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

CA (Writ) application No: 428/2024

In the matter of an Application for mandates in the nature of a Writ of *Certiorari* and *Prohibition* under and in terms of the Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Hetti Arachchige Don Lalindra Chandrarathna,
28, P. B. A. Weerakoon Mawatha,
Kandy.
Presently of:
Tranvagen 65, 14172 Segeltorp,
Sweden.

(Appearing by way of his Power of Attorney Holder: Hettiarachchige Don Kavindra Kumararathna, No. 28, Weerakoon Garden, Kandy.)

PETITIONER

-Vs-

1. Sri Lanka Mahaweli Authority,
   500, T. B. Jayah Mawatha,
   Colombo 10.

2. Mahendra Abeywardena
   Director General
   Sri Lanka Mahaweli Authority,
   500, T. B. Jayah Mawatha, Colombo 10.

3. A.G.T Hemantha Jayasinghe
   The Resident Project Manager,
   Sri Lanka Mahaweli Authority
   System D, Medirigiriya.

RESPONDENTS

Before: S. U. B. Karalliyadde, J.

Counsel: Sapumal Bandara with Gangulali de Silva Dayarathne instructed by

Amanda de Moore for the Petitioner.

Nayomi Kahawita, SSC for the Respondents.

Supported on: 05.06.2025

Order delivered on: 24.07.2025

S. U. B. Karalliyadde, J.

This Order pertains to the issuance of formal notices of this Writ Application on the Respondents. The facts of the case in a nutshell are as follows. The Petitioner entered into a lease agreement with the Sri Lanka Mahaweli Authority, the 1st Respondent, in the year 2012 to start an investment project to cultivate and develop the land called Chundankadu marked Lot 9965 in the FTP No. 2 Supplement No. 196 sheet No. 573 in the extent of 10.1171 Hectares. Thereafter, the Petitioner made the due lease payments for the years 2013 to 2018 (P4(a) and P4(b)). In the latter part of 2018, the Petitioner discovered that his grandfather had acquired title to a land called Chundankadu in the extent of 100 Acres by virtue of Deed of Transfer No. 601 dated 15.10.1960 marked as P2. The position of the Petitioner is that the land which was leased out by the 1st Respondent to him is a portion of the same land which his grandfather had acquired title to through P2. Thereafter, the Petitioner's father had acquired title to the land mentioned in P2 by way of paternal inheritance and he had gifted a portion of the said

land (Lot B depicted in plan No. 3979A in the extent of 36 Acres and 2 Roods) to the Petitioner by way of Deed of Gift No. 3115 dated 25.10.2018 marked as P3. For the clarity of his title to the land, the Petitioner executed and registered a Deed of Declaration No. 3862 dated 21.02.2020 marked as P6 at the Land Registry.

The Petitioner states that after discovering the existence of Deed marked as P2, he had stopped making the lease rentals to the 1st Respondent. Then, the 1st Respondent sent letters of demand dated 12.02.2019 and 18.11.2019 marked as P9(a) and P9(b), respectively demanding the Petitioner to pay the outstanding lease rentals, failing which legal action would be taken against him to eject him from the land which was leased out to him and recover the possession of the same. In reply to the said letters of demand, the Petitioner by letter dated 26.11.2019 marked as P9(c) informed the Resident Project Manager of the Sri Lanka Mahaweli Authority, the 3rd Respondent that he had made representations to the 1st Respondent and the Director General of the Sri Lanka Mahaweli Authority, the 2nd Respondent regarding the facts mentioned hereinbefore and requested from the 3rd Respondent not to take any legal action against him until the 3rd Respondent receive further instructions from the 1st and 2nd Respondents. The Petitioner, thereafter, made several requests to the 2nd Respondent to allow him to explain about his possession and the title of the land leased out to him (P10(a) and P10(b)). However, the 3rd Respondent informed the Petitioner that the investment project would be cancelled due to non-payment of lease rentals (P11(a) and P11(b)).

Thereafter, the Petitioner has instituted an action in the District Court of Kanthale seeking reliefs, *inter alia*, a declaration of title to the land mentioned in P3, an order restraining the 1st and 3rd Respondents in this writ Application from interfering with the Petitioner's peaceful possession of the land and to issue a commission through a surveyor to identify the land in dispute (P12(a)). In the meantime, the 3rd Respondent, by letter dated 02.01.2024 marked as P13, informed the Petitioner to pay the outstanding lease rentals to the 1st Respondent, failing which legal action would be taken against the Petitioner. The Petitioner contends that the conduct of the Respondents is unreasonable, arbitrary, unfair and an abuse of powers of the 1st Respondent, as the Respondents are constantly demanding the Petitioner to pay the lease rentals for the land which was leased out to him by the 1st Respondent while there is an action pending in the District Court of Kanthale regarding the title and possession of the land. Therefore, the Petitioner invoked the Writ jurisdiction of this Court seeking reliefs, *inter alia*, a Writ of Certiorari to quash the letter marked as P13, a Writ of Prohibition prohibiting the 1st to 3rd Respondents from intimidating the Petitioner to pay the lease rentals until the final determination of the action instituted in District Court of Kanthale and a Writ of Prohibition prohibiting the 1st to 3rd Respondents from instituting legal proceedings against the Petitioner to recover the outstanding lease rentals.

The issue before this Court is whether issuance of the letter marked as P13, as alleged by the Petitioner, is unreasonable, arbitrary, and unfair. Lord Greene in *Associated*

Provincial Picture Houses Ltd. v. Wednesbury Corporation[1] defined unreasonableness as "*something so absurd that no sensible person could ever dream that it lay within the powers of the authority*". Discussing Wednesbury unreasonableness in length, Arjuna Obeyesekere, J., in the case of *Colonel U. R. Abeyratne v. Lt. Gen. N. U. M. M. W. Senanayake and Others*[2] observed that,

> "*... for Courts to intervene, the decision of the public authority in question must not just be unreasonable, but manifestly unreasonable. Lord Bingham has noted that this threshold for irrationality is "notoriously high" and that a claimant making a claim under that head has a "mountain to climb"*."

In "Administrative Law", by H. W. R. Wade and C.F. Forsyth (11th edn, at page 295), it has been stated that;

> "*The expression 'arbitrary and capricious' is sometimes used as a synonym for 'unreasonable'; and in one case this has been transmuted into 'frivolous or vexatious' and 'capricious and vexatious'. But the meaning of all such expressions is necessarily the same, since the true question must always be whether the statutory power has been abused.*"

In *Wickremasinghe v. Ceylon Petroleum Corporation and Others*,[3] the Supreme Court, after analysing whether the Respondents' decision to terminate the Petitioner's lease was arbitrary, particularly in light of the decision being considered unreasonable,

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[1] [1948] 1 KB 223.

[2] CA Writ 239/2017CA Minutes of 07.02.2020.

[3] 2001 (2) Sri LR 409.

observed that if the Respondents' actions are reasonable, then such a decision would not amount to arbitrariness.

In the case of *Weerakoon and Another v. Bandaragama Pradeshiya Sabha*,[4] Ranjith Silva, J. held that, "*... the issue that has to be tried in a writ application is whether the decision of the Respondent is ultra vires, illegal or a nullity or whether the decision is highly unreasonable*."

The Petitioner of the present Writ application instituted the proceedings in the District Court against the 1st Respondent of this Writ Application seeking a declaration of title for an extent of 36 Acres and 2 Roods of the land called Chundankadu. The position of the Petitioner is that, without knowing the fact that he is the owner of that land, he had entered into a lease agreement with the 1st Respondent for an extent of 10.1171 Hectares (i.e. exactly 25 Acres) of the same land.

In terms of Section 116 of the Evidence Ordinance, while tenancy for an immovable property continues, the tenant is prevented from denying the landlord's right to lease out the property at the beginning of the tenancy. Section 116 reads thus,

> *"No tenant of immovable property, or person claiming through such tenant, shall during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immovable property; and*

[4] 2012 (BLR) 310

no person who came upon any immovable property by the licence of the person in possession thereof shall be permitted to deny that such person had a title to such possession at the time when such licence was given."

In *Mohamadu Abu Sali v. Ummu Kaldun and Another*,[5] the Plaintiff entered into a lease agreement with the 1st Defendant, who was in occupation of the land along with the 2nd Defendant. Subsequently, the 2nd Defendant claimed to be a co-owner of the said land and contended that the Plaintiff had no right to eject the Defendants. Samayawardhena, J., held that,

"*The lessee cannot question the lessor's right, title or interest in the premises for the latter to lease it out to him. The reason being that a person need not necessarily be the owner of the premises to enter into such an agreement with another. Even in the absence of ownership, these agreements establish valid legal relationships such as landlord and tenant, lessor and lessee, licensor and licensee between the parties, although they may not be binding on the actual owner*."

Samayawardhena, J., went on to hold that,

"*once the Court decides that the defendant is a lessee or licensee of the plaintiff, whether the plaintiff is the owner of the entire premises or part of it or has no title at all to the premises is irrelevant*".

[5] SC/APPEAL/225/2014, SC Minutes of 30.01.2024.

In averments 10 and 11 of the Petition, the Petitioner admits that he has entered into a lease agreement with the 1st Respondent. Under the above-stated legal backdrop and circumstance, the Petitioner cannot now, during the continuance of the lease, argue that the 1st Respondent had no right, title or interest in the land at the beginning of the lease agreement to lease it out to him. Hence, he cannot argue that the 1st Respondent has no legal right to issue P13 demanding the outstanding lease rentals. Under such circumstances, the Court cannot conclude that P13 is unreasonable, arbitrary or unfair, and the conclusion of the Court is that the Petitioner has failed to satisfy the Court that he is entitled to a Writ of Certiorari to quash P13. Since the Writs of Prohibition prayed for in the Petition are based on the issuance of Writ of Certiorari, and the Court has decided that the Petitioner is not entitled to a Writ of Certiorari as prayed for in the Petition, the Petitioner is also not entitled to the Writs of Prohibition.

The Petitioner claims that the land that has been leased to him by the 1st Respondent is a portion of the same land that he had acquired title to by P3. However, the position of the Respondents is that the land that was leased out to the Petitioner belongs to the 1st Respondent. Therefore, it is evident from the foregoing facts that who has right, title or interest to the said land remains a matter in dispute. Whether P13 is unreasonable, arbitrary or unfair depends on the fact that whether the 1st Respondent has right, title or interest to the land leased out by the 1st Respondent to the Petitioner. The determination of such right, title, or interest depends on the identification of the corpus, which is a matter that must be adjudicated by adducing evidence before a district court and not in

a writ court. Writs are discretionary remedies, and courts are reluctant to issue writs when there are disputed facts. A.S. Choudri in his book titled "Law of Writs and Fundamental Rights (2nd edn, Vol 2)[6] states as follows,

> *"Where facts are in dispute and in order to get at the truth, it is necessary that the questions should be canvassed in a suit where parties would have ample opportunity of examining their witnesses and the Court would be better able to judge which version is correct, a writ will not issue."*

Referring to the above-stated quoting, in the case of *Thajudeen v. Sri Lanka Tea Board and Another*[7], this Court held that,

> *"That the remedy by way of an application for a Writ is not a proper substitute for a remedy by way of a suit, especially where facts are in dispute and in order to get at the truth, it is necessary that the questions should be canvassed in a suit where the parties would have ample opportunity examining their witnesses and the Court would be better able to judge which version is correct, has been laid down in the Indian cases of Ghosh v. Damodar Valley Corporation, Porraju v. General Manager B. N. Rly."*

In the case of *Francis Kulasooriya v. OIC-Police Station-Kirindiwela,*[8] the Supreme Court observed that,

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[6] at page 449.

[7] (1981) 2 Sri LR 471.

[8] SC Appeal No. 52/2021, SC Minute of 14.07.2023.

"*Courts are reluctant to grant orders in the nature of writs when the matters on which the relief is claimed are in dispute or in other words when the facts are in dispute."*

It was also held in *Wijenayake and others v. Minister of Public Administration*[9] that disputed facts cannot be decided by a writ court.

The Petitioner has already filed an action in the District Court for a declaration of title to the land in dispute. Therefore, the parties to this Application can resolve their disputes at the District Court, and as mentioned above, when the material facts are in dispute, generally writ courts are not inclined to issue writs.

Considering all the above-stated facts, I decide that this is not a fit case to issue formal notices on the Respondents. Court refuses to issue formal notices on the Respondents. The Application is dismissed. No costs ordered.

Application dismissed

JUDGE OF THE COURT OF APPEAL

[9] (2011) 2 SLR 247.