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

In the matter of an application for revision under and in terms of Article 138 of the Constitution of the Democratic Socialist Republic of Sri Lanka and Section 11(1) of the High Court of the Provinces (Special Provisions) Act No. 19 of 1990.

Court of Appeal Case No:
CA/CPA/0047/2025
(CA/CPA/0048/2025)
(CA/CPA/0049/2025)
(CA/CPA/0050/2025)

High Court of Galle
Case No: ප්‍රති 880/25

Magistrate's Court of Galle
Case No: 62731/24

Competent Authority,
Sri Lanka Ports Authority,
No. 19.
Chaithya Road,
Colombo 01.

Applicant

Vs.

Algewaththage Kasun,
No. 370/9A,
Bonavista,
Unawatuna.

Respondent

AND

Algewaththage Kasun Sanjaya,
No. 370/9A,
Bonavista,
Unawatuna.

Respondent-Petitioner

Vs.

1. **Competent Authority**,
   Sri Lanka Ports Authority,
   No.19.

Chaithya Road,
Colombo 01.

Applicant-Respondent

2. **The Hon. Attorney General**,
Attorney General's Department,
Colombo 12

2nd Respondent

AND NOW BETWEEN

Algewaththage Kasun Sanjaya,
No. 370/9A,
Bonavista,
Unawatuna.

Respondent-Petitioner-Petitioner

Vs.

1. **Competent Authority**,
Sri Lanka Ports Authority,
No.19.
Chaithya Road,
Colombo 01.

Applicant-Respondent-Respondent

2. **The Hon. Attorney General**,
Attorney General's Department,
Colombo 12.

2nd Respondent-Respondent

Before : **D. THOTAWATTA, J.**
K. M. S. DISSANAYAKE, J.

Counsel	:	Saliya Pieris, PC with Thanuka Nandasiri and Himesh Tharuka for the Respondent--Petitioner-Petitioner. Manohara Jayasinghe, DSG for the State.
Supported on	:	29.09.2025
Written Submissions of the Respondent-Petitioner -Petitioner tendered on	:	21.11.2025
Written Submissions of the Applicant-Respondent -Respondent and the 2nd Respondent-Respondent tendered on	:	08.12.2025
Decided on	:	12.12.2025

K. M. S. DISSANAYAKE, J.

The Respondent-Petitioner-Petitioner (hereinafter called and referred to as 'the Petitioner') in the instant application in revision filed before this Court, seeks *inter-alia*, to revise and set aside the order of the learned High Court Judge of the Southern Province holden at Galle dated 30.04.2025 made in an application in revision bearing No. ඉගනි **880/25** (**P2**) and the order of the learned Magistrate of Galle dated 30.01.2024 made in case bearing No. 62731/24 (**P3**).

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

The Applicant-Respondent-Respondent (hereinafter called and referred to as 'the Respondent') had made an application dated 09.07.2024 (hereinafter called and referred to as 'the application') to the Magistrate Court of Galle in case bearing No. 62731/24 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') for the eviction of the Petitioner from a State Land as morefully described in the schedule to the application (hereinafter called and referred to as the 'State Land'). The Petitioner who appeared before the Magistrate Court of Galle in pursuant to the summons issued on him by Court had filed a statement showing cause against the application wherein, he had raised a number of preliminary objections as to the maintainability of the application mainly, on the premise;

a) that the Respondent cannot be considered as a competent authority for; the written approval of the Minister of the Sri Lanka Ports Authority in terms of subsection 14 (2)(c) of the Act and a document stating that the Authority had been granted general or special authority in terms of section 18(h) of the Act, had not been submitted to the Magistrate Court of Galle by the Respondent together with the application at the time of the filing of the same in Court;
b) that the subject land is not owned by the Ports Authority for; it belongs to the Forest Conservation Department;

However, the learned Additional Magistrate of Galle in the order(**P3**) had having rejected the preliminary objections so raised by the Petitioner as to the maintainability of the application together with the entirety of the Petitioner's showing cause, proceeded to grant the application directing eviction of the Petitioner from the State Land by *inter-alia*, holding that the Petitioner had shown no valid cause as required by section 9(1) of the Act, to the application for ejectment made to it by the Respondent under section 5 of the Act.

Being aggrieved by the said order of the learned Additional Magistrate of Galle (**P3**), the Petitioner had invoked the extra-ordinary revisionary jurisdiction of the High Court of the Southern Province holden at Galle (hereinafter called and referred to as the "High Court of the Province") seeking to revise and set aside it. The learned High Court Judge of Galle had by the order (**P2**), dismissed the

application in revision by holding that the learned Magistrate does not have any legal authority to consider any of the matters which are alleged not to have been considered by her in the application made before her by the Respondent under section 5 of the Act and therefore, the Petitioner has no legal authority to raise a challenge before the High Court of the Province for not considering such matters and that on the other hand, since the Act itself provides a mechanism for an aggrieved party by an order made in accordance with Section 10(1) of the Act, to seek alternative relief under sections 12 and 13 of the Act and therefore, there is no basis for the Petitioner to seek extra-ordinary revisionary jurisdiction of the High Court of the Province. Hence, the instant application in revision by the Petitioner.

When this matter came on before us on 29.09.2025 for support of the application for notice of the same, Counsel for both parties agree that applications in revision bearing Nos. CA(CPA)0048/25, CA(CPA)0049/25 and CA(CPA)0050/25 all relate to the same issue and as such both parties to each of the application undertake to abide by the decision that may be pronounced by this Court in the instant application in revision, namely; CA(CPA)0047/25, and hence, we are proceeding to pronounce a single order in the instant application in revision, namely; CA(CPA)0047/25 in relation to the application for notice, binding all the parties in each of the applications in revision, namely; CA(CPA)0048/25, CA(CPA)0049/25 and CA(CPA)0050/25, of consent and as urged.

As observed by me hereinbefore, the defence so raised by the Petitioner to the application is mainly, two-fold, namely;

1) Land in dispute is not a State Land vested in, owned by, or under the control of the Competent Authority within the meaning of section 14(2) of the Act but, a land belonging to the Forest Conservation Department;
2) The Respondent is not the competent authority within the meaning of section 18 of the Act to be read with section 14(2)(c) thereof, for; the written approval of the Minister of the Sri Lanka Ports Authority in

terms of subsection 14 (2)(c) of the Act and a document stating that the Authority had been granted general or special authority in terms of section 18(h) of the Act, had not been submitted to the Magistrate Court of Galle by the Respondent together with the application at the time of the filing of the same in Court.

Let me now, deal with them separately.

1) Land in dispute is not a State Land vested in, owned by, or under the control of the Competent Authority within the meaning of section 14(2) of the Act but, a land belonging to the Forest Conservation Department;

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 sections 3(1), 5(1) and 6(1) 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.**", it would become manifest that where the competent authority **is of the opinion** that; **a) 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 by any of the modes set out therein on such person in possession or occupation thereof, requiring such person to vacate such land with his dependents if any, and to deliver vacant possession of such land to competent authority or any other authorized person as may be specified in the notice on or before a specified date to be specified therein; and 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 that **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]

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, which means that the Magistrate cannot call upon the competent authority to prove that the land described in the schedule to the application is a State Land (Section 5(1)(a)(ii))……The structure of the Act would also make it appear that where the

competent authority had formed the opinion that any land is state land, even, the Magistrate is not competent to question his opinion. Alternative relief is given by section 12 which empowers any person claiming to be the owner of a land to institute action against state for the vindication of his title within 6 months from the date of the order of ejectment and section 13 is to the effect that where action is instituted by a person, if a decision is made in favour of that person, he will be entitled to recover reasonable compensation for the damage sustained by the reason of his having been compelled to deliver possession of such land...".

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....By this amendment, the opinion of the competent authority in relation to the state land was made unquestionable....".

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. One of the matters required to be stated in the application is that the land described in the schedule to the application is in the opinion of the competent authority state land. This fact cannot be contested by the person summoned....Hence, a dispute on the identity of the land cannot arise for consideration of the learned Magistrate. The identity of the land can arise for consideration only to the extent of examining whether the valid permit or other written authority produced by the party summoned is in relation to the state land described in the application. Where it is not, the Magistrate must issue an order of eviction in terms of the Act..."

It was *inter-alia*, held by this Court in **CA(PHC)48/2016-decided on 02.09.2025** that, "Under section 9 of the State Lands (Recovery of Possession) Act, as amended in 1983, the competent authority's opinion that land is a 'state land' is conclusive and not open to judicial challenge at the ejectment stage and the only permissible defence available to an occupier is to prove possession or

occupation under a valid permit or written authority issued by the state with the burden of proof resting on the occupier, whose failure to establish such authority would necessitate an order of ejectment."

Upon a plain reading of section 3(1), 5(1) and 6(1) of the Act together with sections 9(1) and 9(2) thereof and the judicial precedents referred to above, it becomes abundantly, clear that, where the competent authority forms an opinion that any land is state land, even, the Magistrate is not competent to question his opinion 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.

In the light of the law set out in section 3(1), 5(1) and 6(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 defence to an application made by a Competent Authority to a Magistrate Court under section 5 of the Act, that land which is the subject matter of the application, is not a state land vested in, owned by, or under the control of the Competent Authority within the meaning of section 14(2) of the Act, **is wholly, foreign and utterly alien to a proceedings that may be initiated by a Competent Authority under section 5 of the Act before a Magistrate Court for eviction of a person** who in his opinion, is in unauthorized possession or occupation of a land which in his opinion, is state land 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]

A further reason for the above conclusion is manifest on a careful examination of the said provisions of the Act and the judicial precedents referred to above. It may now, be examined.

Upon a careful analysis of the Act, 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 6A every application made under section 5 shall be finally disposed of within a period of two calendar months from the date of such application and where a Court makes, in pursuance of any such application, an order under section 7 or section 10, directing that any person be ejected from the land referred to in that order, the court shall make all such orders as are necessary to ensure that such persons are ejected from that land within a period of three months from the date of the application for ejectment. 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.

Besides, it was *inter-alia*, held by the Supreme Court in ***Senanayake Vs. Damunupola*-1982 (2) SLR 621** that, "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 by this Court in case bearing No. **CA (PHC) 140/2013-decided on 10.10.2019**.

Hence, it becomes abundantly, clear upon a careful analysis of sections 9(1) and 9(2) of the Act in particular 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 enacted section 9(1) thereto in such a manner as to expressly, and explicitly, set out in unambiguous terms the scope of such an inquiry.

In the light of the above, the principal objective intended to be achieved by the legislature in enacting the Act is to provide for a speedy or summary mode of getting back possession or occupation of 'State Land' as defined in the Act as explicitly, observed by the Supreme Court in the decision in ***Senanayake Vs. Damunupola (Supra)***.

In view of the law set out above, the Petitioner in the instant application in revision cannot in any manner, contest any of the matters stated in the application made under section 5 of the Act by the Respondent to the Magistrate Court of Galle. One of the matters so required to be stated in the application under section 5 of the Act is that the land described in the schedule to the application, is in the opinion of the Respondent being the Competent Authority, State Land. Opinion so formed by the Respondent being the Competent Authority, that it is in his opinion, State Land, cannot in any manner, be contested by the Petitioner who was summoned under section 6 of the Act in view of sections 9(1) and 9(2) of the Act.

Hence, such a challenge that the land stated in the instant application is not state land vested in, owned by or under the control of the Competent Authority but a land belonging to the Forest Conservation Department as raised by the Petitioner in his showing cause before the Magistrate Court of Galle, cannot in law, be raised by him for consideration of the learned Magistrate of Galle for; he has expressly, been prevented and precluded by section 9(1) and 9(2) of the Act by raising a contest as such inasmuch as this is an issue to be adjudicated upon in an appropriate proceedings by a Court of competent jurisdiction for; such a

challenge as to the land in question, is **utterly, foreign and alien to proceedings as such initiated by the competent authority under section 5 of the Act**. [Emphasis is mine]

Hence, I would hold that the contention advanced by the Petitioner in the Magistrate Court that the land in question is not State Land but, a land belonging to the Forest Conservation Department, ought to fail in law as rightly, held by the learned Additional Magistrate of Galle.

The question that would next, arise for our consideration is as to the scope of the inquiry in proceedings that may be initiated by a competent authority under section 5 of the Act in a Magistrate Court and section 9 of the Act sets out the scope of the inquiry and it may be reproduced *verbatim* the same as follows;

> "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]

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 EstateDevelopment 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 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 Petitioner) 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.

It is significant to observe that, it had never been the position of the Petitioner taken up in the Magistrate 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, but, instead his position had been that it is not State Land vested in, owned by, or under the control of the Competent Authority within the meaning of section 14(2) of the Act but, a land belonging to the Forest Conservation Department.

Hence, the Petitioner's argument that the land is not a state land vested in, owned by, or under the control of the Competent Authority within the meaning of section 14(2) of the Act but, a land belonging to the Forest Conservation Department, cannot sustain both in fact and law, for; he is precluded by section 9(1) and 9(2) of the Act from raising such a contest on the land-the subject matter of the application made to Court by the Respondent being the Competent Authority.

On the other hand, the Respondent being the Competent Authority had already, formed an opinion that the land-the subject matter of the application, is a State Land and that the Petitioner is in unauthorized possession or occupation therein. However, as observed by me elsewhere in this judgment, it is significant

to note that, not an iota of evidence had been adduced by the Petitioner to establish that he is in possession or occupation of the State 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 as required by section 9 of the Act. Hence, the Petitioner did not have semblance of such a permit or authority as envisaged by section 9 of the Act.

In view of the above, it clearly, appears to me that the Petitioner 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 so advanced by the learned President's Counsel for the Petitioner that, the land in dispute is not a state land vested in, owned by, or under the control of the Competent Authority within the meaning of section 14(2) of the Act but, a land belonging to the Forest Conservation Department, is not entitled to succeed, both in fact and law and as such, it should be rejected *in-limine.*

2) **The Respondent is not the Competent Authority within the meaning of section 18 of the Act to be read with section 14(2)(c) thereof, for; the written approval of the Minister of the Sri Lanka Ports Authority in terms of subsection 14 (2)(c) of the Act and a document stating that the Authority had been granted general or special authority in terms of section 18(h) of the Act, had not been submitted to the Magistrate Court of Galle by the Respondent together with the application at the time of the filing of the same in Court.**

It may now, be examined.

In the course of his submissions made at the time of supporting the instant application in revision for notice, it was further contended by the learned President's Counsel for the Petitioner that section 14(2)(c) of the Act stipulates

that the authority to act on behalf of the State must be vested through an appointment made by the Minister in charge of the subject and therefore, unless and until such an appointment is proved by producing the relevant Gazette notification or written authorization, no person can lawfully, exercise powers under the said provision. In support thereof, the learned President's Counsel for the Petitioner sought to heavily, rely on a decision of the Court of Appeal in **Alwis Vs. Wedamulla, Additional Director General U.D.A. 1997 [3] SLR 417** which *inter-alia*, held that, "....the proceedings in ejectment could be instituted by the Urban Development Authority against a person who is in occupation of land vested in the Urban Development Authority provided such applications to eject are authorised and have had the written approval of the Minister of Housing. Thus, the statutory provisions of the Urban Development Authority Act and the State Lands (Recovery of possession) Act set out a condition precedent for the filing of applications for ejectment before the Magistrate's Court"

However, it is significant and interesting to observe that the Supreme Court in the decision in **Wedamulla Vs. Abeysinghe 1999 [3] SLR 26** had sitting in appeal of the decision in **Alwis Vs. Wedamulla, Additional Director General U.D.A.(Supra)**, which was heavily, relied on by the learned President's Counsel for the Petitioner in support of the application for notice, set it aside by holding that "With regard to the second ground, it might be assumed that the necessary steps were taken, including the obtaining of the Minister's approval. *Ominia praesumuntur rite et solemniter esse acta.*".

The second ground so referred to in the Supreme Court Judgement in **Wedamulla Vs. Abeysinghe(Supra)** being one set out in page 27 of the Supreme Court Judgement (Supra) which reads thus; "(2) That the approval of the Minister of Housing was "a condition precedent for the institution of proceedings in Court directed at evicting or ejecting any person in possession of property vested in the Urban Development Authority". This being one of the principal findings of the Court of Appeal in **Alwis Vs. Wedamulla, Additional Director General U.D.A.(Supra)** which led the Court of Appeal to have set aside the orders made

by the learned Magistrate granting the applications filed by the Competent Authority under section 5(1) of the Act for ejectment upon which the learned President's Counsel for the Petitioner had placed heavy reliance in support of his contention so advanced before us as enumerated above.

Hence, I am inclined to the same view as expressed by this Court in the decision in **CA(PHC)212/2006-Decided on 24.07.2018** that, his Lordship, Justice Amarasinghe in the decision in **Wedamulla Vs. Abeysinghe(Supra)**, did not in any manner, proceed to uphold the position of the Court of Appeal taken in the decision in **Alwis Vs. Wedamulla, Additional Director General U.D.A.(Supra)** that "….proof of grant of such approval is a condition precedent to the institution of proceedings for ejectment." That is why his lordship Justice Amarasinghe had sought to rely on the maxim *Ominia praesumuntur rite et solemniter esse acta* which means that there is a presumption known to the law that all legal and official acts are correctly and duly performed by the relevant parties concerned. *Omnia praesumuntur rite et solemniter esse acta* and this presumption is generally, known and referred as the "Doctrine of Presumption of Regularity" and this Doctrine of Presumption of Regularity has been given judicial recognition by our Evidence Ordinance by enacting illustration d) to section 114 thereof, which reads thus;

> "The court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct, and public and private business in their relation to the facts of the particular case:-
>
> (d) the judicial and official acts have been regularly performed;"

See also; **Jayasinghe v. Gnanawathie Menike 1997 [3] SLR 410** at 412].

However, this is a rebuttable presumption and therefore, it can be rebutted by proof on the contrary and in the result, the burden will solely, lie on the person who asserts on the contrary in terms of sections 101 and 102 of the Evidence Ordinance and hence, the contention of the Petitioner that the burden of proof

on the contrary will solely, lie on the Respondent, is one advanced on total misconception and/or misapprehension of the section 114 of the Evidence Ordinance to be read with sections 101 and 102 of thereof.

I would therefore, take the view following the Supreme Court decision in **Wedamulla Vs. Abeysinghe (Supra)** that the correct legal position is that where section 14(2) of the Act applies, the competent authority need not produce the relevant approval with the application made to the Magistrates Court for; the scheme of the Act prevents such matters been raised before the Magistrate (*Vide*- sections 9(1) and (2) of the Act). However, it is to be noted that, nevertheless, the learned Additional Magistrate of Galle acting in total contravention of the law set out in sections 5(1) and 9(2) of the Act, called for those two documents (**P14** and **P15**) from the Competent Authority which is in my opinion, an act of *ultra-vires* of the powers vested in the learned Magistrate.

Hence, it is my considered view, that the mere fact that the Competent Authority fails to submit such approval to the Magistrates Court when he initiates proceedings or during an inquiry, does not in any manner, constitute a valid ground to dismiss an application made by a Competent Authority to a Magistrate Court under section 5 of the Act.

In fact, the Minister's approval(**P15**) under section 14 (2) of the Act had been obtained prior to proceedings for ejectment being taken on 09.07.2024 (**P4**). The Minister's order is dated 09.08.2023-long prior to the institution of the proceedings before the Magistrate Court of Galle by the Competent Authority on 09.07.2024 (**P4**). Furthermore, in terms of section 18(h) of the Act, Sri Lanka Ports Authority had duly, appointed Thushara Chaminda Kariyawasam Paranawithana, Superintending Engineer (Maintenance) as the Competent Authority with effect from 01.09.2010 (**P14**)-long prior to the institution of the proceedings before the Magistrate Court of Galle by the Competent Authority on 09.07.2024 (**P4**).

It thus, clearly, appears that such a contention as enumerated above, had been advanced by the learned President's Counsel for the Petitioner on a total misconception and/or total misapprehension of the law embodied in sections 5(1), 9(1), 9(2) and 14(2) of the Act as well as the *ratio decidendi* of the Supreme Court decision in **Wedamulla Vs. Abeysinghe (Supra)**.

Hence, it clearly, appears that the Petitioner's placing heavy reliance on the decision in **Alwis Vs. Wedamulla, Additional Director General U.D.A.(Supra)** in support of his contention as so advanced, was due to his total and/or complete ignorance of the fact that the decision which he so heavily, relied on, had subsequently, been set aside by the Supreme Court sitting in appeal in the decision in **Wedamulla Vs. Abeysinghe(Supra)**.

I would therefore, hold that the contention so advanced by the learned President's Counsel for the Petitioner as enumerated above, cannot in any manner, sustain both in fact and law and as such, it should be rejected *in-limine*, and the instant application in revision is therefore, dismissed *in-limine*.

In the light of the above, I would find myself unable to agree with the next contention so advanced by the learned Counsel for the Appellant for; it cannot sustain in law and as such it ought to be rejected *in-limine.*

A further reason for the above conclusion is manifest on a careful examination of the said provisions of the Act and the judicial precedents referred to above. It may now, be examined.

In view of sections 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.

Besides, 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 in view of sections 9(1) and 9(2) of the Act.

Furthermore, it was *inter-alia*, 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."

Hence, I would hold that, the next contention advanced by the learned President's Counsel for the Petitioner, 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 too, should be rejected *in-limine*.

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 Petitioner 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 Galle

Hence, I would see no error both in fact and law in the order of the learned High Court Judge of Galle too, when she had proceeded to dismiss the application in revision filed by the Petitioner 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 and that in view of the alternative remedy provided for by section 12 and 13 of the Act itself, Court would not in such circumstances, invoke the extra-ordinary revisionary jurisdiction vested in it.

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

Hence, I would hold that this is not a fit and proper case for this Court to issue notices on the Respondent and hence, notice is refused.

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

Above all, as a matter of pure question of law, the instant application in revision ought to have been dismissed *in-limine* even without proceeding to hear the application for notice in view of the decision of this Court in the case in **Wanni Arachchi Kamkanamge Siriyalatha and Another Vs. Kospalage Don Kapila Lankarathne-CA/CPA/0073/2025-Decided on 31.10.2025** for; the Petitioner in the instant application cannot invoke the revisionary jurisdiction of this Court against the order dated 30.04.2025 made by the learned High Court Judge of Galle (**P2**) in the exercise of concurrent or parallel revisionary jurisdiction vested in it by Article 154P(3)(b) to be read with Article 138 of the Constitution and section 5 and 12 of the High Court of the Provinces (Special Provisions) Act as amended, for; the Petitioner had already exhausted the remedy available by the law as enumerated above, by invoking extra-ordinary revisionary jurisdiction now, vested in the High Court of the Province which this Court had exercised before the enactment of the 13th Amendment to the Constitution of the Democratic Socialist Republic of Sri Lanka and therefore, the Petitioner is now, debarred from invoking the concurrent or parallel revisionary jurisdiction of this Court against the said order of the learned High Court Judge of Galle made in the exercise of concurrent or parallel jurisdiction vested in her by Article 154P(3)(b) of the Constitution to be read with Article 138 thereof and section 5 and 12 of the High Court of the Provinces (Special Provisions) Act as amended.

I would therefore, hold that the instant application in revision is misconceived in law and therefore, bad in law and as such it should be dismissed *in-limine*.

Hence, I would proceed to dismiss the instant application with costs of this court and the courts below *in-limine*.

In view of the agreement so reached by all the parties in Court at the outset as stated above, I would hold that the applications in revision bearing Nos. CA(CPA)0048/25, CA(CPA)0049/25 and CA(CPA)0050/25 too, would stand dismissed with costs of this Court and below in view of the decision of this Court in the instant application in revision, namely; CA(CPA)0047/25.

In the circumstances, I would direct the Registrar of this Court to file a copy of the order in the instant application in revision of record of all three applications in revision bearing Nos. Nos. CA(CPA)0048/25, CA(CPA)0049/25 and CA(CPA)0050/25.

JUDGE OF THE COURT OF APPEAL

D. THOTAWATTA, J.

I agree.

JUDGE OF THE COURT OF APPEAL