

**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 Article 140 of the Constitution of
the Democratic Socialist Republic of Sri
Lanka.*

CA (Writ) App. No. 864/2025

1. Bulathwaththe Gedara Nandasiri
Wasantha Kumara,
291/B, Halmillawa Road,
Narangaswewa, Dewahuwa.
2. Elagawa Gedara Sumith Prasanna,
In front of the temple,
Narangaswewa, Dewahuwa.
3. Pera Mahanage Janaka,
No. 824,
Narangaswewa, Dewahuwa.
4. Pinna Polelage Piyaathne,
Ulpahayaya,
Dambuluhalmillawewa.
5. Nekath Gedara Janaka Ravindra
Gunapala,
Narangaswewa, Dewahuwa.

PETITIONERS

Vs.

1. Divisional Secretary,
Divisional Secretariat, Palagala.
2. Land Commissioner,
Land Commissioner General's
Department,
"Mihikatha Madura", Land Secretariat,
1200/6, Rajamalwatta Road,
Battaramulla.
3. K.G.J. Pushpa Kumari,
Narangaswewa,
Dewahuwa.
4. Hon. Attorney General,
Attorney General's Department,
Colombo 12.

RESPONDENTS

Before: S. U. B. Karalliyadde, J

Dr. D. F. H. Gunawardhana, J.

Counsel:

Danushka Rahubadda for the Petitioners.

N. Pathirage S.C. for the 1st, 2nd and 4th Respondents.

Supported on: 23.09.2025

Order delivered on: 10.10.2025

Dr. D. F. H. Gunawardhana, J.

Order

Introduction

The Petitioners are residents of Narangaswewa village of Palagala Divisional Secretariat Division of the Anuradhapura District. The Petitioners state that there are 500 families living in Narangaswewa village and their village lacks basic infrastructure to cater the residents therein. This includes a playground and a community centre. For the time being they use a playground belonging to Budugehinna school, which is located two and a half kilometres (2.5km) away. In the circumstances, they have made an application to the 1st Respondent to allocate a suitable land for them to have a playground to be used for sports and recreational activities.

Since the authorities have failed, they have identified certain land which is depicted as Lot No. 13 in the cadastral plan of the area, which is now occupied by the 3rd Respondent of this application, and has moved the authorities, particularly the 1st Respondent, to allocate it for the purpose of building a playground. The 1st Respondent has refused to allocate it since it is already possessed and occupied by the 3rd Respondent, and she has improved the same by putting up a mango cultivation. Accordingly, in those circumstances, the Petitioners have challenged the document marked as **P6** by which they have refused to allocate the plot of land occupied by the 3rd Respondent, Lot No.13, which is adjacent to her plot of land, Lot No.14. In addition to that, the Petitioners have been directed to identify a different land through the Grama Niladhari of Narangaswewa.

Accordingly, they are seeking to quash the said letter through a *Writ of Certiorari* and also sought a *Writ of Mandamus* to allocate the same land for the purpose of a playground which is now possessed and occupied by the 3rd Respondent. This was supported before us on 23.09.2025, and the following submissions were made by the counsel on either side. Hence, this order.

Arguments

The thrust of the main submission advanced by the Counsel for the Petitioners, Mr. Danushka Rahubadda, is that since the five Petitioners as representatives of the inhabitants of the Narangaswewa village, made a request to the 1st Respondent to allocate Lot No.13, which is occupied by the 3rd Respondent, for a playground. Accordingly, since the 3rd Respondent is in unauthorised acquisition of the land, which is sought by the Petitioners for a playground for the entire community, the refusal by the 1st Respondent to allocate the same is illegal which affects the community. As such, they are indicted to have a *Writ of Certiorari*.

However, upon questioning, the Counsel answered that the same land identified as Lot No. 13, though belonging to the state, is possessed, occupied and improved by the 3rd Respondent by putting up a mango plantation in the entirety of the land, which is adjacent to her plot of land Lot No.14 that she occupies on a grant marked as **P2**. On further questioning, he also concedes that there are other unimproved lands in the area belonging to the state; since this is the more conveniently located plot of land, he identified that this land as the suitable land for their playground. Further, he conceded that if the land is used for the playground, the entire mango plantation has to be removed and destroyed.

However, on the other hand, Ms. Pathirage, the learned State Counsel argued that although the 3rd Respondent has not being granted a permit, since she has improved the same Lot No.13 in the cadastral plan, her occupation will be regularised and later legalised by the Land Kachcheri; the regularising will be done by the issuance of a permit. Therefore, as a responsible officer of the state, the 1st Respondent has refused to allocate that land to the Petitioners, which is a frivolous application made *mala fide* against the 3rd Respondent.

Grievance of the Petitioners are baseless

In this application, we first examine whether the Petitioners have the right to invoke the writ jurisdiction of this Court and obtain a *Writ of Certiorari* to quash the document marked as **P6**, and whether they have any right to obtain a *Writ of Mandamus* against the Respondents.

First, I will examine whether this Court can issue a *Writ of Certiorari* to quash the decision of the 2nd Respondent contained in the said document. The Petitioner's request is that the Respondents should allot a parcel of land for the purpose of reserving it as a playground for the villagers and their children to come and play. However, for a considerable period, they have already been using the playground of Budugehinna school, which is two and half kilometres (2.5 kms) away from Narangaswewa Village. In addition to that, they are using the compound of a certain temple, which is subject to certain restrictions. Therefore, they want to have a parcel of land freely available to them for use as a playground.

For this purpose, they have now selected a parcel of land, which extends to about 1 acre, identified as Lot No.13 in the Cadastral Plan **P2**. They have made a representation to the local politician. Without consulting the relevant stakeholders, including the person who had developed the land on her own by planting a successful mango plantation, which is adjacent to her own land identified as Lot No.15, the local politician allocated Lot No.13 for the Petitioners to use as their playground, as the land remains state-owned.

Therefore, the local politician referred it to the 1st Respondent to include this matter in the agenda of the development committee, without conducting a hearing or granting any right of audience to the 3rd Respondent, who had developed the land through her own mango plantation.

The 1st Respondent wrote to the 2nd Respondent, after obtaining a report from the Grama Niladari of the area, a person with direct access to first-hand information about the terrain, the people, and

the plantation on the land. The Grama Niladari provided a truthful and authentic report to the 2nd Respondent, stating that there is a successful mango plantation, which was planted alongside the plantation of the 3rd Respondent on her land, which she received under a Crown Grant. This land is identified as Lot No.14.

In turn, the local authority, as far as land matters are concerned under the Land Development Ordinance, received this report. The 2nd Respondent then informed the 1st Respondent that he was unable to allocate the 1-acre land as a playground at the request of the five Petitioners, simply because there is a successful mango plantation maintained by the 3rd Respondent.

Two questions arise from this situation:

The application is *mala fide*

Firstly, whether the Petitioners are genuine in their request to have Lot No.13 allocated for a playground. The Petitioners are also holding state-owned lands, either on permit, grant, or possibly without clear title. They do not clearly state their position on this. However, if they are genuinely interested in having a playground, why not sacrifice their own land, as they also hold state land. This raises the possibility that the Petitioners' application is not genuine and is made out of jealousy and *mala fide* intent.

The 3rd Respondent, a lady, has a successful plantation on Lot No.14, which she has developed herself. The 2nd Respondent, therefore, can consider issuing a permit or a grant for the development that the 3rd Respondent has carried out on her land. It is noteworthy that the 2nd Respondent decided not to deviate from his decision that the land on Lot No.13 should not be allocated as a playground, as it would damage the existing plantation, which contributes to the economy. The Petitioners could have their playground elsewhere on government land.

The application is irrational

Another point arises as to why the Petitioners are unwilling to walk two and a half kilometres (2.5 kms) to the school playground.

Therefore, it is my view that there is no reason for us to question the decision contained in **P6**, where the 2nd Respondent, as the competent authority, had the opportunity to ascertain the real factual position of the terrain and the conditions of the land. As the chief officer responsible for land matters in the area, and having evaluated the situation, the 2nd Respondent's decision, based on the weight of evidence, to not allocate the land for a playground, is correct.

Accordingly, it is my view that no writ lies to quash the decision in **P6**, and the application for certiorari should be dismissed *in limine*.

Secondly, the 2nd Respondent cannot be compelled by way of a *Writ of Mandamus* to allocate Lot No.13 (depicted in **P2**) for a playground, as he has already taken the correct decision in not allocating the land, which would have destroyed the mango plantation.

Conclusion

For the reasons outlined above, I refuse to issue formal notice, and the application is dismissed *in limine* without costs.

JUDGE OF THE COURT OF APPEAL

S. U. B. Karalliyadde, J.

I agree.

JUDGE OF THE COURT OF APPEAL