

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

1. 88<sup>th</sup> Developers (Pvt) Ltd.,  
No.88, Ward Place,  
Colombo 07.
2. M.S.C. Perera,  
Director,  
88<sup>th</sup> Developers (Pvt) Ltd.,  
No.88 Ward Place,  
Colombo 07.  
Petitioner

**CASE NO: CA/WRIT/395/2017**

Vs.

1. Urban Development Authority,  
6<sup>th</sup> and 7<sup>th</sup> Floors,  
“Sethsiripaya”,  
Battaramulla.
2. Jagath Munasinghe,  
Chairman,  
Urban Development Authority,  
6<sup>th</sup> and 7<sup>th</sup> Floors,  
“Sethsiripaya”,  
Battaramulla.

3. S.S.P. Ratnayake,  
Director General,  
Urban Development Authority,  
6<sup>th</sup> and 7<sup>th</sup> Floors,  
“Sethsiripaya”,  
Battaramulla.
4. N.A.S.N. Nissanka,  
Director, Western Province,  
Urban Development Authority,  
6<sup>th</sup> and 7<sup>th</sup> Floors,  
“Sethsiripaya”,  
Battaramulla.
5. M.P. Ranatunge,  
Director, Enforcement,  
Urban Development Authority,  
6<sup>th</sup> and 7<sup>th</sup> Floors,  
“Sethsiripaya”,  
Battaramulla.
6. Wasantha Ratnapala,  
Municipal Commissioner,  
Sri Jayawardenapura Kotte.
7. Patali Champika Ranawaka,  
Minister of Megapolis and  
Western Development,  
Ministry of Megapolis and  
Western Development,  
17<sup>th</sup> and 18<sup>th</sup> Floors,  
“Suhurupaya”, Subuthipura  
Road,  
Battaramulla.

Respondents

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

Counsel: Faisz Musthapha, P.C., with Ranjan Mendis,  
Faisza Markar and Ashoka Kandamby for the  
Petitioner.  
Milinda Gunathilaka, S.D.S.G., with Nayomi  
Kahawita, S.C., for the 1<sup>st</sup>-5<sup>th</sup> Respondents.  
Nevil Abeyratne, P.C., with Kaushalya  
Abeyratne Dias for the 6<sup>th</sup>-7<sup>th</sup> Respondents.

Argued on: 27.08.2020

Decided on: 28.09.2020

Mahinda Samayawardhena, J.

This case is directly connected to Case No. CA/WRIT/85/2018, in which the Judgment was delivered today.

In the said case, the Quit Notice served on the 1<sup>st</sup> Petitioner by the Urban Development Authority (UDA) on the basis that the UDA is the owner of Lots 1 and 14 of Plan No. 5534 was quashed by certiorari.

In the instant case, what the Petitioners seek to quash by way of a writ of certiorari is: (a) the P8 letter sent by the 2<sup>nd</sup> Respondent, the Chairman of the UDA, to the Manager of the 1<sup>st</sup> Petitioner directing the latter to stop construction on Lot 14 of Plan No. 5534 forthwith, on the premise that the UDA is the

owner of this lot; and (b) the P9 letter sent by the 7<sup>th</sup> Respondent, the Municipal Engineer of the Sri Jayawardenapura Kotte Municipal Council, to the Manager of the 1<sup>st</sup> Petitioner informing the latter that the approval of the Building Plan was cancelled on information from the UDA that the land belongs to the UDA.

In addition, the Petitioners seek a directive by way of a writ of mandamus compelling the 1<sup>st</sup> Respondent, the UDA, and the 6<sup>th</sup> Respondent, the Municipal Commissioner of the Sri Jayawardenapura Kotte Municipal Council, “*to extend the Development Permit bearing No. BA/N/318/2016 according to law and/or to determine the Petitioner’s application and issue a building permit according to the Plan No. BA/N/318/2016 in terms of the law.*” It shall be stressed that the Petitioners do not seek the Court to compel the 1<sup>st</sup> and 6<sup>th</sup> Respondents to extend the Development Permit or issue a Building Permit as a matter of course but “*in terms of the law*”. It is up to the authorities to consider the applications and take a decision in terms of the law.

At the time of the argument, learned senior Deputy Solicitor General appearing for the UDA in both cases rightly informed Court that the main issue lies in the connected case, CA/WRIT/85/2018, and the issue in the instant case springs from the main issue. The main issue has now been decided against the UDA.

In view of the reasoning and conclusion arrived at in CA/WRIT/85/2018, I grant the reliefs to the Petitioners as prayed for in paragraphs (b), (c), (d) and (g) of the prayer to the petition.

The application of the Petitioners is allowed with costs.

Judge of the Court of Appeal

Arjuna Obeyesekere, J.

I agree.

Judge of the Court of Appeal