bearing Assessment Number 44/15 & situated at Deans Road Public Market pending the hearing and final determination of this Writ Application;

2. Grant an Interim Order staying the operation of the contents of the letter dated 31.01.2025 issued under the hand of the 4th Respondent marked "P22" pending the hearing and final determination of this Writ application;

3. Grant an Interim Order preventing any one, more or all of the 1st - 4th Respondents and/or their successors in office, agents, representatives and/or subordinates acting under the said Respondents from permitting the 5th Respondent and/or any person and/or entity other than the Petitioner from conducting business and/or operating and/or trading and or gaining any benefit from the Chicken Meat Stall bearing Assessment Number 44/15 situated at Deans Road Public Market pending the hearing and final determination of this Writ Application;

The Petitioner states that he is engaged in the meat trade, operating a longstanding family business under the name and style of “M. N. M. Zoharan and Company”. The Petitioner has been actively involved in this business under the guidance of his late father. Between 04.10.2023 and 24.10.2023, the 1st to 3rd Respondents called for public tenders to lease meat stalls at various public markets, including the Deans Road Public Market. The Petitioner and his father submitted duly completed bids in respect of stalls bearing Assessment Nos. 44/15 and 44/04 located at the Deans Road Public Market.

Subsequently, the bids were awarded to the 5th Respondent. However, the Petitioner was later informed, through intermediaries, that the 5th Respondent was in fact a proxy of the Petitioner's paternal uncle, who had orchestrated the bid and demanded a sum of Rs. 5 million from the Petitioner's family in exchange for relinquishing the rights over the said stalls. This prompted the Petitioner’s father to submit a written complaint to the 1st Respondent on 05.11.2023, alleging that the 5th Respondent had acted with dishonest intent and in violation of the terms and conditions governing the public tender process.

Following this complaint, the 1st to 3rd Respondents permitted the Petitioner and his father to continue operating the stall, pending an inquiry into the allegations, in order to ensure that the services at the market were not disrupted. The Petitioner further avers that the 5th Respondent's meat stall located in Pettah had previously been raided by the Chief Veterinary Medical Officer of the Municipal Veterinary Department, who found that the 5th Respondent lacked the necessary license and was operating in unhygienic conditions.

In light of these circumstances I am of the view that serious and substantial issues arise from the facts placed before me, which warrant examination. If interim relief is not granted at this stage, the Petition is likely to be rendered nugatory and futile, and the corpus of the dispute may be irreversibly altered before the Court has had the opportunity to adjudicate upon the legality of the decisions in question.

Accordingly, this Court is satisfied that *prima facie* grounds exist to warrant the issuance of Interim Orders as prayed for, in order to preserve the status quo. Notices must also be issued on the Respondents forthwith. I therefore issue interim orders as prayed for in paragraphs f), g) and h) to the Petition of the Petitioners.

Notices are issued. Interim orders are issued.

Judge of the Court of Appeal

M. T. Mohammed Laffar, J (President C/A)- Acting.

I agree.

President of the Court of Appeal (Actg)