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

The matter arising out of the final judgement dated 28.07.2020 made in the Revision application No. 225/2017 by the High Court of the Southern Province of the Democratic Socialist Republic of Sri Lanka holden at Galle.

Court of Appeal Case No: CA/PHC/0078/2020

Galle High Court Case No: 225/2017

MC Galle Case No: 62680/Ports Authority

Thushara Chaminda Kariyawasam,
Deputy Chief Engineer,
Sri Lanka Ports Authority
Colombo.

Plaintiff

Vs.

N. Samantha Prasanna De Costa,
No.03,
China Friendship Village,
Kuruduwatta, Akmeemana.
Now at
No. 402, Matara Road, Magalla, Galle.

Respondent

AND BETWEEN

N. Samantha Prasanna De Costa,
No.03,
China Friendship Village,
Kuruduwatta, Akmeemana.
Now at
No. 402, Matara Road, Magalla, Galle.

Respondent-Petitioner

Vs.

Thushara Chaminda Kariyawasam,
Deputy Chief Engineer,
Sri Lanka Ports Authority
Colombo.

Plaintiff-Respondent

Hon. Attorney General,
Attorney General Department,
Colombo 12.

Respondent

AND NOW BETWEEN

N. Samantha Prasanna De Costa,
No.03,
China Friendship Village,
Kuruduwatta, Akmeemana.
Now at
No. 402, Matara Road, Magalla, Galle.

Respondent-Petitioner-Appellant

Vs.

Thushara Chaminda Kariyawasam,
Deputy Chief Engineer,
Sri Lanka Ports Authority
Colombo.

Plaintiff-Respondent-Respondent

Hon. Attorney General,
Attorney General Department,
Colombo 12.

Respondent-Respondent

Before	:	**D. THOTAWATTA, J.** **K. M. S. DISSANAYAKE, J.**
Counsel	:	Sapumal Bandara with Gangulali de S. Dayarathna for the Respondent-Petitioner-Appellant. N. Perera, A. S. A. for the Respondents.
Argued on	:	15.07.2025
Written Submissions of the Respondent-Petitioner -Appellant tendered on	:	24.07.2024 and 27.08.2025
Written Submissions of the Plaintiff-Respondent -Respondent tendered on	:	04.09.2024
Written Submissions of the Respondent -Respondent tendered on	:	03.09.2024
Decided on	:	20.11.2025

K. M. S. DISSANAYAKE, J.

This is an appeal filed before this Court by the Respondent-Petitioner-Appellant (hereinafter called and referred to as 'the Appellant') against the order of the learned High Court Judge of the Southern Province holden at Galle dated 28.07.2020 made in an application in revision bearing No. 225/2017 (hereinafter called and referred to as 'the order').

The facts material and relevant to the instant appeal may be briefly, set out as follows;

The Plaintiff-Respondent-Respondent (hereinafter called and referred to as 'the Respondent') had made an application to the Magistrate Court of Galle in case bearing No. 62682/Ports Authority, under and in terms of the provisions of Section 5 of the State Lands (Recovery of Possession) Act No. 07 of 1979 (as amended) (hereinafter called and referred to as 'the Act') seeking eviction of the Appellant from a State Land as morefully described in the schedule to the application (hereinafter called and referred to as the 'State Land'). The Appellant appearing before the Additional Magistrate Court of Galle pursuant to the summons issued on him by Court, had shown cause against the application. However, the learned Additional Magistrate of Galle in her order dated 24.08.2017 had while totally, rejecting the Appellant's showing cause against the application, allowed the application directing the Appellant to be ejected from the State Land by holding that the Appellant had been in unauthorized possession or occupation thereof. Being aggrieved by the said order of the learned Additional Magistrate of Galle, the Appellant had invoked the extra-ordinary revisionary jurisdiction of the High Court of the Southern Province holden at Galle to revise and set aside it. The learned High Court Judge of the Southern Province holden at Galle had in his order, dismissed the application in revision preferred to it by the Appellant while affirming the order of the learned Additional Magistrate of Galle by holding that the learned Additional Magistrate of Galle had arrived at the order sought to be revised and

set aside in accordance with the provisions of the Act and hence, order sought to be revised and set aside is not contrary to the law. The instant appeal has thus, arisen therefrom on the grounds of appeal as morefully, set out in paragraph 5 (අ) to (ඊ) of the petition of appeal amongst any other grounds of appeal that may be urged by Counsel at the hearing of the instant appeal and they may be reproduced *verbatim* the same as follows;

> "(අ) මෙම නඩුවේ අභියාවක විසින් මුල් නෙරපීමේ ආඥාවට අදාලව ඉදිරිපත් කරන ලද මූලික විරෝධතාවය සහ කාර්ය පටිපාටික දෝෂ සම්භන්ධයෙන් නිසි අවධානය යොමු නොකොට තීන්දුව ස්ථිර කර තිබීම.
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> (ආ) මෙම අභියාවක අදාල දේපලේ භුක්තිය දැරීම සම්බන්ධව ඉදිරිපත් කොට ඇති නෛතික විරෝධතා සම්බන්ධව තම නියෝගය මඟින් කිසිදු හේතු දැක්වීමක් සිදු කර නොතිබීම.
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> (ඇ) පැමිණිලිකාර නියෝජ්‍ය ප්‍රධාන ඉංජිනේරු වරාය අධිකාරිය විසින් මුල් නෙරපීමේ ආඥාවට අදාළ පනතේ ප්‍රතිපාදන නිසි පරිදි අනුගමනය නොකිරීම සම්බන්ධව අවධානය යොමු නොවීම.
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> (ඈ) මෑතකදී විනිශ්චිත දිස්ත්‍රික් ලේකම් කළුතර එදිරිව කළුපහන මෙස්ත්‍රිගේ ජයතිස්ස. (SC APP.246/2014) සහ ලක්ෂ්මන් වටවල එදිරිව චන්දන ජයතිලක (SC APP. 31/2009) නඩු වලදී තීරණය කර ඇති පරිදි අභියාවක රජයේ අනුමත භුක්තියක් දරණ බවට වූ කරුණු සහ ලේඛන කෙරෙහි ප්‍රමාණවත් විශ්ලේෂණයක් සිදු කර නොතිබීම.
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> (ඉ) මෙම නඩුවේ ඉදිරිපත් වූ ලේඛන හා කරුණු කෙරෙහි මෙම තීන්දුව මඟින් නිසි අවධානයක් යොමු නොවීම.
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> (ඊ) ගරු උගත් අතිරේක මහේස්ත්‍රාත්තුමියගේ තීරණය සඳහා හේතු පාදක වූ කරුණු කිසිවක් හෙළිදරව් කර නොතිබීමත් ඒ පිළිබඳව මෙම නියෝගයේදී ප්‍රමාණවත් අවධානයක් යොමු කර නොතිබීම."

However, upon a careful analysis of the purported preliminary objections so raised in paragraph 3 (අ) to (ඈ) of his showing cause furnished to the Magistrate Court of Galle as required by section 8 of the Act, by the Appellant, to the application of the Respondent made thereto under and in terms of section 5 of the Act, together with the grounds of appeal so urged by the Appellant in the petition of appeal as enumerated above, the Appellant's principal defence raised therein appears to be such that the Respondent is not the competent authority within the meaning of Section 5 of the Act to be read with section 18 thereof.

It may now, be examined.

The Respondent is not the competent authority within the meaning of section 5 of the Act to be read with section 18 thereof.

It is in this context, I would think it expedient at this juncture to examine the structure and/or the scheme embodied in the Act and the provisions contained therein with regard to an application that may be made to a Magistrate Court by a competent authority under section 5 thereof for the eviction of a person who in his opinion, is in unauthorized possession or occupation of a state land and for the recovery of the same.

Section 3 of the Act enacts thus;

> "3. (1) Where a competent authority is of the opinion
>
> (a) that any land is State land; and
>
> (b) that any person is in unauthorized possession or occupation of such 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.
>
> (1A) No person shall be entitled to any hearing or to make any representation in respect of a notice under subsection (1).

(2) Every notice under subsection (1) issued in respect of any State land is in this Act referred to as a "quit notice ".

(3) A quit notice in respect of any State land shall be deemed to have been served on the person in possession or occupation thereof if such notice is sent by registered post.

(4) Every quit notice shall be in Form A set out in the Schedule to this Act."

Section 4 of the Act deals with the obligation to comply with a quit notice and it enacts thus;

"4. Where a quit notice has been served or exhibited under section 3

(a) the person in possession or occupation of the land to whom such notice relates or any dependants of such person shall not be entitled to possess or occupy such land after the date specified in such notice or to object to such notice on any ground whatsoever except as provided for in section 9,

(b) the person in possession or occupation shall together with his dependants, if any, duly vacate such land and deliver vacant possession thereof to the competent authority or person to whom he is required to do so by such notice."

Section 5 of the Act deals with the effect of non-compliance with a quit notice and it enacts thus;

5. (1) Where any person fails to comply with the notice provisions of section 4 (b) in respect of any quit notice issued or exhibited or purporting to have been issued or exhibited under this Act, any competent authority (whether he is or not the competent authority who issued or exhibited such notice) may make an application in writing in

the Form B set out in the Schedule to this Act to the Magistrate's Court within whose local jurisdiction such land or any part thereof is situated

(a) setting forth the following matters

(i) that he is a competent authority for the purposes of this Act.

(ii) that the land described in the schedule to the application is in his opinion State land,

(iii) that a quit notice was issued on the person in possession or occupation of such land or was exhibited in a conspicuous place in or upon such land,

(iv) that such person named in the application is in his opinion in unauthorized possession or occupation of such land and has failed to comply with the provisions of the aforesaid paragraph (b) of section 4 in respect of such notice relating to such land, and

(b) praying for the recovery of possession of such land and for an order of ejectment of such person in possession or occupation and his dependants, if any, from such land.

(2) Every such application under subsection (1) shall be supported by an affidavit in the Form C set out in the Schedule to this Act verifying to the matters set forth in such application and shall be accompanied by a copy of the quit notice.

(3) Every application supported by an affidavit and accompanied by a copy of the quit notice under the preceding provisions of this section shall be referred to as an "application for ejectment ".

(4) No stamp duties shall be payable for any application for ejectment.

Section 6 of the Act deals with the role of a Magistrate upon receipt of an application made under section 5 thereof and it enacts thus;

> "6. (1) Upon receipt of the application made under section 5, the Magistrate shall forthwith issue summons on the person named in the application to appear and show cause on the date specified in such summons (being a date not later than two weeks from the date of issue of such summons) why such person and his dependants, if any, should not be ejected from the land as prayed for in the application for ejectment.
>
> (2) The provisions contained in the Code of Criminal Procedure Act shall, mutatis mutandis, apply to the issue of summons referred to in subsection (1) and the service thereof and other steps necessary for securing the attendance of the person summoned."

Section 7 of the Act, makes provisions for an order for ejectment where no cause is shown and it reads thus;

> "7. If on the date specified in the summons issued under section 6 the person on whom such summons was issued fails to appear or informs the Court that he has no cause to show against the order for ejectment, the Court shall forthwith issue an order directing such person and his dependants, if any, to be ejected forthwith from the land."

Section 8 of the Act, makes provisions as to the inquiry if cause is shown and it enacts thus;

> "8. (1) If a person on whom summons has been served under section 6 appears on the date specified in such summons and states that he has cause to show against the issue of an order for ejectment the Magistrate's Court may proceed forthwith to hear and determine the matter or may set the case for inquiry on a later date.
>
> (2) Where any application for ejectment has been made to a Magistrate's Court, the Magistrate shall give priority over all other business of that

Court, to the hearing and disposal of such application, except when circumstances render it necessary for such other business to be disposed of earlier."

Section 9 of the Act deals with the scope of inquiry and it reads thus;

"9. (1) At such inquiry the person on whom summons under section 6 has been served **shall not be entitled to contest any of the matters stated in the application under section 5 except that such person may establish that he is in possession or occupation of the land upon a valid permit or other written authority of the State granted in accordance with any written law and that such permit or authority is in force and not revoked or otherwise rendered invalid.**

(2) **It shall not be competent to the Magistrate's Court to call for any evidence from the competent authority in support of the application under section 5**." [Emphasis is mine]

Section 10 of the Act makes provisions for order of ejectment and it reads as follows;

"10. (1) If after inquiry the Magistrate is not satisfied that the person showing cause is entitled to the possession or occupation of the land he shall make order directing such person and his dependants, if any, in occupation of such land to be ejected forthwith from such land.

(2) No appeal shall lie against any order of ejectment made by a Magistrate under subsection (1)."

Upon a careful analysis of the Act as a whole, it becomes abundantly, clear that "Urgency" appears to be the hallmark of this Act as observed by this Court in ***Farook vs. Gunewardene-Government Agent, Amparai (Supra)***. Under section 3, 30 days notice shall be given. Under section 4, the person in possession is not entitled to object to notice on any ground whatsoever except as provided for in section 9 and the person who is in possession is required to

vacate the land within the month specified by the notice. Under section 6, the Magistrate is required to issue summons forthwith to appear and show cause on a date not later than two weeks from the date of issue of such summons. Under section 8(2) the Magistrate is required to give priority over all other business of that court. Under section 9, the party noticed can raise objections only on the basis of a valid permit issued by the State. Under section 10, if the Magistrate is not satisfied, "he shall make order directing ejectment forthwith and no appeal shall lie against the order of ejectment. Under section 17, the provisions of this Act have effect notwithstanding anything contained in any written law.

It was *inter-alia*, held by the Supreme Court in ***Senanayake Vs. Damunupola*-1982 (2) SLR 621**, "The scope of the State Land (Recovery of Possession) Act was to provide a speedy or summary mode of getting back possession or occupation of 'State Land' as defined in the Act", which was cited with approval by this Court in case bearing No. **CA (PHC) 140/2013-decided on 10.10.2019**.

It was *inter-alia*, held by this Court in ***Farook vs. Gunewardene-Government Agent, Amparai* 1980 (2) SLR 243**, at pages 245 and 246 that, "Section 9(2) is to the effect that the Magistrate cannot call for any evidence from the competent authority in support of the application under section 5...."

It was *inter-alia*, held by this Court in **CA/PHC/41/2010 decided on 31.01.2017** that, "The party noticed is not entitled to challenge the opinion of the competent authority on any of the matters stated in the application...."

It was *inter-alia*, held by this Court in **CA (PHC) APN 29/2016**-decided on **09.07.2018** that, "....He cannot contest any of the matters stated in the application made under section 5 of the Act."

It was further held by this Court in **CA(PHC)APN 29/2016**(supra) that "The Petitioner submitted that the Respondent was not the competent authority in

respect of the lands vested with the SLSPC. Such an objection is not a matter that can be taken up before the learned Magistrate or in these proceedings. One of the factors to be stated in the application made under section 5 of the Act is that the person making the application is a competent authority for the purposes of the Act. In view of section 6 of the Act, a person who has been summoned cannot contest that the claimant is not a competent authority. That is an issue to be tested in appropriate proceedings."

Upon a careful analysis of section 5 of the Act in conjunction with sections 9(1) which enacts that "**At such inquiry the person on whom summons under section 6 has been served shall not be entitled to contest any of the matters stated in the application under section 5 except that such person may establish that he is in possession or occupation of the land upon a valid permit or other written authority of the State granted in accordance with any written law and that such permit or authority is in force and not revoked or otherwise rendered invalid**" and 9(2) thereof, which enacts "**It shall not be competent to the Magistrate's Court to call for any evidence from the competent authority in support of the application under section 5.**", together with the principle laid down by the judicial precedent as enumerated above, it would become manifestly, clear that where the Applicant states in his application made to a Magistrate Court under section 5 of the Act that he is the competent authority within the meaning of section 5 of the Act to be read with section 18 thereof, **the person on whom summons under section 6 has been served shall not be entitled to contest such statement that the applicant is the competent authority as stated in the application and therefore, not open to judicial challenge at the ejectment stage in an application made to Court by a competent authority under section 5 of the Act except that such person may establish that he is in possession or occupation of the land upon a valid permit or other written authority of the State granted in accordance with any written law and that such permit or authority is in force and not revoked or otherwise rendered**

invalid; and that **It shall not be competent even to the Magistrate's Court to call for any evidence from the competent authority in support of the application under section 5.** [Emphasis is mine]

In the light of the law set out in section 5(1) of the Act to be read with sections 9(1) and 9(2) thereof and in the light of the law established by the judicial precedents as referred to above, it is my considered view that a dispute as to the competency of the competent authority stated in an application made to the Magistrate under section 5 of the Act, **is wholly, foreign and utterly alien to a proceedings that may be initiated before a Magistrate Court by a competent authority for eviction of a person** and therefore, such a defence to an application made to Court by a competent authority under section 5 of the Act is wholly, untenable in law, and therefore, not in any manner available to such a person who in his opinion of the competent authority, is in unauthorized possession or occupation of a state land for; the Legislature in enacting section 9 of the Act had never intended a defence as such to be made available to a person as such except only, for the defence expressly, and explicitly, made available therein.[Emphasis is mine]

There is a further point which would in my opinion, fortify and strengthen my view taken as aforesaid and let me now, examine it.

Upon a careful analysis of sections 9(1) and 9(2) of the Act in particular, it clearly, appears that the Legislature in enacting this special piece of legislation, had never intended for a protracted trial to be held by a Magistrate in an application made to it by a competent authority under section 5 of the Act when it had proceeded to enact section 9 thereto in such a manner as expressly, and explicitly, setting out in unambiguous terms the very scope of such an inquiry.

However, relying heavily, on the decision of this Court in Banda v President, M.P.C.S. Ltd., Medirigiriya and another [2003] 1 SLR 193, it was contended by the Appellant before us that the Magistrate can inquire into the question of

whether the Deputy Chief Engineer of Sri Lanka Ports Authority is a competent authority or not and therefore, submitted that it was a matter that ought to have been considered by the learned Additional Magistrate of Galle at the inquiry held by him under section 9 of the Act.

Upon a careful analysis of the decision in Banda v President, M.P.C.S. Ltd., Medirigiriya and another(Supra), it becomes abundantly, clear that Court in that case, had not in any manner, directed its judicial mind to the provisions contained in sections 5, 9(1) and 9(2) of the Act and its legal effect, instead Court in that case had proceeded to examine whether the land in dispute was falling within the definition of State Land within the meaning of the Act and that the competent authority therein, is a public officer within the meaning of Article 170 of the Constitution, and hence, the decision in Banda v President, M.P.C.S. Ltd., Medirigiriya and another(Supra) is if I may say so respectfully, a decision not based on the relevant provisions of the Act, namely; sections 5, 9(1) and 9(2) and therefore, it is of little assistance to resolve the issue at hand before us.

In the light of sections 5, 9 (1) and 9(2) of the Act, the person who has been summoned is not entitled to contest any of the matters stated in the application under section 5 of the Act and one of such matters to be stated in the application made under Section 5 of the Act is that the person making the application is a competent authority for the purposes of the Act.

The Respondent had in his affidavit filed along with his application under section 5 of the Act before the Magistrate Court of Galle clearly, and unequivocally, affirmed to the fact he is the competent authority within the meaning of the Act which fact cannot in any manner, be contested by the Appellant and therefore, not open to a judicial challenge in view of sections 5, 9(1) and 9(2) of the Act and the judicial precedents referred to above.

In the light of the law set out above, I would find myself unable to agree with the principal contention so advanced by the learned Counsel for the Appellant

that both the learned High Court Judge of the Southern Province holden at Galle and the learned Additional Magistrate of Galle had not directed judicial mind to the pivotal question whether the Respondent was the competent authority within the meaning of section 5 of the Act to be read with section 18 thereof.

Hence, I would hold that, the principal contention so advanced by the learned Counsel for the Appellant, namely; the Respondent is not a competent authority within the meaning of the "Act", cannot in any manner, sustain both in fact and law and therefore, it should be rejected *in-limine*.

The question that would next, arise for our consideration is with regard to the scope of an inquiry under section 9 of the Act and section 9(1) thereof enacts thus;

> "9. (1) At such inquiry the person on whom summons under section 6 has been served **shall not be entitled to contest any of the matters stated in the application under section 5 except that such person may establish that he is in possession or occupation of the land upon a valid permit or other written authority of the State granted in accordance with any written law and that such permit or authority is in force and not revoked or otherwise rendered invalid."**[Emphasis is mine]

It was *inter-alia*, held by this Court in ***Farook vs. Gunewardene-Government Agent, Amparai (Supra)*** that, "At the inquiry before the Magistrate, the only plea by way of defence that the Petitioner can put forward is that he is in possession or occupation of the land upon a valid permit or other written authority of the State granted in accordance with any written law and that such permit or authority is in force and not revoked or otherwise rendered invalid."

It was *inter-alia*, held in ***Muhandiram v. Chairman, No. 111, Janatha Estate Development Board*** **1992 (1) SLR 110** at page 112 that, "Under section 9(1) of the State Lands (Recovery of Possession) Act No. 7 of 1979, the person on whom summons has been served (in this instance, the Respondent-Petitioner) shall not be entitled to contest any of the matters stated in the application under section 5 except that such person may establish that he is in possession or occupation of the land upon a valid permit or other written authority of the State granted in accordance with any written law and that such permit or written authority is in force and not revoked or otherwise rendered invalid..... The said section clearly reveals that at an inquiry of this nature, the person on whom the summons has been served has to establish that his possession or occupation is upon a valid permit or other written authority of the State granted according to the written law. The burden of proof of that fact lies on that particular person on whom the summons has been served and appears before the relevant Court.".

It was *inter-alia*, held by this Court in **CA/PHC/41/2010(Supra)** that, "Under section 9 of the State Land (Recovery of Possession) Act, the scope of the inquiry is limited to the person noticed to establish he is not in unauthorized occupation or possession by establishing that;

1. Occupying the land on a permit or a written authority.
2. It must be a valid permit or a written authority.
3. It must be in force at the time of presenting it to Court.
4. It must have been issued in accordance with any written law."

It was *inter-alia*, held by this Court in **CA (PHC) APN 29/2016(Supra)** that, "A person who has been summoned in terms of section 6 of the Act can only establish that, he is in possession or occupation of the land upon a valid permit or other written authority of the State granted in accordance with any written law and that such permit or authority is in force and not revoked or

otherwise rendered invalid. He cannot contest any of the matters stated in the application under section 5 of the Act."

It was *inter-alia*, held by this Court in **CA(PHC)48/2016 (Supra)** that, ".... the only defence available is to prove possession is upon a valid permit or written authority, issued in accordance with law, and which should be in force....".

In the light of the law set out in section 9(1) of the Act and the judicial precedent referred to above, at an inquiry of this nature, the person on whom the summons has been served (in this instance the Appellant) has to establish that his possession or occupation is upon a valid permit or other written authority of the State granted according to the written law and that such permit or written authority is in force and not revoked or otherwise rendered invalid.

In proof thereof, the Appellant had produced to Court some documents marked එ1 to එ7 along with his showing cause. However, upon a careful consideration of those documents as a whole, it becomes abundantly, clear that neither of those documents constitutes a permit or an authority as such coming within the meaning of section 9(1) of the Act and therefore, the Appellant had not in any manner, established that he is in possession or occupation of the land stated in the application made to Court by the Competent Authority under and in terms of section 5 of the Act upon a valid permit or other written authority of the State granted in accordance with any written law and that such permit or authority is in force and not revoked or otherwise rendered invalid as required by section 9(1) of the Act as rightly, held by the learned Additional Magistrate of Galle.

Besides, it had never been the position of the Appellant taken up in the Magistrate Court or in the High Court or before this Court that his possession or occupation of the land in dispute which in the opinion of the Respondent being the competent authority is State Land, is upon a valid permit or other written authority of the State granted according to the written law and that

such permit or written authority is in force and not revoked or otherwise rendered invalid.

In view of the above, it clearly, appears to me that the Appellant had adduced not even an iota of evidence to satisfy the learned Additional Magistrate of Galle that he was entitled to the possession or occupation of the State Land as rightly, held by the learned Additional Magistrate of Galle.

Hence, I would hold that, the contention advanced in paragraph 5(ඵ), (ඬ) and (ඳ) of his petition of appeal by the Appellant that, adequate analysis had not been made with regard to the facts and documents which shows that the Appellant holds a government approved possession, is not entitled to succeed, both in fact and law and as such, it too, should be rejected *in-limine*.

With regard to the contention raised by the Appellant in paragraph 5(ඊ) of his petition of appeal, even though it appears that the learned Additional Magistrate of Galle had not made a detailed analysis of the facts and the law in relation to the issue at hand before her, yet, for the reasons stated above, it had not caused any prejudice to the Appellant's legal rights. Besides, it is significant to observe that it was not averred either in his application preferred to the High Court or in the petition of appeal preferred to this Court by the Appellant nor in his written submissions filed before this Court and below that such failure on the part of the learned Additional Magistrate of Galle had caused prejudice to his legal rights and therefore, the next contention so advanced by the Appellant too, is without any merit and as such, it too, is not entitled to succeed.

Hence, I would hold that the learned Additional Magistrate of Galle was entirely, justified both in fact and law in making an order directing the Appellant and his dependents, if any, in occupation of the State Land as morefully, described in the schedule to the application made to Court by the Respondent being the competent authority, to be ejected forthwith therefrom.

In the circumstances, I would see no error both in fact and law in the order of the learned Additional Magistrate of Galle and therefore, it can sustain both in fact and law as rightly, held by the learned High Court Judge of the Southern Province holden at Galle.

Hence, I would see no error both in fact and law in the order of the learned High Court Judge of the Southern Province holden at Galle too, when he had proceeded to dismiss the application in revision filed by the Appellant before the High Court inviting it to invoke its extra-ordinary revisionary jurisdiction to revise and set aside the order of the learned Additional Magistrate of Galle by holding that, the order sought to be revised is not contrary to law.

In view of the foregoing, I would hold that, the instant appeal is not entitled to succeed both in fact and law.

Hence, I would proceed to dismiss the instant appeal with costs of this court and the courts below.

In the result, I would affirm the orders of both the learned High Court Judge of the Southern Province holden at Galle and the learned Additional Magistrate of Galle.

JUDGE OF THE COURT OF APPEAL

D. THOTAWATTA, J.

I agree.

JUDGE OF THE COURT OF APPEAL