

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

In the matter of an application for
revision against judgment of Provincial
High Court exercising its revisionary
jurisdiction.

C A (PHC) APN / 57 / 2016

Provincial High Court of

Central Province (Kandy)

Case No. Rev 51 / 2014

Magistrate's Court Dambulla

Case No. 60935

Sankapala Arachchige Sujeewa

Siriwardena,

No. 501/1,

Kurunegala Junction,

Dambulla.

PETITIONER - PETITIONER -

-Vs-

1. Liyana Arachchige Prasath
Harshana De Silva,
Director General,
Urban Development Authority,
Sethsiripaya,
Sri Jayawardenapura Kotte,
Battaramulla.

APPLICANT - RESPONDENT -

RESPONDENT

2. U R Dayananda,
No. 510,

Kurunegala Junction,

Dambulla.

RESPONDENT - RESPONDENT

- RESPONDENT

Before: P. Padman Surasena J (P/ C A)

K K Wickremasinghe J

Counsel; Gamini Hettiarachchi for the Petitioner - Petitioner.

Zuri Zain SSC for the Applicant - Respondent - Respondent.

Argued on : 2017 – 10 - 04

Decided on : 2018 - 05 - 22

JUDGMENT

P Padman Surasena J

The Applicant - Respondent - Respondent (hereinafter sometimes referred to as the 1st Respondent) had issued a quit notice on a person named U R A Rajapaksha, in terms of section 3 of the State Lands (Recovery of Possession) Act (hereinafter sometimes referred to as the Act).

As the said person had failed to respond to the said quit notice, the 1st Respondent had thereafter made an application under section 5 of the Act to the Magistrate's Court of Dambulla seeking an order to evict the said U R A Rajapaksha from the land described in the schedule to the said application.

Learned Magistrate by the order dated 2014-06-04 directed that the said person be evicted from the said land as he had failed to appear in Court.

The present Petitioner who is not the person to be evicted had filed a revision application in the Provincial High Court of Central Province holden in Kandy seeking a revision of the order of the learned Magistrate.

The Provincial High Court after the conclusion of the argument, had pronounced its judgment dated 2016 -02-11, holding that the rights of the Petitioner have not been violated.

It is that order that the Petitioner is canvassing in this application before this Court.

Admittedly, the Petitioner was not a party to the proceedings before the Magistrate's Court.¹ Further, he has also admitted that the relevant land is a land belonging to the Urban Development Authority.²

It is the observation of this Court that the Petitioner has failed to establish that he has any locus standi to file this application for revision. Therefore, he is not entitled to maintain the instant application.

Section 9 of the Act states as follows.

"... At such inquiry the person on whom summons under section 6 has been served shall not be entitled to contest any of the matters stated in the application under section 5 except that such person may establish that he is in possession or occupation of the land upon a valid permit or other written authority of the State granted in accordance with any written law

¹ Paragraph 7 of the petition filed before the Provincial High Court.

² Paragraph 10 of the petition filed before the Provincial High Court.

and that such permit or authority is in force and not revoked or otherwise rendered invalid. ...”

The person on whom the quit notice was issued has not adduced any ground as to why he should not be ejected from the relevant land.

This Court in the case of Muhandiram vs. Chairman, No.111, Janatha Estate Development Board³ held as follows.

“ ... Unless the respondent-petitioner had established before the learned Magistrate that he was in occupation of the land stated in the schedule to the application on a valid permit or other written authority of the State, he cannot continue to occupy the said land and in terms of the State Lands (Recovery of Possession) Act, No. 7 of 1979, the Magistrate has to make an order directing the respondent and his dependents to be ejected from the land. ...”

In the instant case, it is clear that the person to be ejected has failed to establish that he is in possession or occupation of the said land upon any written authority of the state granted in accordance with any written law and that such authority is in force and not revoked or otherwise rendered invalid as required by section 9 of the Act.

³ 1992 (1) SLR 110

Thus, the conclusion arrived at by the learned Magistrate to issue the eviction order is correct.

Thus, this Court has no basis to interfere with the order of the Provincial High Court dismissing the revision application filed before it.

For the foregoing reasons, this Court decides to dismiss this revision application with costs fixed at Rs. 30,000/= payable to the state by the Petitioner.

Application is dismissed with costs fixed at Rs. 30,000/=.

PRESIDENT OF THE COURT OF APPEAL

K K Wickremasinghe J

I agree,

JUDGE OF THE COURT OF APPEAL