

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

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

C.A. (WRT) Case No:
WRT-0266-15

A.S. Dhammika,
No.165, Kumbuka East,
Gonapola.

Petitioner

-VS-

1. K.A.D.R. Nishantha Jayasinghe,
Divisional Secretary – Horana,
Divisional Secretariat, Horana.

And 04 other Respondents

Before : **M.T. Mohammed Laffar, J.**
K.K.A.V. Swarnadhipathi, J.

Counsel : Rasika Dissanayake for the Petitioner.
Priyantha Nawana, ASG with M. Sri Meththa, SC for
1A, 2C, 3, 4B Respondents.
Kaminda De Alwis for the 5A, 5B Respondents.

Decided on : 08/02/2021

The learned Additional Solicitor General Priyantha Nawana states as follows:

“The Petitioner is seeking the relief as sought in the prayers of the Petition on the basis that, the inquiry into the compensation for the land acquired for the public purpose as set out in the Petition. The document marked P10, which is sought to be quashed by way of Writ of Certiorari shows that the inquiry had its 1st stage where there was a dispute in claim to the Payment of Compensation.

Upon perusal of the pleadings of the Petitioner and the 1st to 5th Respondents, it is clear that the ownership of the land as at the notice indicating the need for acquisition in terms of Section 02 of the Land Acquisition Act had changed hands. Section 02 notice had been made on 16/01/2008 and the land had been disposed of in favor of the Petitioner on 01/04/2010. The possession of the land had been taken on 06/04/2011. Notice under Section 07 for the Payment of Compensation had been made on 06/08/2020.

Therefore, it is my submission that there is a need to hold an inquiry into the Payment of Compensation to enable the 1st Respondent to decide who the rightful claimant is.

In the circumstances, on behalf of the 1st Respondent namely, Divisional Secretary, Horana I would undertake to hold an inquiry in to the Payment of Compensation to decide who the rightful claimant is.

The Petitioner as well as the 5A and 5B Respondents also could make their claims before the Divisional Secretary, Horana in the course of the inquiry.”

ORDER :-

M.T. Mohammed Laffar, J.

Upon the undertaking given by the State, the learned Counsel for the Petitioner moves to withdraw the application.

The 1st Respondent namely, the Divisional Secretary, Horana is directed to hold an inquiry in respect of the rightful owner for the compensation in terms of the provisions of the Land Acquisition Act, No. 09 of 1950, expeditiously as possible.

Accordingly, the application for withdrawal is allowed and the application is dismissed. No costs.

JUDGE OF THE COURT OF APPEAL

K.K.A.V. Swarnadhipathi, J.

I agree.

JUDGE OF THE COURT OF APPEAL

NS/-