

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

**CA (Writ) Application No.
263/2023
304/2023**

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

1. Rupasinghe Nayanananda Indrakumara
2. Rupasinghe Sarath Chandrakumara
Both of Ganga Addara Hena, Udakarawita
Ratnapura.

Petitioners

-Vs-

1. Land Reform Commission
No. 475, Kaduwela Road,
Battaramulla
 2. Mr. Nilantha Wijesinghe
Chairman - Land Reform Commission
No. 475, Kaduwela Road,
Battaramulla.
- 2(a). Panduka Keerthinanda,
Chairman - Land Reform Commission
No. 475, Kaduwela Road,
Battaramulla.

- 2(b). R. K. Nihal,
Chairman - Land Reform Commission
No. 475, Kaduwela Road,
Battaramulla.
3. Harishke N. Samaranayake
Executive Director - Land Reform Commission
4. Kusum Herath
Board Secretary - Land Reform Commission
5. P. Malathi
Director General - Department of Agriculture
- 5(a). K. N. S. Ranathunga,
Director General - Department of Agriculture
6. K.D. Bandula Jayasinghe
Commissioner General of Lands
- 6(a). D. D. K. Wickramarachchi, Commissioner
General of Lands
7. A.H.M.L. Aberatna
Commissioner General - Agrarian Development
- 7(a). U. B. Rohana Rajapakshe
Commissioner General - Agrarian Development
8. S.A. Batagoda

Additional Director General (Acting) Department
of National Budget

8(a). K. G. P. Pushpakumara
Additional Director General -Department of
National Budget

9. K. S. Wijayakeerthi
Senior Assistant Secretary - Ministry of Plantation

9(a). K. S. Wijayakeerthi
Additional Secretary - Ministry of Plantation and
Community Infrastructure

10. Hemal Kasthuriarachchi
Director General - Ministry of Finance, Economic
Stabilization and National Policies

10(a). S. S. Mudalige
Director General,
Department of Project Management and
Monitoring

11. Pandukabaya Harsha Keerthinanda

11(a). A. A. Darmasiri

*The 3rd to 11th Respondents all being members of
the 1st Respondent Land Reform Commission at
No. 475, Kaduwela Road, Battaramulla.*

12. Hon. Harin Fernando

Minister of Tourism and Lands,
Ministry of Tourism and Lands,
No 1200/6, Mihikatha Madura. Rajamalwatta
Road,
Battaramulla.

12(a). K. D. Lal Kantha
Minister of Agriculture, Livestock, Land &
Irrigation Tourism and Lands,
No. 80/5, Govijana Mandiraya, Rajamalwatta
Lane,
Battaramulla.

13. Razik Zarook, P.C.
No. 31/1, Horton Place,
Colombo 07.

14. Nelum Werapitiya
Polwattagaala Wathuyaya
Katandola, Ratnapura.

15. Senaka Werapitiya
Polwattagaala Wathuyaya
Katandola, Ratnapura.

16. Dudley Jayasundera
Katandolawatta
Ratnapura.

17. Madara Tennakoon

Rasinawatta Walawwa
Udakarawita, Ratnapura.

18. Jayasundara Mudiyansele Migara Jayasundera
Rasinawatta Walawwa,
Udakarawita, Ratnapura.

19. Jayasundara Mudiyansele Miniruwanthi R.
Jayasundara Rasinawatta Walawwa,
Udakarawita, Ratnapura.
More correctly
5B, Katendolawatte,
Ratnapura.

20. Ajith Kumara Nawalage
Old Road, Meerigaldola,
Udakarawita.

Respondents

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

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

Counsel : Saliya Peiris, PC with Upendra Walgampaya ,
Venura De Saram and Thilini Rankoth instructed
by Saroja Kumudini for the Petitioners.

Faisz Musthapha, PC with Keerthi Tillekeratne for the 17th
and 18th Respondents in Writ 263/23 and in 12th
Respondent in Writ 304/23

Keerthi Thillekerathne for the 19th Respondent in Writ 263/23 and 13th Respondent in Writ 304/23

Ashan Nanayakkara with Darshika Perera, Sahiru Jasinarachchi and Anagi Perera for the 20th Respondent in Writ 263/23 and Writ 304/23

C. Sri Nammuni, DSG for the 1st – 12th Respondents in Writ 263/23 and 1st – 11th Respondents in Writ 304/23

Written Submissions : Petitioners filed on 10.10.2025
17th and 18th Respondents filed on 21.10.2025

Supported on : 10.09.2025

Decided on : 29.01.2026

K. Priyantha Fernando, J.(CA)

The Petitioners (1st and 2nd) by their petition dated 18.05.2023 sought judicial review against the Land Reform Commission (LRC) and its commissioners regarding the undivided portion of a land parcel known as "*Ganga Addara Hena and Loka Deniya Hena*," totalling six acres and six perches.

The parties have agreed that Case No. WRT 263/2023 to be taken up together with WRT 304/2023. For the avoidance of confusion, the following are the Petitioners in two applications before this Court:

Petitioners in WRT 263/2023 are Rupasinghe Nayananda Indrakumara and Rupasinghe Sarath Chandrakumara. Petitioner in WRT 304/2023 is Ajith Kumara Nawalage. The 1st Respondent in both applications is the Land Reform Commission (LRC).

THE FACTUAL MATRIX:

The LRC appointed Mr. Razik Zarook, P.C. to hold an inquiry and make a recommendation as to whom the land called ‘*Ganga Addara Hena*’ and ‘*Loka Deniya Hena*’ depicted by Lots 2,5,6,7 and a portion of Lot 11 as depicted in Plan No. 217A dated 25.09.2002 should be alienated to. The central matter in both applications relates to the recommendation/Report dated 20th March 2023 by which it has been recommended that the several allotments of land be outright transferred to the 18th and 19th Respondents. As such, both sets of Petitioners are seeking to impugn the recommendations and sought Writs of *Certiorari* quashing the same in their respective applications.

The 18th and 19th Respondents on the other hand are seeking to force the LRC by filing a contempt matter (COC 08/2023) to pressure the LRC into executing an alienation in favour of them prior to determination of these two writ applications. This Court has dismissed the said contempt proceedings.

The Petitioners in both applications have sought stay orders against the LRC from alienating land allotments to any third parties and the **State representing the LRC has provided an undertaking to maintain the status quo** (vide proceedings dated 19.07.2023).

THE POSITION OF THE PETITIONERS:

The Petitioners and their deceased father had maintained undisturbed physical possession and cultivation of the entirety of this land for over three decades, engaging primarily in tea and coconut cultivation.

The Petitioners’ legal claim derived from their father, Rupasinghe Guneratne, who acquired a three-tenths (3/10th) undivided share from the original owners' heirs. The remaining seven-tenths (7/10th) had vested in the LRC by operation of the Land Reform Law. The LRC subsequently sold three separate one-acre portions (totaling three acres) from its vested share to the Petitioners and their father in 1999. The Petitioners contended, based on the LRC’s own stance in the related

Partition Action (Case No. 15049/P), that the LRC's residual, undivided share was now demonstrably limited to 196.20 perches (approximately one acre), after accounting for the initial vesting and subsequent sales.

This current application followed extensive prior litigation. In 2013, the Petitioners filed a Writ Application (CA/Writ/271/2013) seeking *mandamus* to compel the LRC to transfer the land to them and prohibition against third-party transfer. This application was dismissed by the Court of Appeal in 2019, primarily on technical grounds, including the mis-joinder of parties and the nature of the reliefs sought, a decision which was upheld by the Supreme Court. Despite the history of litigation and the Petitioners' repeated written requests since 2002 to purchase the remaining portion, the LRC had recently moved to alienate the land to third parties, which the Petitioners argued was unlawful, arbitrary, and exceeded the LRC's residual rights.

The Petitioners specifically challenged two recent, conflicting decisions made by the LRC on the same date, 6th April 2023. The first decision, via Commission Paper No. 12233, adopted the Recommendation/Report of the Inquiring Officer (13th Respondent), directing the transfer of the "balance 3 acres" (an extent the Petitioners asserted the LRC did not legally own) to the 19th Respondent.

The second decision, via Commission Paper No. 12253, initiated a report into the suitability of the land for a turmeric cultivation request made by the 20th Respondent, who was allegedly acting in collusion with the 18th and 19th Respondents. Notably, the 18th and 19th Respondents had previously filed a writ application (CA/Writ/191/2021) to compel the LRC to implement the transfer, a case of which the Petitioners were allegedly unaware.

Consequently, the Petitioners sought a Writ of *Certiorari* to quash both LRC decisions and the underlying Recommendation/Report. They further sought a Writ of Prohibition to restrain the LRC from alienating its remaining undivided rights to any third party and a Writ of *Mandamus* directing the LRC to transfer or grant a long-term lease of the actual remaining vested portion to the Petitioners. The Petitioners maintained that the LRC's attempts to transfer an area of three acres

contradicted its own limited ownership and constituted an arbitrary and irrational abuse of power, disregarding the Petitioners' history of possession and land improvements.

THE POSITION OF THE RESPONDENTS:

The 19th Respondent (hereinafter "the Respondent") through the Limited statement of objections filed on 09.10.2023, sought the dismissal of the Petitioners' application *in limine* on the grounds that the Petitioners lacked *locus standi*, failed to demonstrate *uberrimae fides*, and were guilty of suppressing or misrepresenting material facts.

The core objection centered on the validity of the Petitioners' claims to possession and ownership.

The Respondent pointed out that the 1993 minor lease agreements, relied upon by the Petitioners to establish long possession, were invalid as the Petitioners were minors at the time of execution. Furthermore, the subsequent transfers of three one-acre plots from the Land Reform Commission (LRC) to the Petitioners and their father in 1999 were argued to be null and void under Section 66 of the Partition Law, as they were executed *after* the registration of the *lis pendens* in the related Partition Action (Case No. 15049/P).

The Respondent also challenged the Petitioners' good faith, noting that they had been in possession of the entire land for several years without paying the LRC for the unsold portions, deriving considerable income in the interim. Moreover, the Respondent cited an internal LRC Report from 2013 which itself cast the manner of the 1999 sale to the Petitioners as dubious, noting that the relevant Commission Paper and decision were unavailable.

In terms of legal consistency, the Respondent noted that the Petitioners took a diametrically opposite position in the Partition Action, where their counsel objected to the case withdrawal by the Plaintiffs and sought to continue the partition, only to have the action ultimately dismissed. In the instant Writ Application, the Petitioners adopted the contradictory position of seeking a Writ of *Mandamus* against the LRC for the balance land.

Finally, the Respondent submitted that the application was misconceived in law and futile because:

1. The decision of the LRC dated 26th February 2013, which directed the transfer to the 14th Respondent (which the Petitioners implicitly sought to challenge), had not been impeached in the current proceedings.
2. The relief sought was barred by a judgment dated 28th August 2023 in a related matter (CA Writ 299/2021).
3. The application was not maintainable due to approval granted by the Minister (12th Respondent) on 11th September 2023, which effectively validated the LRC's actions regarding the disputed land.

The 1st and 2nd Petitioners (hereinafter "the Petitioners") filed Counter Objections on 25.03.2025, denying the 19th Respondent's allegations of suppressed facts, lack of *locus standi*, and inconsistent legal positions. The Petitioners sought to reject the preliminary objections and affirmed their entitlement to the relief sought in their original Petition.

In direct response to the 19th Respondent's claims regarding the validity of the Petitioners' land documents and possession:

- **Minor Leases:** The Petitioners argued that the 1993 Minor Leases were of binding force, as the Land Reform Commission (LRC) had never challenged their validity, nor had any court declared them invalid. Furthermore, they contended that the law permitted a minor to enter into beneficial agreements and that the Petitioners had subsequently ratified those agreements by conduct upon reaching majority.
- **1999 Deeds and *Lis Pendens*:** The Petitioners refuted the claim that the 1999 transfers from the LRC were null and void under Section 66 of the Partition Law due to the prior registration of the *lis pendens*. They asserted that the Partition Action (Case No. 15049/P) had been dismissed by the court, which, by operation of the proviso to Section 66(2) of the Partition Law, rendered the transfers valid and lawful. The Petitioners accused the 19th Respondent of attempting to mislead the Court regarding the legal consequence of the dismissal.
- **Possession and *Locus Standi*:** The Petitioners reiterated their undisturbed and uninterrupted possession of the entire land for well over 30 years. They highlighted that the LRC, consequent to the institution of this application, had conducted its own inquiry and

specifically found that the Petitioners were in possession of the entirety of the disputed land, which was fully cultivated with tea and coconut, contradicting the 20th Respondent's claim that the land was available for turmeric cultivation.

Regarding the legal objections, the **Petitioners clarified that the current Writ Application was necessary because the LRC's earlier decision of February 2013 (which the 19th Respondent claimed was unchallenged) was no longer being given effect to and had been superseded by the fresh decision and Recommendation/Report of March 2023 to transfer the land to the 19th Respondent.**

Therefore, the reliefs sought in the current application were completely different from the prior litigation (CA/Writ/299/2021), and the Judgment in that case had no bearing here. Finally, they noted that the 19th Respondent's related application (CA/COC/08/2023) was refused and dismissed by the Court, implying that the Minister's alleged approval was not being given effect by the LRC.

The Synopsis filed on 10.10.2025 for the 1st and 2nd Petitioners in CA (Writ) Application No. 263/2023, taken up with the application filed by the 20th Respondent, focused on impugning the Recommendation/Report dated 20th March 2023 by the Inquiring Officer, which had recommended the outright transfer of the disputed land to the 18th and 19th Respondents.

The Petitioners asserted that the Land Reform Commission (LRC) was unlawfully attempting to alienate land it did not legally possess. Based on the LRC's own historical calculations, its initial undivided share was seven-tenths (7/10th) of the total land. Following the LRC's subsequent sale of three acres from this vested share to the Petitioners' family, the LRC's residual, remaining rights were numerically limited to 196.20 perches (approximately one acre). Despite this limited ownership, the LRC had adopted a recommendation to transfer three acres to the 18th and 19th Respondents, an extent demonstrably exceeding its legal entitlement.

Furthermore, the Petitioners highlighted that the LRC had issued two conflicting and contradictory decisions on the same date, 6th April 2023: one to alienate the land to the 18th and 19th Respondents, and another to initiate a report for a potential lease of the same land to the 20th Respondent. The

Petitioners submitted that this course of action was unreasonable, irrational, arbitrary, and *mala fide*.

In response to the preliminary objections raised by the 18th and 19th Respondents, the Petitioners made two critical legal counterpoints:

1. **Prior Decisions are Superseded:** The Petitioners argued that the current application did not constitute a re-litigation of previous matters because the challenged decisions (Commission Papers of April 2023) superseded and overrode all prior LRC decisions and were being impugned for the first time.
2. **Validity of Transfers:** The transfers of the three acres to the Petitioners' father in 1999 were argued not to be void, as the related Partition Action (Case No. 15049/P) had been dismissed. This dismissal, by operation of the proviso to Section 66(2) of the Partition Law, rendered the deeds valid and lawful. The Petitioners also defended the earlier Minor Leases, asserting that the law permitted minors to enter into beneficial agreements, which were subsequently ratified by conduct.

The Petitioners further contended that the impugned decision could not be implemented due to legal impediments, including the fact that granting the land to the 18th and 19th Respondents would potentially cause them to exceed the statutory land ceiling, a fact noted during oral submissions by the Honourable Attorney General. Consequently, the Petitioners sought Writs of *Certiorari* to quash the LRC's conflicting decisions and Writs of Prohibition and *Mandamus* concerning the alienation of the land.

The 17th and 18th Respondents filed Written Submissions on 21.10.2025 seeking the dismissal of the Petitioners' application with punitive costs, arguing that the Petition was a frivolous abuse of process intended to frustrate the implementation of a *Mandamus* order previously granted in favour of the 19th Respondent (in CA/WRT/191/2021). The core of the Respondents' argument was that the Petitioners were guilty of willfully and intentionally misleading the Courts by taking fundamentally self-contradictory positions on the ownership of the land.

The Respondents asserted that across multiple previous cases (CA/WRT/270, 271, 272/2013, SC/SPL/LA/415/2019, and CA/WRT/299/2021) the Petitioners had repeatedly and unequivocally admitted that the entire subject land was vested with the Land Reform Commission (LRC). However, in the current application, the Petitioners adopted the contradictory position that the LRC was only entitled to an undivided seven-tenths (7/10th) share and that the LRC's remaining rights were limited to approximately one acre, which they sought to compel the LRC to transfer to them. The Respondents cited the legal maxims against "blowing hot and cold" and the doctrine of *approbate and reprobate* (referencing *Ranasighe Vs Premadarma*, 1985 1 SLR 63, and *Ceylon Plywoods Corporation V. Samastha Lanka G.N.S.M. and Rajya Sanstha Sevaka Sangamaya* (1992) 1 SLR 157) to argue this conduct amounted to deception and an abuse of judicial process. The Respondents further claimed that the Petitioners suppressed the material fact that the 1993 Minor Leases were *ex facie* illegal because the Petitioners were minors (aged 16 and 15) at the time of execution, lacking the legal capacity to contract.

The Respondents challenged the validity of the Petitioners' 1999 Deeds of Transfer for the three acres of land, arguing they were null and void under Section 66 of the Partition Law because they were executed *after* the registration of the *lis pendens* in the related Partition Action (Case No. 15049/P), citing *Virasinghe Vs Virasinghe* 2002 1 SLR 1 (CA) to support the contention that such post *lis pendens* transfers were void. The Respondents restricted their claim to only the three acres which they claimed the 18th Respondent had *bona fide* purchased in 2004 from a predecessor in title, which was the balance portion remaining with the LRC.

The Respondents contended that the Petitioners' application was misconceived in law and futile for two reasons:

Firstly, the Petitioners were only challenging the LRC's subsequent decision of 6th April 2023 to *implement* the original, unchallenged LRC decision of 26th February 2013 (which favoured the 18th and 19th Respondents), and quashing the later decision would not invalidate the original decision, leading to a futile outcome (citing *Siddik vs Jacolyn Seneviratne and others* 1984 1 SLR 83 and *Ratnasiri and others Vs Elawala* 2004 2 SLR 180).

Secondly, the Petitioners lacked *locus standi*, as the LRC Report of 2013 (which the Petitioners had previously relied upon) found them to be in unlawful occupation of the balance portion and to have enjoyed the land for years without payment, thereby eroding any basis for a legitimate expectation (citing *Sierra Construction Ltd v. Road Development Authority & others* (SC/FR/135/2023 decided on 10.02.2025)).

The Respondents prayed for the application to be dismissed *in limine* with punitive costs due to the Petitioners' deceptive conduct, suppression of facts, and abuse of process.

ANALYSIS AND CONCLUSION:

Based on the submissions made by learned Counsel and material provided before this Court, several questions of law can be identified as follows:

1. Do the challenged decisions (Commission Papers of April 2023) supersede and override all prior LRC decisions and were they being impugned for the first time?
2. Are the transfers of the three acres to the Petitioners' father in 1999 void?
3. Had the LRC adopted a recommendation to transfer three acres to the 18th and 19th Respondents, an extent exceeding its legal entitlement despite limited ownership?
4. Whether the LRC has found that the Petitioners were in possession of the entirety of the disputed land, which was fully cultivated with tea and coconut, contradicting the 20th Respondent's claim that the land was available for turmeric cultivation?
5. Had the LRC issued two conflicting and contradictory decisions on the same date, 6th April 2023: one to alienate the land to the 18th and 19th Respondents, and another to initiate a report for a potential lease of the same land to the 20th Respondent?
6. If so, is this course of action unreasonable, irrational, arbitrary, and *mala fide*?

In the circumstances, this Court takes the view that this matter raises questions of law that have to be assayed and evaluated along with the merits of the arguments in this application. Therefore, this

Court is of the view that the Petitioners have satisfied the initial threshold requirement which warrants this Court to issue formal notice of this application on the Respondents. Depending on the nature and the strength of the preliminary objections raised by the Respondents, those objections should be fully considered at the final hearing of this case after entertaining full affidavits of the Respondents.

Having considered the issuance of notice, the question arises whether this Court can grant interim reliefs that the Petitioners have sought in the prayer of the Petition.

Now, I advert to the tests applicable to the grant of interim reliefs. *“The whole purpose of granting interim restraining relief is to preserve the status quo which existed prior to the purported exercise of power complained of. The effect of an interim restraining order is twofold: firstly, an exercise of power in violation of it is a nullity; secondly, any purported exercise of power or any physical act or omission, done in violation of it is an act of contempt of court punishable as such”*. (vide - Sunil F.A. Cooray, Principles of Administrative Law in Sri Lanka, 4th Edition, Vol II, chapter 23, p. 1428)

As discussed in *Duwearatchi vs. Vincent Perera & others* (1984 2 SLR 94) an interim stay order in a writ application is an incidental order made in the exercise of the inherent or implied powers of the Court and the Court should be guided by the following principles:

- i. Will the final order be rendered nugatory if the petitioner is successful?
- ii. Where does the balance of convenience lie?
- iii. Will irreparable and irremediable mischief or injury be caused to either party?

The interim orders prayed for in prayers (h), (i) and (j) are to restrain 1st and 2nd to 11th Respondents from implementing the two decisions dated 6th April and restraining from alienating undivided rights of the LRC to the 14th to 20th Respondents and/or any third party until the final determination of this application.

The crux of the case is whether LRC attempts to transfer an area of three acres which contradicts its own limited ownership and whether said act constitutes an arbitrary and irrational abuse of power, disregarding the Petitioners' possession and land improvements. This Court has already decided to issue formal notice on the Respondents. If the interim reliefs were not granted, the LRC would alienate the allotment of lands to 14th to 20th respondents or to third parties and then the final relief will be nugatory if the Petitioners become successful. The balance of convenience favours the Petitioners. Thus, the interim orders (h), (i), (j) and (k) are issued.

Judge of the Court of Appeal

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

I agree.

President of the Court of Appeal