

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

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

CA (Writ) Application No. 272/2014

Hettiarachchige Rukman Nilantha,
Muruththetiya,
Kandangoda, Kuruwita.

PETITIONER

Vs.

1. People's Bank.
2. Gamini Senarath,
Chairman, People's Bank.
3. Jehan P. Amaratunga.
4. Ms. Lakshmi Kumari Sangakkara.
5. Mrs. Dharma N. Gammampila.
6. Pawara Dassanayake.
7. G.K.D. Amarawardene.
8. R.M.P. Ratnayake.
9. Piiyadasa Kudabalage.
10. K.W.M.M. Sarojini,
The Legal Officer/Inquiring Office,
People's Bank,
Land Redemption Department,
No. 220, Deans Road, Colombo 10
11. Millawitiya Gamaethiralalage Dingiri
Menike.

11A Udaya Weerakoon.

11B Chandimali Krishanthi Weerakoon.

11C Gayantha Kasun Weerakoon.

11, 11A – 11C Respondents at
Millawitiya, Kuruwita.

12. Attorney General,
Attorney-General's Department,
Colombo 12.

13. Karunasena Jayawila,
Authorized Officer,
Land Redemption Department,
People's Bank,
No. 220, Deans Road, Colombo 10.

14. Hemasiri Fernando,
Chairman, People's Bank.

15. Jehan P. Amaratunga.

16. Ms. G.D.C. Ekanayake.

17. Janaka Sugathadasa.

18. R.W.D.A.G. Rajasekara.

19. Hon. Ravi Karunanayake,
Minister of Finance.

19A. Hon. Mangala Pinsiri Samaraweera,
Minister of Finance & Mass Media,
Ministry of Finance & Mass Media,
Colombo 1.

20. Sujeeva Rajapakse,
Chairman, People's Bank.

21. Malindu Ranasinghe.

22. Keerthi Gunatailake.
23. Isuru Balapatandi.
24. Manjula Wellalage.
25. K.A.Vimalenthiraja.
26. Sudharshan Ahangama.
27. Kumar Gunwardena.

28. Hon. Mahinda Rajapakse,
Minister of Finance,
Colombo 1.

2nd – 9th, 15th – 18th and 21st – 27th
Respondents are Directors of the
People’s Bank.

1st – 9th, 14th – 18th and 20th – 27th
Respondents at No.75,
Chittampalam A. Gardiner
Mawatha, Colombo 2.

RESPONDENTS

Before: **Mahinda Samayawardhena, J**
Arjuna Obeyesekere, J

Counsel: J.P.Gamage for the Petitioner

Sunil Abeyratne for the 1st – 10th and 14th – 18th
Respondents

Samantha Vithana with Nimal Jayasinghe for the
11A – 11C Respondents

Vikum De Abrew, Senior Deputy Solicitor General
for the 12th and 19th Respondents

Argued on: 1st July 2020

Decided on: 7th August 2020

Arjuna Obeyesekere, J

Two issues arise for determination in this application. The first is whether the recommendation made by the 10th Respondent that a land belonging to the Petitioner be acquired by the 1st Respondent, People's Bank (the Bank) under and in terms of Part VIII of the Finance Act No. 11 of 1963, as amended by the Finance and Ceylon State Mortgage Bank (Amendment) Law No. 16 of 1973, the Finance (Amendment) Act No. 19 of 1984 and the Finance (Amendment) Act No. 36 of 2000 (collectively referred to the Act), is contrary to the provisions of the Act and/or irrational and arbitrary. The second issue is whether the Bank has complied with the mandatory provisions of Section 71(4) of the Act.

The facts of this matter very briefly are as follows.

The 11th Respondent had been the owner of an agricultural land in extent of 1A 2R. It is admitted between the parties that the 11th Respondent executed a conditional transfer of the said land to the Petitioner by Deed of Transfer No. 453 dated 21st December 2000, with the condition being that if a sum of Rs. 114,000 is paid by the 11th Respondent to the Petitioner within one year of the date of execution of the said Deed, the Petitioner would re-transfer the said land to the 11th Respondent. With the re-transfer not having taken place, the 11th Respondent made an application to the Bank in 2006 moving that the said land be acquired by the Bank.

The power of the Bank to acquire private lands at the request of persons who are in circumstances such as the 11th Respondent has been set out in Part VIII of the said Act titled '*The acquisition by the People's Bank of certain premises and the disposal of such premises*'. Part VIII consists of Sections 69

– 91, with Sections 71 and 72 being of particular application to the issues before this Court.

Section 71 (1) authorises the Bank to acquire the whole or any part of any agricultural, residential or business premises which were sold or transferred in the circumstances contemplated in sub-paragraphs (a) - (d) thereof. Paragraph (d) of Section 71(1), which is the sub-paragraph applicable to this application, reads as follows:

*“Subject to the provisions of subsection (2), the Bank is hereby authorised to acquire the whole or any part of any agricultural, residential or business premises, **if the Bank is satisfied** that those premises were, at any time before or after the appointed date but not earlier than the first day of January, 1952-*

(d) transferred by the owner of such premises to any other person after receiving from such other person a sum of money as consideration for such transfer and upon the condition that, on the repayment by the transferor (hereafter in this Part of this Act referred to as the "original owner") of that sum with or without interest thereon within a specified period, such other person will re-transfer those premises to the original owner.”

Once the initial threshold in Section 71(1) is met, Section 71(2) of the Act sets out several conditions that the Peoples Bank must be satisfied of, if it is to acquire a property falling within Section 71(1)(d). Section 71(2) reads as follows:¹

“No premises shall be acquired under subsection (1):

¹ Section 71(2)(b) has been repealed by Amendment Act No. 19 of 1984.

(a) unless an application in that behalf has been made to the Bank by the original owner of such premises or, where such original owner is dead or is of unsound mind or otherwise incapable of acting, by the spouse or any descendant of such person, or if there is no surviving spouse or descendant of such person, by a parent, brother or sister of such person; or

(aa) unless such application is made within ten years -

(i) Not applicable

(ii) Not applicable

(iii) from the date of the expiry of the specified period referred to in paragraph (d) of subsection (1); or

(c) unless the Bank is satisfied that the average statutory income of the person making the application and of the other members of the family of which he is the head, computed under the provisions of the written law relating to the imposition of income tax, for the three years of assessment immediately preceding the date on which such application was made by him, does not exceed a sum of one hundred thousand rupees; or

(d) if the Bank is satisfied that the premises to which the application relates are reasonably required for occupation as a residence for the owner of those premises or any member of the family of such owner or for the purposes of any trade, business, profession, vocation or employment of such owner or any member of his family and that such owner or member of his family has no other

premises which could be used for the purpose for which the premises to which the application relates are being used; or

(e) unless, in the case of an application relating to any agricultural premises, the Bank is satisfied that the applicant is not the owner of any other agricultural premises exceeding ten acres in extent.

For the purposes of paragraph (d) of this subsection, "member of the family", when used in relation to any person means the spouse of that person or any son or daughter of that person over eighteen years of age, or any parent, brother or sister dependent on that person."

The 11th Respondent had made an application under the provisions of Part VIII of the Act to the Bank on 25th August 2006. A copy of the said application has been marked 'X2'. There is no dispute between the parties that the application made by the 1st Respondent falls within the provisions of Section 71(1)(d) of the Act and that the Bank was empowered to accept the said application.

Once an application is made and is accepted by the Bank, the Bank is required under Section 71(2A) of the Act to issue a prohibitory notice with respect to the said land, with a copy to the owner of the premises, and to request the Registrar of Lands to register the said notice in the manner prescribed in the Registration of Documents Ordinance for the registration of an instrument affecting or relating to land. There is no dispute that the Bank complied with this requirement.²

Section 71(3) of the Act provides as follows:

² Vide letter dated 10th October 2006.

"The question whether any premises which the Bank is authorized to acquire under this Part of this Act should or should not be acquired shall be determined by the Bank and every such determination of the Bank shall be final and conclusive and shall not be called in question in any court."

The Supreme Court in **Kanagasabapathy and Another v. The People's Bank and two others**³ summarised in the following manner the requirements that the Bank must consider prior to making a determination to acquire a land:

"Basically there are three questions for the decision of the Bank in the case of an application for redemption, viz.-

- (1) Is the land one which the Bank is authorised by Section 71 (1) to acquire?*
- (2) If so, does Section 71 (2) restrict the right of the Bank to acquire the land? and*
- (3) If not, should the land be acquired?"*

Section 71(3) therefore makes it clear that even if the conditions set out in Section 71(2) have been satisfied, the Bank still has a discretion whether to make an order for acquisition. This position has been clearly laid down by the Supreme Court in **Atapattu and others vs People's Bank and others**⁴ where it was held that, *"Section 71 does not compel the Bank to acquire premises simply because the pre-conditions in subsection (2) are*

³S.C Application No. 124/75, S.C. Minutes of 27.8.1976; referred to in Emaliyana Perera v. People's Bank Land Redemption Department and Others (1987) 1 Sri LR 181 at page 184.

⁴ (1997) 1 Sri LR 208 at page 220.

satisfied, and the fact that the Bank has a discretion has been recognised in Emaliyana Perera v. People's Bank⁵."

Provisions with regard to the holding of an inquiry have been introduced by the Finance (Amendment) Act No. 36 of 2000.⁶ It is agreed between the parties that the 10th Respondent conducted an inquiry into the said application where an opportunity was afforded to the Petitioner as well as to the 11th Respondent to present their respective cases. There is no complaint with regard to the manner in which the inquiry was conducted.

By an Order delivered on 30th September 2013, marked 'X3', the 10th Respondent Inquiry Officer had recommended that a determination be made by the Board of Directors of the Bank to acquire the property owned by the Petitioner. As noted above, the question whether any premises which the Bank is entitled to acquire should or should not be acquired shall be determined by the Bank. I observe that although the recommendation of the Inquiry Officer has been filed by the Petitioner, the decision of the Board of Directors of the Bank has not been tendered to this Court by any of the parties, including the Bank itself, thereby giving rise to a doubt whether the Board of Directors of the Bank had in fact made a determination in this regard.

The consequential steps that the Bank must take once a determination is made in terms of Section 71(3) are set out in (a) Section 71(4), which would be discussed later, and (b) Section 72(1) and (2), which reads as follows:

⁵ (1987) 1 Sri LR 181.

⁶ Section 71(3A) of the Act reads as follows: "for the purposes of making a determination under subsection (3), the Bank shall cause an inquiry to be held into the application by an inquiring officer appointed by the Bank. The inquiring officer appointed by the Bank shall give the owner of the premises to which the application relates and the person making the application, an opportunity of being heard either in person or by an agent authorized in that behalf"

“(1) Where the Bank has determined that any premises shall be acquired for the purposes of this Part of this Act, the Chairman of the Board of Directors of the Bank shall cause such determination to be notified to the Minister;

(2) Upon being notified of the determination of the Bank in respect of any premises, the Minister may, by Order (hereafter in this Part of this Act referred to as a "vesting Order") published in the Gazette, vest in the Bank, with effect from such date as shall be specified in the Order, the premises to which such determination relates.”

It is not in dispute that the Bank acted in terms of Section 72(1) and that the Minister of Finance had accordingly proceeded to make a vesting order, which had been published in the Gazette. I must observe at this stage that the communication made by the Bank to the Minister, and evidence that the Minister addressed his mind to the said communication prior to making a decision in terms of Section 72(2) has not been produced before this Court.

Dissatisfied with the aforementioned (a) recommendation of the Inquiry Officer, (b) the purported decision of the Bank, and (c) the decision of the Minister, the Petitioner filed this application seeking *inter alia* the following relief:⁷

1. A Writ of Certiorari to quash the recommendation of the 10th Respondent dated 30th September, 2013 marked **'X3'**;
2. A Writ of Certiorari to quash the decision of the Board of Directors of the Bank to acquire the said land;

⁷ Vide paragraph (b) of the prayer to the petition.

3. A Writ of Certiorari to quash the vesting order published by the Minister.

Before considering the two grounds urged before this Court by the learned Counsel for the Petitioner, I must state that the Bank must ensure that there is strict compliance by the applicant of the requirements laid down in Section 71(1) and 71(2), for the reason that an Order of the Bank to acquire a property has very serious consequences that affect the proprietary rights of the owner of the property.

In fact, in **Atapattu and Others v. People's Bank and Others**⁸, the Supreme Court made the following observation on the right of redemption provided in Section 71:

“Section 71 creates a (contingent) right of redemption in favour of a transferor of land. Such a right seriously derogates from the contractual and proprietary right of the transferee. However, such statutory interference with common law rights is by no means unique. Sometimes the law allows one person to enjoy a right in derogation of the legal rights of another. Thus a beneficiary under an express or constructive trust has rights in respect of property vested in another because the statute considers it equitable.”

The necessity to comply with the mandatory provisions of the Act was considered by the Supreme Court in **People's Bank vs. Hetti Kankanamlage Gunasingha**⁹ where it was held as follows:

⁸ Supra.

⁹ SC Appeal No. 77/15; SC Minutes of 13th July 2017.

“The Finance Act Part VIII seems to have made special provisions for a special purpose with regard to the rights of persons who transfer their land on conditions and failing to perform that condition, lose their land to others. The law has granted seemingly very special powers to the People’s Bank. The procedure is specifically provided and each step in the course of the way up to taking possession of the land from the person in whose ownership the land remains, has been laid down. The provisions of law which are mandatory in nature have to be complied with.”

As noted earlier, once the initial threshold set out in Section 71(1)(d) is met, the Bank must be satisfied of the following four matters, prior to its discretion to acquire the property is exercised:

- 1) The application must be made by the original owner of such premises or, where such original owner is dead or is of unsound mind or otherwise incapable of acting, by the spouse or any descendant of such person.
- 2) The application must be made within ten years from the date of the expiry of the period specified for the re-transfer to be effected;
- 3) The average statutory income of the person making the application and of the other members of the family of which he is the head, computed under the provisions of the written law relating to the imposition of income tax, for the three years of assessment immediately preceding the date on which such application was made by him, does not exceed One Hundred thousand rupees;

- 4) The premises to which the application relates are not reasonably required for occupation as a residence for the owner of those premises or any member of the family.

While there is no dispute with regard to items 1, 2 and 4 above, the Petitioner's first complaint to this Court is that item 3 above, which is a reiteration of the provisions of Section 71(2)(c), has not been satisfied by the 11th Respondent in that the 11th Respondent has failed to establish that her income is less than Rs. 100,000/-, and therefore the Inquiry Officer could not have made a recommendation to acquire the property. It is on this basis that the learned Counsel for the Petitioner submitted that the said decision is illegal and arbitrary.

Section 71(2)(c) requires the Bank to be satisfied that the **average statutory income of the applicant as well as his family**, computed under the provisions of the written law relating to the imposition of income tax, **for the three years of assessment preceding the date of the application**, does not exceed Rupees One Hundred Thousand.

Having examined the Order of the Inquiry Officer (the 10th Respondent) marked 'X3', I find that the issue of income has been addressed in the following manner:

“තවද ඉල්ලුම්කාරිය වාර්ෂික ව්‍යවස්ථාපිත ආදායම රු 72000 ක් බව අයදුම් පත්‍රයේ සඳහන් කර ඇත. ඒ බව 2000 අංක 36 දරණ සංශෝධිත මුදල් ආඥා පනත අනුව ඉල්ලුම්කාරියගේ සාමාන්‍ය වාර්ෂික ව්‍යවස්ථාපිත ආදායම රු. 100,000/- කට නොවැඩි විය යුතුය. වගඋත්තරකරු විසින් ඉල්ලුම්කාරියගේ වාර්ෂික ආදායම රු. 72,000/- ට වැඩි බව ප්‍රකාශ කර ඇතත්, 2006 අංක 10 දරණ දේශීය ආදායම් පනතේ 25 වගන්තිය අනුව ඉඩමකින් ලැබෙන ලාභ සහ ආදායම ගණනය කිරීමේදී එකී ඉඩමෙන් ලැබෙන ලාභ සහ ආදායම ලබා ගැනීම සඳහා වූ වියදම අඩු කිරීමක් සිදුවිය යුතුයි.

ඒ අනුව එකී ඉඩමෙන් ලැබුණු ආදායම රු. 100,000/- කට වැඩි බව වගදන්තරකරුවා වෙනුවෙන් ගණනය කර ඔප්පු කර නැත.”

It is not in dispute that the burden of proving that the annual average income for a period of three years preceding the date of the application to the Bank must be less than Rs. 100,000, lies with the 11th Respondent. Together with her application, the 11th Respondent had annexed an Income Assessment Form issued by the Divisional Secretary, Kuruwita certifying that her annual income, derived from the cultivation of tea, is Rs. 72,000.¹⁰ I have examined this certificate, and observe that it does not specify a period nor does it extend to a period of three years. Thus, on this ground alone, the 11th Respondent had failed to discharge the burden cast on her by Section 71(2)(c).

I have also examined the evidence of the 11th Respondent and observe that even though the said certificate had specified the source of her income, the 11th Respondent had initially denied having any income other than the income she had derived from the land in dispute.¹¹ It was only after her attention was drawn to the said certificate during cross-examination that she had admitted to the fact that she had an income from the cultivation of tea on a land belonging to her.¹²

Furthermore, in terms of Section 71(2)(c), it is not only the income of the original owner that must be considered, but that of her children who are over the age of eighteen. The 11th Respondent had admitted that she has three children, but taken up the position that none of the children are

¹⁰ Vide page 153 of the documents annexed to the petition.

¹¹ Vide page 2 of the proceedings of 16th November 2011 at page 56 of the documents annexed to the petition.

¹² Vide pages 7 and 8 of the proceedings of 16th November 2011 at pages 61 and 62 of the documents annexed to the petition.

employed. However, she had stated that the eldest son is also cultivating tea on his portion of the land. I am of the view that this income, which had not been disclosed at the inquiry, must also be taken into account in calculating the income of the 11th Respondent, a fact that the 10th Respondent who conducted the inquiry has not given her mind to.

In the above circumstances, I am of the view that the conclusion of the 10th Respondent relating to the income of the 11th Respondent is not supported by the evidence. I am mindful that this Court is exercising its writ jurisdiction as opposed to its appellate jurisdiction, and to the fact that this Court is not concerned with *the rights and wrongs* of the decision, but only whether such decision is legal or not. However, it is an accepted fact that a Court can intervene when there is ‘no evidence’ to support the finding of the administrative body. This issue has been discussed in **Administrative Law** by Wade and Forsyth¹³ in the following manner:

“ ‘No evidence’ does not mean only a total dearth of evidence. It extends to any case where the evidence, taken as a whole, is not reasonably capable of supporting the finding; or where, in other words, no tribunal could reasonably reach that conclusion on that evidence. This ‘no evidence’ principle clearly has something in common with the principle that perverse or unreasonable action is unauthorised and ultra vires. It also has some affinity with the substantial evidence rule of American law, which requires that findings be supported by substantial evidence on the record as a whole.”

In **Samarakoon Jayasundera Mudiyanseelage Kiri Banda vs. A.H. Irangani Samaraweera and Others**¹⁴, this Court held as follows:

¹³ 11th Edition; page 227.

¹⁴ CA (PHC) 98/2007; CA Minutes of 19th October 2018.

“Generally, courts exercising judicial review do not review errors of fact made by administrative bodies/officials, unless those errors of fact are linked to the assumption of the administrative body's jurisdiction i.e. jurisdictional errors of facts.¹⁵ [R v. Fulham, Hammersmith and Kensington Rent Tribunal (1951) 2 K. B. 1 at 6; Walter Leo v Land Commissioner 57 NLR 178]. One exception to this general principle is the ‘no evidence rule’.”

This Court, having referred to the above passage from Wade, went on to state as follows:

“The observations made by the text writers about this ground of judicial review have been adopted and endorsed by the Supreme Court in Kiriwanthe v Navaratne [(1990) 2 Sri LR 393 at 409] and in Nalini Ellegala v Poddalagoda [(1999) 1 Sri LR 46 at 52].

In Haseen v Gunasekara and others [CA Application No. 128/86 C.A.M. 02.10.1995] this court considered an order of the Rent Board of Review, affirming an order of the Rent Board which had been "arrived at without an adequate evaluation of the evidence and by failing to take into consideration relevant items of evidence which could have influenced the finding" and held the Rent Board as well as the Board of Review had "erred in law by failing to take into account relevant items of evidence in arriving at the finding" and therefore quashed the orders of the Rent Board as well as of the Board of Review.

¹⁵ See Barnett H, Constitutional and Administrative Law, 3rd Edition, Routledge 2014 at page 763 where it is stated that a court will be reluctant to review a non-jurisdictional error of fact because it is presumed that administrative decision makers have all the factual information on hand and are best equipped to make factual determinations.

Therefore, when a factual finding by an administrative body is not supported by the evidence on record, or has been made ignoring relevant and established evidence on record, the court has the ability to exercise judicial review.”

As pointed out by Lord Diplock in **Council of Civil Service Unions vs Minister for the Civil Service**¹⁶, *“a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it”* is both irrational as well as unreasonable.

In the above circumstances, I am of the view that (a) the recommendation of the Inquiry Officer that the property belonging to the Petitioner be acquired is not supported by the evidence that has been led to satisfy the condition precedent set out in Section 71(2)(c), and (b) the said decision is therefore not only irrational, but also illegal. I am therefore of the view that the said decision is liable to be quashed by a Writ of Certiorari.

The second ground urged before this Court by the learned Counsel for the Petitioner was that once a determination has been made by the Bank in terms of Section 71(3), it must act in terms of Section 71(4), which the Petitioner argued has not been complied with.

Section 71(4) reads as follows:

“Where the Bank has determined that any premises shall be acquired for the purposes of this Part of this Act, the Bank shall-

¹⁶ [1985] AC 374.

- (a) Notify such determination to the owner of such premises; and*
- (b) Cause a notice to be delivered or transmitted to the proper Registrar of Lands for registration, setting out the prescribed particulars relating to those premises and stating that those premises are to be acquired under this Part of this Act.*

Every notice under paragraph (b) shall be registered by the Registrar of Lands in the manner provided in the Registration of Documents Ordinance for the registration of an instrument affecting or relating to land and shall be deemed for such purposes to be an instrument affecting or relating to the premises the prescribed particulars of which are set out in such notice.”

It is the position of the Petitioner that the Bank failed to notify him of the determination to acquire the property, as required by Section 71(4). The learned Counsel for the Bank however submitted that the Bank has in fact sent a notice in terms of Section 71(4), and drew the attention of this Court to the document dated 10th October 2006.¹⁷ However, I observe that this is the notice of prohibition issued in terms of Section 71(2), and is not a notice issued under Section 71(4). I must observe that even though the Petitioner had specifically raised this issue in paragraph 9(ii) of its petition, the Bank, other than denying this averment, has not filed the notice that it ought to have sent in terms of Section 71(4) nor has the People’s Bank satisfied this Court that it complied with the provisions of Section 71(4). Therefore, I am of the view that the Bank has failed to comply with the procedure laid down in Section 71(4) of the Act.

¹⁷ Vide page 133 of the documents annexed to the petition.

In Ratnasabapathy Thiruarudchelvam vs. Murugupillai Sinnarajah¹⁸ this Court held as follows:

“This Court is of the view that compliance with Section 71(4) is a vital step in the acquisition process stipulated in Part VIII of the Act and that this is the only opportunity that a person affected by the said determination would have, of being informed of the reasons for the decision of the Bank, prior to the Minister making a vesting order in terms of Section 72. As held by Lord Diplock, susceptibility to judicial review under the head 'procedural impropriety' covers the failure by an administrative tribunal to observe procedural rules that are expressly laid down in the legislative instrument by which its jurisdiction is conferred, even where such failure does not involve any denial of natural justice.¹⁹ Therefore, non-compliance with such a step would render the entire process illegal and liable to be quashed by way of a Writ of Certiorari.”

In the above circumstances, I am of the view that this is a fit case in which the jurisdiction conferred on this Court by Article 140 of the Constitution should be exercised.

Accordingly, I issue a Writ of Certiorari in terms of paragraph (b) of the prayer to the petition, quashing the decision of the 10th Respondent marked 'X3' and the Vesting Order applicable to the property in question, marked 'X6'. The 1st Respondent Bank shall accordingly take steps to cancel the prohibitory notice, and any other notice that has been registered by the Bank in respect of the said land.

¹⁸ CA (Writ) Application No. 242/2017; CA Minutes of 22nd July 2019.

¹⁹ Council of Civil Service Unions vs Minister for the Civil Service; supra.

I make no order with regard to costs.

Judge of the Court of Appeal

Mahinda Samayawardhena, J

I agree

Judge of the Court of Appeal