

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

In the matter of an Application for Writs in the nature of Certiorari and Mandamus under Article 140 of the Constitution of the Republic of Sri Lanka.

Rajaguru Mudiyansele Dharmathissa Herath
Also known as Thissa Herath
Hunupola,
Nikadalupotha.

Petitioner

Court of Appeal case

No. CA 294/2017 Writ

Vs.

1. Sri Narayana Bamunu Mudiyansele Ekanayaka, Basnayaka Nilame, Sri Vishnu Devalaya,
Kandy.
2. Nimal Kotawelagedara,
“Dahampaya”,
135, Sri Anagarika Dharmapala Mawatha,
Colombo 07.
3. D.M. Parakrama Jayawardana,
Commissioner of Buddhist Affairs,
Regional Office, District Secretariat
Building,
Kandy.
4. Rathnayaka Mudiyansele Premasiri
Rathnayaka,
Divisional Secretary,
Divisional Secretariat,
Polpithigama.

Respondents

Before : L.T.B. Dehideniya J, (P/CA)

&

A.L. Shiran Gooneratne J.

Counsel : Nihal Jayawardena, PC for the Petitioner.

Supported on : 09/10/2017

Decided on : 11/10/2017

Order

A.L. Shiran Gooneratne J.

Heard the President's Counsel in support of the Petition.

The Petitioner is before Court inter alia, seeking a stay order preventing the 1st and/or 2nd Respondents taking any action in furtherance of the letter marked P12, until the final determination of this application and for notices on the Respondents.

The Petitioner and the 1st Respondent have entered into an Indenture of Lease in respect of the land more fully described in the said Indenture, to the Petitioner, for a period of 20 years. Since the 1st Respondent refused to accept the annual lease rental on the said indenture for the year 2017, the Petitioner has requested the 2nd respondent "to state that the Petitioner is the lawful lessee of the said property". The said request by the Petitioner is not filed of record.

By letter dated 26 July 2017 marked P12, the 2nd Respondent has recommended both parties to the said Indenture, to arrive at an agreement or to an alternate resolution, on consent of the parties. Therefore by letter dated 26 July 2017 marked P12, the 2nd Respondent has not implemented any decision, but confines himself to direct the parties to seek mutual consent to resolve the matter in issue.

Accordingly in the absence of an unlawful decision or a breach of a statutory or a procedural requirement by the 2nd Respondent, we are of the view that the Petitioner has failed to justify the substantive relief prayed for in the exercise of judicial review.

In the circumstances we refuse notices on the Respondents.

Petition dismissed without costs.

JUDGE OF THE COURT OF APPEAL

L.T.B. Dehideniya J, (P/CA)

I agree.

PRESIDENT OF THE COURT OF APPEAL