

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

*In the matter of an application for
mandates in Writs of Certiorari and
Mandamus under and in terms of Article
140 of the Constitution.*

**CA WRIT APPLICATION NO:
CA/WRT/130/2025**

1. Sagara Bandara Lenawala
No. 292, Lenawala,
Wahakotte.

PETITIONER

1. Geological Survey & Mines Bureau
No. 569, Epitamulla Road,
Pitakotte.
2. J.M.S.N. Jayasinghe
(Chairman)
Geological Survey & Mines Bureau
No. 569, Epitamulla Road,
Pitakotte.
3. Professor H.M. Ranjith Premasiri
(Director General)
Geological Survey & Mines Bureau
No. 569, Epitamulla Road,
Pitakotte.

4. W.D.S.C. Weliwatta
(Board Member)
Geological Survey & Mines Bureau
No. 569, Epitamulla Road,
Pitakotte.
5. A.R. Wickramasinghe
(Board Member)
Geological Survey & Mines Bureau
No. 569, Epitamulla Road,
Pitakotte.
6. I.C. Pathiraja
(Board Member)
Geological Survey & Mines Bureau
No. 569, Epitamulla Road,
Pitakotte.
7. Professor N.W.B. Balasooriya
(Board Member)
Geological Survey & Mines Bureau
No. 569, Epitamulla Road,
Pitakotte.
8. N.C. Samarawickrama
(Board Member)
Geological Survey & Mines Bureau
No. 569, Epitamulla Road,
Pitakotte.
9. Hon. Attorney General

Attorney General's Department
Colombo 12.

RESPONDENTS

Before : **Hon. Rohantha Abeysuriya PC, J.(P/CA)**

: **Hon. K. Priyantha Fernando, J. (CA)**

Counsel : Muditha Perera instructed by
M.D.R.P. Maddumage for the Petitioner.

Peshan Gunarathna, SC for the Respondents.

Written Submissions on : 08.09.2025 for the 1st - 9th Respondents
02.10.2025 for the Petitioner

Supported on : 04.09.2025

Decided on : 28.10.2025

K. Priyantha Fernando, J. (CA)

The Petitioner has filed his Petition on 20.02.2025. This application is to challenge the alleged arbitrary, *ultra vires* decision of the 3rd Respondent to suspend the Petitioner's industrial mining license. The Petitioner asserted that the suspension, ordered based on an alleged land ownership dispute, was a decision that surpassed the authority of the 2nd and 3rd Respondents and was factually incorrect.

The Petitioner filed this application to this Court to challenge and quash the decision of the 3rd Respondent (Director General of the Geological Survey & Mines Bureau) to suspend his industrial mining license by the letter dated December 13, 2024 marked as P26.

THE POSITION OF THE PETITIONER:

The Petitioner had been running a quarry on the land with necessary approvals since 2011, having obtained all required licenses from relevant institutes. The Petitioner's industrial mining license, bearing No. IML/C/MTL/0005/LR/03, was arbitrarily suspended. In addition to the mining license, he held all other necessary coexisting licenses since 2011, including approvals from the Urban Development Authority, the Department of Archaeology, a permit for explosives, an Environmental Protection License, and a trade license, to carry out his legal business. (vide P18 to P22)

The Petitioner was the lessee of the land, having signed a renewed lease agreement (P2) that was registered and valid from January 5, 2022, to January 4, 2032.

The lawful owner of the land was the Petitioner's legal wife, who acquired the property by a deed of sale (P4) dated February 25, 2009. This deed and its corresponding surveyor plan (P6) described the land as a divided portion with an extent of two roods ten decimal two, third perches, and four clearly defined boundaries. The Petitioner asserted that his wife and her predecessors possessed the land as a divided portion for more than 30 years.

Furthermore, the Petitioner stated there was no documentary proof that anyone had challenged his wife's title rights, nor had anyone filed a case to establish conflicting rights and seek a restraining order to stop the mining license.

Despite operating smoothly with legal approvals, the Petitioner received a letter from the 3rd Respondent in October 2024 (P23) informing him of the intention to

suspend all activities due to a dispute over land ownership. The 3rd Respondent had requested a title report (P24), which the Petitioner furnished on October 23, 2024. Nevertheless, the 3rd Respondent sent the suspension letter on December 13, 2024 (P26), reasoning that the land was undivided and that the Petitioner needed to execute an amicable deed of partition or file a partition case in a relevant court to resolve the matter.

The Petitioner contended that this reason was preposterous, and the 3rd Respondent acted blatantly *ultra vires* in issuing this order, as the Mines and Mineral Act No. 33 of 1992 only listed specific conditions for refusing or cancelling a license, none of which supported the current suspension based on an alleged title dispute. Therefore, the Petitioner sought a Writ of *Certiorari* to quash the arbitrary decision (P26) and a Writ of *Mandamus* to direct the respondents to remove the temporary suspension over his mining license.

The POSITION OF THE 1st -9th RESPONDENTS:

The 1st to 9th Respondents have tried to justify the dismissal of the Petitioner's application, contending that the Petitioner misconstrued facts and that the application was void *ab initio*.

The Respondents argued that the Petitioner's Counsel misrepresented material facts in documents "P23" and "P26." They asserted that the documents did not constitute a temporary suspension or cancellation of the industrial mining license but were merely **an intimation of a decision to stop all mining and other activities until a land ownership dispute was resolved**. The Respondents contended that the Petitioner failed to annex a document demonstrating any steps taken by them to officially suspend or cancel the license.

The Respondents' primary objection was that the application was void *ab initio* because the license, "P17," had expired on December 19, 2024, and had thus faced a "natural death".

It was contended that since the Petitioner had neither applied for a renewal nor a new license under **Section 36** of the Mines and Minerals Act after the expiry date, there was no license to either cancel or temporarily suspend. Consequently, the Petitioner held no legal right to seek the Writ jurisdiction of the Court on a license that had ceased to exist, rendering the reliefs prayed for as futile. The Respondents maintained that no *Certiorari* lie against "P.26" and no *Mandamus* could be issued to perform a function that contravened the provisions of the Act.

In addition to the issue of license expiration, the Respondents contended that the facts are in dispute, which barred the Petitioner from seeking a discretionary remedy by way of a Writ. The Respondents stated that they received a written complaint from an individual, "Dhanushka Lenawala," who, along with his brother (the Petitioner), collectively owned an undivided one-third (1/3) portion of the subject land.

Furthermore, they pointed out that the Petitioner's own title report ("P24") reflected that there were multiple owners with undivided shares to the land. The Respondents explained that they clearly intimated to the Petitioner that such disputes regarding an undivided share must be resolved through an appropriate court of first instance.

The Respondents noted that according to **Section 51** of the Act, a permit holder must obtain the consent of the owner of the land, which the Petitioner failed to rectify either through a District Court action or an affidavit of consent.

Finally, the Respondents argued that the Petitioner had not even complied with their request to resolve the land dispute in primary courts and was thus barred from seeking the Writ jurisdiction without exhausting the available alternative remedies (Sections 39-40 of the Act). For the foregoing reasons, the Respondents prayed that the Court dismiss the application *in limine*.

CONCLUSION:

The Petitioner had been operating a quarry since 2011 with all necessary approvals, and his license (P17) was suspended but not cancelled, by the 3rd Respondent on December 13, 2024, through the letter marked P26. This suspension was imposed after the Petitioner submitted ownership records, with the 3rd Respondent directing the Petitioner to either execute an amicable deed of partition or file a partition action in the relevant court to resolve the matter of the land's title.

The letter P26 specifically stated that the temporary suspension would continue until the matter was resolved, and failure to comply would result in the cancellation of the license. The 3rd Respondent acted in a manner that was patently arbitrary manner by ordering him to file a partition case for a land that was already divided and defined.

It is sufficiently proved that the land in question was a divided portion of two roods and 10 2/3 perches, received by Petitioner's wife via a deed (P 4) and recorded in the relevant volume/folio (P 5 and P 3). The registered lease agreement (P 2) held by the Petitioner, which stipulated a validity period until 2032, **complying with Section 51** of the Mines and Minerals Act.

*“51. The **holder of a licence** issued under this Act shall have the right to enter and possess any area of land specified in such licence: **Provided that where the owner of any such area of land is in possession of such area of land,** the holder of the licence shall not exercise the rights conferred on him by this section **except with the consent of such owner.**”*

In the instant case, the holder of the licence is the Petitioner who possessed the licence marked P17 and he has the right to possess any area of land specified in P17 which is described as “AMBAGAHAMULLAHENA & UDAGALKANDAHENA” with the extent of 2R 10.5P. The owner of the land is

Petitioner's own wife who is having absolute title upon Deed of Sale No. 1200 dated 25.02.2009 marked as P4. There is no evidence adduced as to anyone else is in possession of said divided portion.

According to the land registry document (P 3), obtained on October 21, 2024, the land remained a divided portion, with neither a caveat nor any obstacle raised by any individual.

According to the Plan No. 7490 (P06), the lot has been entrenched as a divided and defined portion for more than 30 years since 1993, which was sufficient to entrench prescriptive right under Section 03 of the Prescription Ordinance.

The complaint filed by one *Danushka Lenawala* seems baseless since he had no demonstrable connection to the land. No legal action had been taken by this individual either against the Petitioner or his wife. That fact itself shows the fallacy of said claim. The direction given by the Bureau asking the Petitioner to get amicable partition the land or to file a partition suit is manifestly wrong and amounts to illegal order.

The leaned State Counsel argued that the Respondents have not taken a final decision or to temporally suspend or to cancel the license P17. The Petitioner countered the Respondents' claim and rightly pointed out that since the 3rd Respondent had suspended the license (P17) through documents P23 and P26, and extended that suspension, the Petitioner **is trapped and prevented from applying for a renewal or an applying for a new license under the relevant sections** of the Mines and Minerals Act.

The Mines and Minerals Act does not contain any provisions regarding suspension. It is seen that neither the P23 nor the P26 issued under any provision in the Act. Issuing both P23 and P26 itself is patently illegal because there is no provision for such temporary suspension when valid documentation has been forwarded by the Petitioner before the 1st Respondent Bureau.

“36. A licence issued under this Act **shall be renewed** after the expiration of the period specified in the licence on application made to the Bureau not less than thirty days before the expiry thereof if (a) the Bureau is satisfied that the licensee has observed the terms and conditions attached to such licence; and (b) the licensee pays the prescribed fee for the renewal of the licence.”

“37. (1) The Bureau **may cancel** a licence issued under this Act, if it is satisfied that the licensee (a) has contravened any term or condition attached to such licence; (b) has **not carried out any lawful direction given to him by the Bureau**; (c) carries on wasteful mining despite prior warning given in writing by the Bureau against such mining; (d) has suspended, curtailed or ceased to carry on any activity authorized by such licence for a period of over three months without the permission of the Bureau; (e) has surrendered his licence subject to satisfaction of the requirements of this Act; or (f) has been convicted of an offence under this Act or of any regulation made thereunder. (2) The cancellation of a licence under subsection (1) **shall not take effect until the time for appealing against the decision of the Bureau under section 39 has expired or if an appeal has been made within time, unless and until the appeal has been disallowed.**”

(the emphasis was added)

The Petitioner has satisfied this Court that the direction given by the Bureau is *prima facie* not lawful one.

If the Bureau cancelled the licence under **Section 39**, said cancellation could not have taken effect until time for appealing against the decision under section 39 has expired or if an appeal has been made within time, unless and until the has been disallowed.

It is apparent that if the 1st respondent did cancel the license as per **section 37** of the Act, the Petitioner could have pursued on the appellate procedure and would have got relief as provided in **Sections 39 and 40** of the Act. However, by issuing P23 and P26 without based on any legal provision in the Act, viz. section 37, the Petitioner is aggrieved without any remedy of appealing.

From the date of issuing P23, which is dated 07.10.2025, the impugned license was under suspension. Therefore, the petitioner was devoid of either renewal or applying for a new license resulting from the arbitrary act of the 1st to 8th respondents. Thus, I reject the argument of the learned State Counsel that since the License has now expired, the Petitioner's application is futile.

In these circumstances, it is clearly seen that invoking Writ jurisdiction is the only remedy for the Petitioner to escape and emancipate himself from illegal acts of the respondents.

The Petitioner has satisfied that there is a *prima facie* case/arguable matter which should be gone into by this Court.

Accordingly, I am inclined to issue formal notices on the Respondents.

Judge of the Court of Appeal

Hon. Rohantha Abeysuriya PC, J.(P/CA)

I agree.

President of the Court of Appeal