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

In the matter of an application for Orders in the nature of Writs of Certiorari, Prohibition and Mandamus under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

D.U.H. Handuwala,
No. 65/38,
Pallegama,
Embilipitiya.

PETITIONER

C.A. Case No. WRT/0116/25

Vs.

1. Eng. E.K.D. Thennakoon,
   Resident Project Manager,
   Mahaweli Authority of Sri Lanka,
   Special Area Walava,
   (වලව විශේෂ බල ප්‍රදේශය),
   Embilipitiya.

2. Mrs. Vishaka Pubuduni Peters,
   Divisional Secretary,
   Divisional Secretariat,
   Embilipitiya.

3. Mr. K.D. Lal Kantha,

Minister of Agriculture, Livestock, Land and Irrigation,
Ministry of Agriculture, Livestock, Land and Irrigation,
"Mihikatha Medura",
Land Secretariat,
No. 1200/6, Rajamalwatta Road,
Battaramulla.

4. Dr. Susil Ranasinghe,
   Deputy Minister of Land and Irrigation,
   Ministry of Agriculture, Livestock, Land and Irrigation,
   "Mihikatha Medura",
   Land Secretariat,
   No. 1200/6, Rajamalwatta Road,
   Battaramulla.

5. Mr. D.P. Wickramasinghe,
   Secretary,
   Ministry of Agriculture, Livestock, Land and Irrigation,
   "Mihikatha Medura",
   Land Secretariat,
   No. 1200/6, Rajamalwatta Road,
   Battaramulla.

6. Mr. H.M.J.K. Herath,
   Director General,
   Mahaweli Authority of Sri Lanka,
   No. 500, T.B. Jayah Mawatha,
   Colombo 10.

7. Hon. Dilum O. Fernando,
   Learned Magistrate,
   Magistrate Court,
   Embilipitiya.

8. Mr. S.R.D. Nicholas,
   Registrar,
   Magistrate Court,
   Embilipitiya.

9. Hon. Attorney General,
   Attorney General's Department,
   Colombo 12.

RESPONDENTS

BEFORE : K.M.G.H. KULATUNGA, J

COUNSEL : Lakshan Dias with Imasha Fernando, instructed by Dayani Panditharathne, for the Petitioner.
Panchali Witharana, SC, for the Respondents.

SUPPORTED ON : 19.06.2025

DECIDED ON : 30.06.2025

ORDER

K.M.G.H. KULATUNGA, J

1. The petitioner is seeking the following relief: a writ of prohibition to prohibit the 6th respondent from hearing case numbers 12305/24, 12306/24 and 12307/24 in the Magistrate Court of Embilipitiya, a writ of certiorari to quash Quit Notices P 08 (a) – (c) issued by the 1st respondent,

and a writ of mandamus to compel the 2nd respondent to declare the petitioner as the lawful permit holder.

2. The substantive relief for a writ of certiorari is prayed for by prayer *(e)*. The said prayer reads thus: *"(e) Grant/Issue an order in the nature of a Writ of Certiorari to 1st to 8th Respondents ordering one or more of them to quash the Quit Notices dated 21.05.2024, marked as P 08 (a), P 08 (b) and P 08 (c) issued by 1st respondent."* As I observe, the said relief as prayed for cannot be granted by this Court. The writ sought appears to be for an order directing the said respondents to quash the Quit Notices. The power to quash a decision is not vested with the respondents. A writ cannot be issued directing the respondents to quash Quit Notices as prayed for. On the face of it, the relief as prayed for by prayer *(e)* cannot be granted.

3. Be that as it may, the brief facts of this application are as follows. The petitioner claims that his father is a recipient of a permit under Section 19(2) of the Land Development Ordinance (LDO), a copy of which is annexed to the petition marked **P 3**. The said permit bears the reference no. 6/ෙ.ව/ඇඹී/ගො.ඉ/5940 and is dated 02.10.1998. Thus, it is the petitioner's position that he and his father had been in possession of this land for over 30 years. He admits receiving the Quit Notices dated 21.05.2024, which are in respect of Lots No. 5919, 5922, and 5925, depicted in the Final Village Plan No. 779, drawn by Government Surveyor W. P. Pushpakumara, dated from June 2013 - July 2013 (P 09). He also admits that upon the receipt of the said Quit Notices, the Mahaweli Authority has also now instituted action in the Magistrate's Court of Embilipitiya under the provisions of State Lands (Recovery of Possession) Act No. 07 of 1979. The said cases bear Nos. 12305/24, 12306/24 and 12307/24.

4. The Quit Notices are in respect of Lots No. 5919, 5922, and 5925 of Plan P 09, of which the respective extents are 0.1952 ha, 0.1993 ha, and 0.1214 ha. The name of the land is *Baddewaweyaya*. Then, the building (the hotel) is on Lot No. 5921 of the said land (0.1215 ha). It appears that the deed No. 4085 appears to be in respect of this Lot, which has been mortgaged to People's Bank by the petitioner and now auctioned. Lot No. 5921 is also depicted in plan P 09 as being State land. However, there is neither a Quit Notice nor an application for eviction in respect of this Lot, and the petitioner's document P 15 confirms this. According to paragraphs 11 and 12 of the petition, the petitioner claims that permit P 3 is in respect of Lot No. 1 depicted in plan 2701, dated 22.03.2006 (in extent, 1 a 3 r and 15 p / 0.7461ha *vide* P 02). Paragraph 12 avers that the permit had been issued to his father Shelton Handunwela in respect of the said land. Accordingly, the land mortgaged to the People's Bank appears to be a portion of the land alleged to have been alienated to Shelton Handunwela on the purported permit P 3.

5. While supporting this application the learned Counsel for the petitioner did submit that the petitioner mortgaged Lot No. 5921 to the People's Bank, and that the said land was auctioned in view of the default in payments. It is also then averred in the petition that upon the said auction, the Mahaweli Authority has complained and the case bearing No. BR/5/2023 has been instituted in the Magistrate's Court of Embilipitiya regarding certain documents put forward by the petitioner in respect of the possession of land, and a Report of the Examiner of Questioned Documents (EQD) was tendered marked P 17. The position of the petitioner is that his father is the recipient of the permit P 3, and the petitioner had been in possession for 30 years. Therefore, as there is a valid permit, and the Quit Notices could not have been issued.

6. The learned State Counsel, who appeared for the respondents on Direct Notice at the Support stage, tendered documents X-1 to X-3, and submitted that permit P 3 is a fraudulent or a forged document and that the permit issued under the reference number 6/ල.ව/ඇඹි/මහා.ඉ/5940 had been issued on 19.10.1998 to a different person and is in respect of a different land. It was submitted further that the Mahaweli Authority has lodged a complaint with the SCIB of the Embilipitiya Police on 08.08.2024, alleging that P 3 is a forgery and that there is now an investigation pending. Further, the facts in respect of the said complaint had been reported to the Magistrate of Embilipitiya under case No. BR/1580/2024. It was submitted that the EQD Report marked P 17 is not in respect of document P 3 but in respect of a different complaint pertaining to a forged deed on which Lot 5921 was mortgaged to the People's Bank. It was the State Counsel's position that P 17 has no bearing and is not in respect of P 3 and the Magistrate's Court No. referred to there is BR/5/2023. She also submitted that this is a belated application and that the matter is now before the Magistrate's Court of Embilipitiya, and the Quit Notices were issued almost 1 year before this application was filed.

7. Upon hearing both parties, the Court permitted the State to tender documents X-1 to X-3 by way of a motion with an affidavit. Similarly, the petitioner was permitted to tender a copy of the relevant B Report in BR/5/2023. The petitioner with a motion dated 23.06.2025, tendered the original permit marked P 3, the B report in BR/5/2023, along with a certified copy of the said case. The said copy had been issued on 18.10.2023, which included a certified copy of the EQD Report P 17.

8. The petitioner is primarily seeking to quash the Quit Notices dated 21.05.2024 by prayer *(e)* (the prayer is not in the proper form). On the face of it, the impugned Quit Notices are dated 21.05.2024 and were admittedly

received at or during that time. This application had been filed on 18.02.2025. There is a delay of almost 9 months. This delay is not explained. Considering the nature of this application and the Quit Notices, by any reasonable standard, there is an undue and inordinate delay which is not explained. This amounts to laches. It is now settled law that delay defeats this discretionary remedy of writ. Correspondingly, the petitioner has failed to explain or give any probable reason for the delay. In ***Bisomenike vs. C. R. de Alwis*** (1982-1SLR-368), Sharvananda, J., (as he was then) observed that;

> *"A Writ of Certiorari is issued at the discretion of the Court. It cannot be held to be a Writ of right or one issued as a matter of course. The exercise of this discretion by Court is governed by certain well-accepted principles. The Court is bound to issue it at the instance of a party aggrieved by the order of an inferior tribunal except in cases where he has disentitled himself to the discretionary relief by reason of his own conduct, submitting to jurisdiction, laches, undue delay or waiver. The proposition that the Application for Writ must be sought as soon as the injury is caused is merely an Application of the equitable doctrine that delay defeats equity and the longer the injured person sleeps over his rights without any reasonable excuse the chance of his success in Writ Application dwindles and the Court may reject a Writ Application on the ground of unexplained delay. An Application for a Writ of Certiorari should be filled within a reasonable time."*

Then, in ***Sarath Hulangamuwa vs. Siriwardene, Principal Vishaka Vidyalaya, Colombo and five others*** [1981 (1 Sri LR 275)], Siva Selliah, J., held that:

> *"Writs are extraordinary remedies granted to obtain speedy relief under exceptional circumstances and time is of the essence of the application… The laches of the petitioner must necessarily be a determining factor in deciding this application for Writ as the Court will not lend itself to making a stultifying order which cannot be carried out."*

Further, in ***Jayaweera v. Assistant Commissioner of Agrarian Services Ratnapura and Another*** [1996] 2 SLR 70) F. N. D. Jayasuriya, J., held as follows:

> *"A Petitioner who is seeking relief in an application for the issue of a Writ of Certiorari is not entitled to relief as a matter of course, as a matter of right or as a matter of routine. Even if he is entitled to relief, still the Court has a discretion to deny him relief having regard to his conduct, delay, laches, waiver, submission to jurisdiction - are all valid impediments which stand against the grant of relief."*

In these circumstances, the petitioner is clearly guilty of laches and is not entitled to notice or the relief as prayed for by him.

9. The next matter that arose during the submissions is the authenticity or the genuineness of permit P 3. The respondent's position is that P 3 has not been issued by the Mahaweli Authority and that it is either a forgery or a fraudulent document. In support of this, X-01, the correct permit issued under the said reference number, along with a copy of the land ledger confirming this were tendered. Further thereto, the Mahaweli Authority has lodged a complaint and the matter has now been reported to the Magistrate of Embilipitiya under case No. BR/1580/2024. The petitioner attempts to make out that the said EQD Report P 17 is in respect of P 3. This is the cumulative effect and import of paragraphs 46, 47, and 48 of the petition. Further, the petitioner has deliberately filed the bare EQD Report P 17 and suppressed and not produced the relevant B Report, which states as to what document was referred to in the EQD Report for examination. This issue was raised by the respondents during the submissions and it is only upon such revelation that the petitioner tendered a full certified copy of the said record of BR/5/2023, along with an affidavit dated 21.06.2025. The learned Counsel for the petitioner relying on the said averments submitted that the said P 17 is in respect of permit P 3 and that the said EQD Report confirms that the signatures on P 3 are genuine. However, upon calling for and the perusal of the relevant

B Report and the certified copy of BR/5/2023, it is apparent and crystal clear that the document P 1 examined and referred to in the EQD Report P 17 is Deed No. 4085, and not document P 3.

10. The petitioner did tender the certified copy of BR/5/2023. The petitioner had obtained this as far back as 18.10.2023. The petitioner having in his possession the entire documentation has deliberately taken out only the EQD Report under the reference no. H328/23 and annexed to his petition. When considered along with the aforesaid paragraphs 46, 47, and 48 of the petition, it is clear that the petitioner did attempt to conceal and suppress an extremely relevant fact (the B Report) and also is an attempt to mislead this Court and to make this Court believe that the said EQD Report is in respect of P 3. This is a total lack of *uberrima fides* in the extreme and also an attempt to abuse the process of this Court.

11. It is now settled law that this Court may refuse discretionary relief if there has been a misrepresentation or a suppression of material facts. Pathirana, J. in ***W. S. Alphonso Appuhamy v. Hettiarachchi*** (77 N.L.R. 131) at 135-136 held as follows:

> *"The necessity of a full and fair disclosure of all the material facts to be placed before the Court when, an application for a writ or injunction, is made and the process of the Court is invoked is laid down in the case of the* ***King v. The General Commissioner for the Purpose of the Income Tax Acts for the District of Kensington — ex-parte Princess Edmond de Poignac — (1917)****. Although this case deals with a writ of prohibition the principles enunciated are applicable to all cases of writs or injunctions. In this case a Divisional Court without dealing with the merits of the case discharged the rule on the ground that the applicant had suppressed or misrepresented the facts material to her application. The Court of Appeal affirmed the decision of the Divisional Court that there had been a suppression of material facts by the applicant in her affidavit and therefore it was justified in refusing a writ of prohibition without going into the merits*

> *of the case. In other words, so rigorous is the necessity for a full and truthful disclosure of all material facts that the Court would not go into the merits of the application, but will dismiss it without further examination".*

The above dicta, inter alia, was cited with approval by Janak De Silva, J in ***Wickramasinghe Arachchilage Bhathiya Indika Wickramasinghe vs. Land Commissioner General***, Case No. CA (Writ) 381/2017, decided on 12.05.2020, and has been followed in a number of prior decisions: ***Dahanayake and Others v. Sri Lanka Insurance Corporation Ltd. and Others*** [(2005) 1 Sri.L.R. 67; ***Hulangamuwa v. Siriwardena*** [(1986) 1 Sri.L.R.275], ***Collettes Ltd. v. Commissioner of Labour*** [(1989) 2 Sri.L.R. 6], ***Laub v. Attorney General*** [(1995) 2 Sri.L.R. 88], ***Blanca Diamonds (Pvt) Ltd. v. Wilfred Van Els*** [(1997) 1 Sri.L.R. 360], ***Jayasinghe v. The National Institute of Fisheries*** [(2002) 1 Sri.L.R. 277] and ***Lt. Commander Ruwan Pathirana v. Commodore Dharmasiriwardene & Others*** [(2007) 1 Sri.L.R. 24].

In ***Fonseka v. Lt. General Jagath Jayasuriya and Five Others*** [(2011) 2 Sri.L.R. 372] a divisional bench of this Court consisting of Eric Basnayake, J., Salam J., and Abeyratne, J. held:

> *"(1) A petitioner who seeks relief by writ which is an extra-ordinary remedy must in fairness to Court, bare every material fact so that the discretion of Court is not wrongly invoked or exercised.*
>
> *(2) It is perfectly settled that a person who makes an ex parte application to Court is under an obligation to make that fullest possible disclosure of all material facts within his knowledge.*
>
> *(3) If there is anything like deception the Court ought not to go in to the merits, but simply say" we will not listen to your application because of what you have done."*

Saleem Marsoof, PC, J., in ***Namunukula Plantations Limited vs. Minister of Lands and others (2012) 1 SLR 376*** held that,

> *"It is settled law that a person approaches the Court for grant of discretionary relief, to which category and application for a writ of certiorari would undoubtedly belong, has to come with clean hands, and should candidly disclose all the material facts which have any bearing on the adjudication of the issues raised in the case. In other words, he owes a duty of utmost good faith (uberrima fides) to the court to make a full and complete disclosure of all material facts and refrain from concealing or suppressing any material facts within his knowledge or which he could have known by exercising diligence expected of a person of ordinary prudence."*

Further, His Lordship was of the view that,

> *"If any party invoking the discretionary jurisdiction of a court of law is found wanting in the discharge of its duty to disclose all material facts, or is shown to have attempted to pollute the pure stream of justice, the court not only has the right but a duty to deny relief to such person."*

Accordingly, the petitioner is not entitled to notice, nor any other relief as prayed for in this application.

12. It is relevant to note that when this was taken up for support on 21.06.2025, this Court did not make any order directing the petitioner to tender the original of P 3. The Court only permitted the petitioner to file a copy of the B Report in BR/5/2023 before the next date. For reasons best known to the petitioner and obvious to this Court, the petitioner tendered the original of P 3 with an averment in his affidavit stating that the same is tendered as per the Order dated 19.06.2025 of this Court. Paragraphs 02 and 03 of the said affidavit reads as follows:

> *"02. I state that as per your Lordship's order dated 19th June 2025 I am submitting the following original documents to your Lordship's court.*

03. I state that I am submitting the Original of the permit under Section 19(2) of the Land Development Ordinance for the aforementioned land by the Mahaweli Authority of Sri Lanka, marked as ***"P 03"*** *of the Petition."*

13. Correspondingly, the respondents, in their affidavit dated 23.06.2025 has specifically averred that the petitioner was required to tender the original of P 3 to the SCIB however had refrained and not tendered it on the basis that the original had been tendered to this Court in Case No. WRT/116/2025, in support of which letter X-03(1) along with X-03 written by the OIC of the SCIB were annexed and tendered to this Court. The OIC of the SCIB by letter dated 26.02.2025 has requested the petitioner to tender the original of P 3 to the SCIB. However, the petitioner seems to have informed that as there is a pending matter in the Court of Appeal and the said original had been tendered to that Court, and the same could not be handed over to the SCIB. The petitioner, by letter X-03, referring to the aforesaid letter, had stated that the original of P 3 was tendered in CA/WRT/116/2025. This letter is dated 15.03.2025. I observe that as at 15.03.2025, the original was not tendered to this Court. The petitioner of his own volition caused the original of P 3 to be tendered to this Court on 23.06.2025. It is significant to note that he alleges in the affidavit that it was so tendered as ordered by this Court on 19.06.2025. This is totally incorrect and false. When considering the sum total, it is apparent and obvious that the petitioner has been avoiding and evading the tendering of P 3 to the SCIB for the purposes of investigation but however has now, of his own volition, tendered the original to this Court when it was not called for with the obvious and sole object of avoiding the tendering of the same to the SCIB. The petitioner is clearly abusing the process of this Court once again.

14. The petitioner, at paragraph 43, 44, and 45, does aver that the plot of land marked Lot No. 5921 of plan P-9 was mortgaged to the People's Bank, and

has now been auctioned due to the default of payment. What is important is that this plot of land is a part of the land which the Petitioner claims on the permit P 3. Whilst the petitioner avers the fact of the said Lot being mortgaged and then being auctioned, does not disclose that there was another deed bearing No. 4085 written by K. P. Abeysuriya, Notary Public, executed on 15th December 2014. This deed was made available to this Court only with the certified copy of MC Case No. BR/5/2023, upon being so directed when this matter was supported. The EQD Report marked P-17 is in respect of this deed and not the permit P 3. What is important and relevant is that the petitioner has tendered this deed bearing No. 4085 to the People's Bank and the said deed is a Deed of Transfer in favour of the petitioner. If the petitioner claimed his entitlement based on P 3, there was no necessity for him to have purchased one of the plots by way of a transfer.

15. As per plan P 20, Lot No. 5921 on which there is a building, is State land. Quit Notices are in respect of are in respect of Lots No. 5919, 5922, and 5925. The petitioner admits that upon the Quit Notices being served, the respondents have instituted proceedings in the Magistrate's Court seeking an Eviction Order under the provisions of State Lands (Recovery of Possession) Act No. 07 of 1979. This fact was admitted during the course of submissions by the learned Counsel of the petitioner, it is also confirmed by the fact of seeking relief under prayer *(d)* for a prohibition to avoid the 6th respondent from hearing cases No. 12305/24, 12306/24, 12307/24, pending in the Magistrate's Court of Embilipitiya.

16. The relief sought is to stop the 6th respondent from hearing the above cases. The 6th respondent is the Director General of the Mahaweli Authority who certainly is not the person hearing the said cases. If at all, it should have been the 7th respondent, the learned Magistrate. This substantive relief prayed for by prayer *(d)* thus cannot be granted.

17. In the context of this application, the fact of an application being filed before the relevant Magistrate seeking an Eviction Order under the State Lands (Recovery of Possession) Act No. 07 of 1979 is directly relevant. The petitioner is now seeking to quash the Quit Notices P-8 (a) – (c) dated 21.05.2024 by prayer *(e).* The other substantive relief is based on the challenge to the said Quit Notices. This application has been filed on 16.06.2025. It is over one year after the said Quit Notices have been served on the petitioner. Therefore, there is a delay which is unexplained, and thus the petitioner is guilty of laches. It is also critical to note that with the institution of the applications before the Magistrate, the petitioner cannot now challenge the Quit Notices, but should take up the relevant defences before the learned Magistrate and establish the existence of a valid permit in the Magistrate's Court. Therefore, this application preferred to this Court in the present form cannot be had and maintained, as the petitioner's remedy now lies elsewhere, in the Magistrate's Court.

18. For completeness, I will now consider if there is a basis to issue a Writ to quash the Quit Notices impugned in this application. Section 3 (1) of the State Lands (Recovery of Possession) Act No. 7 of 1979 confers a discretion to issue a Quit Notice. The Competent Authority is conferred with a discretion by Section 3(1) which is as follows:

> *"3. (1) Where a competent authority is of opinion that any person is in unauthorized possession or occupation of any State land the competent authority may serve a notice on such person in possession or occupation thereof, or where the competent authority considers such service impracticable or inexpedient, exhibit such notice in a conspicuous place in or upon that land requiring such person to vacate such land with his dependants, if any, and to deliver vacant possession of such land to such competent authority or other authorized person as may be specified in the notice on or before a*

> *specified date. The date to be specified in such notice shall be a date not less than thirty days from the date of the issue or the exhibition of such notice."*

Accordingly, this Court is required to consider of the reasonableness of the Opinion formed by the Competent Authority. Justice Arjuna Obeyesekere considering the effect and import of Section 3(1), in ***Muhandiram Arachchige Kamalawathie Weerasinghe and Another vs. Ceylon Petroleum Corporation*** **CA/WRT/298/2018** (decided on 30.06.2020), held as follows:

> *"Therefore, when considering the legality and / or the reasonableness of the opinion of the Competent Authority in the course of an application filed under Article 140 of the Constitution, this Court will require the Competent Authority to present the material on which he formed the opinion that the State is lawfully entitled to the said land, so that this Court can consider whether the Competent Authority has acted legally and/or reasonably. This Court must state that in doing so, it is not the function of this Court to consider the title of the State, or for that matter the title of the person sought to be ejected, to the said land. That is the function of the District Court under Section 12 of the Act or in an Actio Res Vindicatio. This Court wishes to state however that merely because a person who is to be ejected or against whom an order for ejectment has been made, has a remedy by way of Section 12, does not absolve the Competent Authority from his obligation to act reasonably and legally, when forming the all-important opinion in terms of Section 3."*

19. In the present application, the Competent Authority has specifically stated that he is of the opinion that the petitioner is in unlawful possession of a State land. According to the pleadings, Plan P 09 is the Final Village Plan No. 779 and the Schedule annexed thereto clearly states the necessary basis and information for the Competent Authority to form the said opinion. Further, the petitioner does not dispute the fact that the three Lots in respect of which the Quit Notices have been issued are State land. His

position is that his father is a permit holder in respect of 2 acres of land which consist of and includes Lots 5919, 5921, 5922, and 5925 of the said Plan. Then, the position of the respondents is that permit P 3 is not a document issued by the Mahaweli Authority, but is a forged or fraudulent document. In support of this, the actual permit, under the said reference number and the land ledger had ben produced as X-1 and X-1(a) respectively. It is also in the pleadings and material made available to this Court that a complaint has been lodged with the SCIB of the Embilipitiya Police and an investigation into the authenticity of P 3 is pending. This material when considered in its totality, to my mind, is sufficient to form the said Opinion, and certainly satisfies the *Wednesbury* Test of Reasonableness. The Competent Authority is lawfully entitled to issue the Quit Notices, if he forms the requisite Opinion as provided for by Section 3. In these circumstances, there is no basis in law to impugn the said decision and the issue of the Quit Notices.

20. In the above premises, I am of the view that the petitioner cannot have and maintain this application as he is guilty of laches, had suppressed relevant facts, and also for the lack of *uberrima fides*. As a matter of law, his remedy now lies in the Magistrate's Court which is an alternate remedy. In any event, upon the institution of action in the Magistrate's Court, he may not be able to have and maintain an application for a Writ challenging the Quit Notice that has preceded the said applications. In the above circumstances, I see no reason in law or otherwise to issue Notice to the respondents as prayed for.

21. I have concluded and specifically observed that the petitioner has deliberately made out to this Court that the EQD Report P-17 is in respect of P 3. The learned Counsel making submissions also proceeded on this basis. Further, to maintain the said false position, the petitioner has also

deliberately suppressed and concealed the existence of the deed bearing No. 4085.

22. I am of the view that the sum total of the aforesaid amounts to the utterance of a falsehood to this Court by the Petitioner. This warrants some penalization. The precedent on exemplary costs, as discussed and illustrated in the cases of ***Ranmenike v. Senaratne*** [2002] 3 Sri L.R. 274, and ***Design Team 3 (Private) Limited v. Urban Development Authority*** CA/WRIT/491/2021, decided on 06.05.2022, are relevant. These recognize the imposition of a monetary award, defined as outstanding, or exceeding the amount needed for simple compensation of which the core purpose is to serve as a fine carrying a punitive effect intended to penalize parties who have made false declarations to court or to deter others from similar actions.

23. Justice Shiranee Tilakawardene in ***Ranmenike v. Senaratne*** (supra) observed that the concept was introduced to Sri Lankan courts **by Leeda Violet and Others vs. Vidanapathirana, OIC, Police Station, Dickwella and Others** [1994] 3 Sri L.R. 377, drawing its original basis from the Indian case of ***Sebastian M. Hongray v. Union of India*** AIR 1984 SC 1026, where it was developed as a remedy when respondents denied liability in habeas corpus applications, and those denials were subsequently found to be false. In ***Ranmenike***, the court awarded exemplary costs because the 1st and 3rd respondents' denial of arrest and detention was found to be patently false, attracting liability akin to civil contempt, and their liability had been proven through prior conviction. However, the punitive aspect was tempered by the fact that the respondents were already serving a rigorous imprisonment sentence for their actions.

24. In ***Design Team 3 (Private) Limited v. Urban Development Authority*** (supra), Justice Sobhitha Rajakaruna affirmed the discretionary nature of awarding costs, and awarded exemplary costs after finding the petitioners'

application to be vexatious and unreasonable. This was due to serious and utterly false allegations made against public officials, and the characterization of the application as a contractual/commercial dispute between private parties that was inappropriately disguised as public interest litigation to involve State authorities. This case reinforced the principle that costs should serve the purpose of curbing frivolous and vexatious litigation and deter the mismanagement of court resources.

25. As a merciful alternative to contempt proceedings, the petitioner is directed to pay a sum of Rs. 100,000.00 as exemplary costs to the State. This sum, in my opinion, is reasonable and just in the above circumstances. This also should act as a deterrent to those like-minded persons. Accordingly, this application is dismissed subject to exemplary costs as aforesaid.

26. The application is dismissed subject to costs.

JUDGE OF THE COURT OF APPEAL