

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

C.A. (PHC) Application No. 64/2021

HC/REV/37/2017

Bandarawela Magistrate's Court

Case No. 85152

An Appeal from an Order made by the High Court of the Uva Province holden in Badulla in the exercise of its Revisionary jurisdiction under Article 154P of the Constitution of the Democratic Socialist Republic of Sri Lanka.

A.S. Anura Sathurusinghe,
Conservator General of Forests,
Department of Forest Conservation,
Battaramulla, Sri Jayewardenepura.

Applicant

Vs.

Kadirawel Seelawathie *alias* Rajapakse
Dewayalage Seelawathie,
03rd Post, Passara Road,
Ella.

Respondent

AND

Kadirawel Seelawathie *alias* Rajapakse
Dewayalage Seelawathie
03rd Post, Passara Road,
Ella.

Respondent-Petitioner

Vs.

1. A.S. Anura Sathurusinghe,
Conservator General of Forests,
Department of Forest Conservation,
Battaramulla, Sri Jayewardenepura.
2. Attorney General
Attorney General's Department
Colombo 12.

Applicant-Respondents

AND NOW BETWEEN

Kadirawel Seelawathie,
03rd Post, Passara Road,
Ella.

Respondent-Petitioner-Petitioner

Vs.

1. A.S. Anura Sathurusinghe,
Conservator General of Forests,
Department of Forest Conservation,
Battaramulla, Sri Jayewardenepura.
2. Attorney General
Attorney General's Department
Colombo 12.

Applicant-Respondents-Respondents

Before: **Damith Thotawatte, J.**
K.M.S. Dissanayake, J.

Counsels: Nisala Seniya Fernando instructed by Lakmini Amarasinghe on behalf of Legal Aid Commission for the Respondent-Petitioner-Petitioner.

Abigail Jayakody, SC for the Respondents.

Argued: 21.10.2025

Written submissions tendered on: 14.10.2025 by Applicant-Respondents-Respondents.
09.05.2025 by Respondent-Petitioner-Petitioner.

Judgment
Delivered: 20.02.2026

Thotawatte, J.

Introduction

This is an appeal from the order of the Provincial High Court of the Uva Province holden in Badulla, dated 01.11.2021, made in revision application No. HC/REV/37/2017, whereby the learned High Court Judge dismissed the revision application filed by the Respondent-Petitioner-Petitioner (hereinafter sometimes referred to as the “Petitioner”), declining to interfere with the order of the Magistrate’s Court of Bandarawela dated 21.03.2017, which directed eviction under the State Lands (Recovery of Possession) Act No. 7 of 1979 (as amended).

The substance of the present appeal is that the learned High Court Judge erred in law in refusing to exercise revisionary jurisdiction, contending that procedural irregularities said to vitiate the Magistrate’s order, together with exceptional circumstances warranting the invocation of revisionary jurisdiction, were overlooked.

Factual Background

The Applicant-Respondent-Respondent, Conservator General of Forests (hereinafter sometimes referred to as the “Applicant”) instituted proceedings in the Magistrate’s Court of Bandarawela under the State Lands (Recovery of Possession) Act, seeking eviction of the Respondent from State land described as part of Lot 04/008 in Pinus Forest Plantation, to an extent of 3.6 hectares.

Following inquiry, the learned Magistrate, by order dated 21.03.2017, made an order of eviction against the Respondent.

Aggrieved thereby, the Respondent invoked the revisionary jurisdiction of the Provincial High Court. By judgment dated 01.11.2021, the learned High Court Judge dismissed the revision application, holding inter alia that:

- no exceptional circumstances were disclosed to warrant revision; and
- the Respondent had failed to establish any lawful authority or permit entitling her to remain in occupation of State land.

Being dissatisfied with the Order of the learned Judge of the High Court dated 01.11.2021, the Petitioner has preferred the present appeal to this Court, invoking its appellate jurisdiction, and seeks, *inter alia*, the following reliefs:

(b) to set aside the Order of the Honorable High Court dated 01.11.2021;

(e) to grant the reliefs prayed for by the Respondent-Petitioner-Petitioner in the Revision Application filed before the Honorable High Court.

The Contentions of the Petitioner

1. The quit notice referred to an extent of 0.09 hectares, whereas the Magistrate's application referred to 3.6 hectares, rendering the proceedings fatally defective.
2. The land was not properly identified, vitiating the jurisdiction of the Magistrate.
3. The Magistrate's order suffered from procedural irregularities amounting to exceptional circumstances.
4. The learned High Court Judge failed to appreciate that the case satisfied the threshold for revisionary intervention.

Reliance was placed on the strict-compliance doctrine under the State Lands (Recovery of Possession) Act and decisions such as *Kandiah v. Abeykoon*¹ and *Ariyawathie v. District Secretary, Kataragama*².

Submissions of the Applicant

1. The scope of inquiry under Section 9(1) of the Act is extremely limited, confining the Magistrate to determining only whether the occupier holds a valid permit or written authority.
2. Any alleged discrepancy in extent does not invalidate the quit notice or the proceedings, as Form A relates to the portion encroached, while Form B relates to the State land concerned.
3. The Respondent never challenged the quit notice at the appropriate stage.
4. The Respondent failed to produce any permit or written authority, which is fatal under settled law.

¹ 1986 (3) CALR 41

² CA PHC 102/2011CAM 01.10.2014

5. The learned High Court Judge correctly applied the exceptional-circumstances test governing revision.

The Respondents relied on, inter alia, *Divisional Secretary, Kalutara and another v. Kalupahana Mestrige Jayatissa*³, *M.R.M. Ramzeen Competent Authority & Another v. Morgan Engineering (pvt) Ltd., & Another*⁴, *Nirmal Paper Converters (Pvt) Ltd. v. Sri Lanka Ports Authority & Another*⁵, and *Muhandiram v. Chairman, No.111, Janatha Estate Development Board*⁶.

The principal issues that arise for determination

1. Whether the learned High Court Judge erred in law in declining to exercise revisionary jurisdiction.
2. Whether the alleged discrepancy in the extent or identification of the land constituted exceptional circumstances warranting revision.
3. Whether any miscarriage of justice is disclosed on the face of the record.

Scope of Proceedings under the State Lands (Recovery of Possession) Act

It is well settled that proceedings under the State Lands (Recovery of Possession) Act are summary in character and strictly circumscribed by statute.

Section 9(1) of the Act expressly limits the inquiry before the Magistrate⁷ to whether the person summoned establishes possession or occupation upon a valid permit or other

³ SC Appeal Nos. 246, 247, 249, 250-2014 SCM 04.08.2017

⁴ S.C. Appeal No. 214/2012 SCM 27.06.2013 aka. *L.H.M.B.B. Herath, Chief Manager Welfare and Industrial Relations, v Morgan Engineering (Pvt) Ltd.*

⁵ [1993] 1 Sri L.R. 219

⁶ [1992] 1 SriL.R. 110

⁷ *Dewanaththi Premarathna de Silva v. Chairman, National Housing Development Authority* C.A. PHC 193/06 CAM 16.05.2017, *L.H.M.B.B. Herath, Chief Manager Welfare and Industrial Relations, v Morgan Engineering (Pvt) Ltd.* S.C. Appeal No. 214/2012 SCM 27.06.2013, *Don Sarath Rajapaksha v. Susantha Aththanayake, Divisional Secretary, Dickwella & another* CA WRIT 374/2022 CAM 29.11.2022 by. Sobhitha Rajakaruna J.

written authority of the State. Matters relating to title, boundary disputes, or competing claims fall outside the statutory remit.

The authorities cited by the Applicant unequivocally affirm that the absence of a valid permit is conclusive, leaving the Magistrate with no discretion but to order eviction.

In the present case, it is not disputed that the Respondent failed to produce any permit or written authority entitling her to occupy the land.

Alleged Discrepancy in Extent and Identification

The principal contention of the Respondent concerns the discrepancy between 0.09 hectares mentioned in the quit notice and 3.6 hectares in the Magistrate's application.

While the Petitioner is entitled to cite *Kandiah v. Abeykoon*⁸ for the proposition that proceedings under the State Lands (Recovery of Possession) Act require strict compliance with statutory requirements, that authority cannot be construed as mandating automatic invalidation for every procedural or formal defect. As clarified by this Court in *Thalagaha Arawe Karunasena Jayaweera v. J.M.C. Priyadarashani*⁹, read together with the decision of the Court of Appeal in *Facy v. Sanoon and others*¹⁰, "*Kandiah*" is confined to instances of **substantive non-compliance which affect the legal validity of the application or affidavit**, and does not extend to purely technical or formal imperfections which do not vitiate jurisdiction.

The Petitioner's reliance on *Ariyawathie v. District Secretary, Kataragama*¹¹ is misplaced. That decision turned on a failure to comply with mandatory statutory content requirements introduced by the State Lands (Recovery of Possession) (Amendment) Acts Nos. 58 of 1981 and 29 of 1983, namely the obligation that the quit notice (Form A), application (Form B), and supporting affidavit (Form C) must strictly contain the matters specified in the Schedule as jurisdictional pre-conditions to summary ejection. The defects in *Ariyawathie* went to the very foundation of the Magistrate's jurisdiction and defeated the statutory safeguards contemplated by the legislature. In the present case, no such failure of statutory content or non-compliance with the mandatory requirements of Forms A, B or C is demonstrated;

⁸ *supra*

⁹ CA (PHC) 253/2005 CAM 05.10.2018

¹⁰ [2003] 3 Sri L.R 08

¹¹ CA (PHC) 102/2011CAM 01.10.2014

the objections raised relate, at most, to alleged procedural or formal irregularities. Accordingly, the principle applied in *Ariyawathie* has no application to the facts before Court.

The learned High Court Judge has referred to *Priyankara Vithanalage Dayananda Kolabagama v. Sunethra Nallaperuma Dissanayake*¹² where it was held that in proceedings under the State Lands (Recovery of Possession) Act, the failure to produce a separate survey plan demarcating the boundaries or to specify the exact extent of the land does not vitiate the proceedings where the State land sought to be recovered is otherwise sufficiently identifiable. The learned High Court Judge has appropriately held that discrepancies such as alleged by the Petitioner in this case do not invalidate the quit notice, particularly where the land itself is identified as State land and the occupier's lack of lawful authority is undisputed.

Moreover, the Respondent did not challenge the quit notice at the appropriate stage, and Section 9 of the Act bars collateral challenges to the matters stated therein during the Magistrate's inquiry. As such this Court finds no legal basis to hold that the alleged discrepancy constitutes a jurisdictional defect or procedural illegality.

Revisionary Jurisdiction and Exceptional Circumstances

Revisionary jurisdiction is extraordinary and discretionary.¹³ It is not a substitute for an appeal and may be invoked only where no adequate statutory or constitutional remedy by way of appeal is available, and solely to prevent a miscarriage of justice or to correct a jurisdictional illegality. The learned High Court Judge expressly addressed the requirement of exceptional circumstances and found that none were established. Upon careful consideration of the record, we are in agreement.

The Respondent's complaints amount, at best, to technical objections which do not occasion any substantial miscarriage of justice, particularly in light of the Respondent's admitted failure to establish any lawful entitlement to remain on State land.

¹² CA (PHC) 52/2010 Decided on 27.09.2011

¹³ *Divisional Secretary, Kalutara and another v. Kalupahana Mestriye Jayatissa* SC Appeal Nos. 246, 247, 249, 250-2014 SCM 04.08.2017

Conclusion

For the foregoing reasons, we hold that the learned High Court Judge **correctly declined** to exercise revisionary jurisdiction as no exceptional circumstances or miscarriage of justice has been demonstrated. The impugned order dated **01.11.2021** is sound in law.

For the foregoing reasons the impugned order dated **01.11.2021** of the learned judge of the High Court is affirmed and the appeal is dismissed subject to cost of Rs. 30,000/-

Judge of the Court of Appeal

K.M.S. Dissanayake, J.

I agree

Judge of the Court of Appeal