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

In the matter of an Application for Orders in the nature of Writs of Certiorari, Prohibition and Mandamus under Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Wickrama Arachchige Chathura Priyanga,
No. 214,
Wilauda,
Pinnawala South.

CA (Writ) App. No. 637/2025

PETITIONER

Vs.

1. Hon. K.D.A. Lalkantha,
   The Minister of Land,
   No. 1200/6,
   Rajamalwatta Road,
   Battaramulla.

2. Mr. D.P. Wickramasinghe,
   The Secretary,
   The Minister of Land,
   No. 1200/6,
   Rajamalwatta Road,
   Battaramulla.

3. Ms. Ashani Viranga Piyasumana,
   The Divisional Secretary,
   Divisional Secretariat,
   Padukka.

4. Mr. Chandana Ranaweera Arachchi,
   The Commissioner General of Lands,
   The Department of the Commissioner General of Lands,
   Mihikatha Medura,
   No. 1200/6, Rajamalwatta Road, Battaramulla.

5. Mr. W.A. Rathnapala,
   No. 267,01,
   Jalthara,
   Hanwella.

RESPONDENTS

Before: Dr. D. F. H. Gunawardhana, J.

Counsel:

Rasika Dissanayake with Shabbier Huzair instructed by Denuka Lakmal for the Petitioner.
R. Gooneratne, S.C. for the 1st to 4th Respondents.
Chathura Galhena instructed by Manoja Gunawardena for the 5th Respondent.

Supported on: 07.11.2025

Order delivered on: 11.11.2025

Dr. D. F. H. Gunawardhana, J.

Order

Introduction

The Petitioner is the grandson of one Emaneris Appuhami. According to the Petition, he had been issued with a permit under Section 19(2) of the Land Development Ordinance (hereinafter referred to as "the Ordinance"). The said document is marked as **P1** annexed to the Petition, and dated 7th September 1983. The permit has been issued in respect of certain land situated in Hanwella area, in extent of 3 Roods and 28 Perches. However, the Petitioner's grandfather had passed away in 1998 without nominating any successor.

The then Petitioner's grandfather had had five children, and the Petitioner's father was the second eldest son in the family, who according to the Petitioner's own showing, had continued to occupy the premises in suit where there was an ancestral house as well. All the other siblings of the Petitioner's father had left the premises by the time of the grandfather's death in 1998, after marriage.

In the meantime, the Petitioner's father's representation to the first predecessors of the 1st to 4th Respondents to have the succession registered in his name as the successor to the premises of late Emaneris Appuhami. However, some of the other siblings, including the 5th Respondent, also have made representation to have their names registered as the successor to the grandfather Emaneris Appuhami.

However, there was no nomination. In the meantime, the 5th Respondent had filed a case in the District Court, disputing the claim of the Petitioner's father. Before the final determination, it has been withdrawn.

In the meantime, the 1st Respondent had decided to register the eldest son, Mr. Samarapala, as the successor to the original grantee. However, later on representation by Mr. Rathnapala, it has been decided by the 1st to 4th Respondents that Mr. Rathnapala is the correct nominee; and therefore, having cancelled the registration of Samarapala as the successor, they had decided to register Rathnapala as the successor to the original grantee by **P13**.

Accordingly, the Petitioner challenges the same, seeking a *Writ of Certiorari*, and a *Writ of Mandamus* compelling the 1st to 4th Respondents to register him as the successor to the grandfather's property who is the original grantee.

This was supported before this Court on 07.11.2025, by Mr. Rasika Dissanayake and vehemently opposed by Mr. Gunaratne, State Counsel for the 1st to 4th Respondents, and Mr. Chathura Galhena, Counsel for the 5th Respondent.

Arguments

The thrust of Mr. Dissanayake's submission is that since there was no nomination by the grandfather, only the Petitioner's father had succession to the premises as he had continuously been in occupation of the ancestral property located in the land in suit. Therefore, after the grandfather's death, the Petitioner's father is entitled to succeed on the basis that there is no nomination.

However, it is the position of Mr. Gunaratne, S.C., that there had been a permit issued prior to the issuance of the grant **P1**. In the said permit issued under Section 19(2) of the Ordinance, there had been a nomination by the original permit holder and original grantee, Emaneris Appuhami; and the 5th Respondent, Mr. Rathnapala, had been nominated under the said permit. Despite the lack of nomination under the grant, as proposed in the judgement by Chief Justice Sarath Silva, it is his submission that the original nomination made under the permit continues as there is no other nomination made to the contract.

Mr. Galhena also associates the submissions made by Mr. Gunaratne, and it is his position that Mr. Rathnapala continued to enjoy the property as a sibling. In addition to that, he submits that the Petitioner's father's name was never registered as a successor; therefore, the Petitioner cannot succeed to the tenancy of the grandfather.

The 3rd Respondent has inquired into the application, and also in addition to that, has made a field visit in respect of the land in suit (premises or land in suit); according to his findings, Rathnapala is entitled to succeed to the land granted by **P1** since he had made an application to succeed to the grant as a child of late Emaneris Appuhami, the original grantee, as reflected in the document marked as **P13**. For further clarity I reproduce it below;

> *"උක්ත මැයෙන් යුතුව ඔබටද පිටපතක් සහිතව ජනාධිපති ලේකම් කාර්යාලය මගින් මා වෙත එවන ලද 2024.12.30 දිනැති ලිපිය හා බැඳේ.*
>
> *කෝ/ප්‍ර 396 දීමනාපත්‍ර ඉඩමේ මුල් උරුමකරු වන වික්‍රම ආරච්චිගේ සමරපාල යන අය සහ කලත්‍රයා මියගොස් ඇති බැවින් මෙම ඉඩමේ අයිතිය වික්‍රම ආරච්චිගේ සමරපාල යන අයගේ දියණිය විසින් ඉල්ලා සිටින ලදී. ඒ අනුව මා විසින් මෙම ඉඩම් ගැටලුව සම්බන්ධව කාර්යාල පරීක්ෂණ දෙකක්*

හා ක්ෂේත්‍ර පරීක්ෂණයක් සිදු කරන ලද අතර මේ පිළිබඳව කරුණු දැක්වීමට 2024.07.01 දිනැතිව සිදු කරන ලද කාර්යාල පරීක්ෂණ සඳහා ඔබවද කැඳවන ලද නමුත් ඔබ ඒ සඳහා සහභාගී නොවීය.

මෙම දීමනාපත්‍ර ඉඩමට මුල් උරුමය ලබා දීම සම්බන්ධව මා විසින් 2024.08.15 දිනැති ඉඩම් කොමසාරිස් ජෙනරාල් දෙපාර්තුමේන්තුව වෙතද තොරතුරු ඉදිරිපත් කරන ලදී. ඒ අනුව, මෙම දීමනාපත්‍රයට අදාල බලපත්‍රයේ පසු උරුමකරු වන වික්‍රම ආරච්චිගේ රත්නපාල යන අය ***නියමිත කාල සීමාව තුල මුල් අයිතිය ලබා දීම ඉල්ලා ඇති නමුත් ඔහුට මුල් අයිතිය ලබා නොදී වික්‍රම ආරච්චිගේ සමරපාල යන අයට මුල් අයිතිය ලබා දීම නිවැරදි නොවන බැවින් 2015/08 දරණ චක්‍රලේඛය අනුව අවලoඟ කර වික්‍රම ආරච්චිගේ රත්නපාල යන අයට මුල් අයිතිය ලබා දෙන ලෙස***

2024.12.06 දිනැති ලිපිය මගින් ඉඩම් කොමසාරිස් ජෙනරාල් විසින් දන්වා ඇත." [Emphasis is mine]

Furthermore, though notice was given, the Petitioner has not participated in the second inquiry held by the 3rd Respondent.

In addition to that, the 3rd Respondent has come to the said conclusion on his findings based on the two inquiries and the field inspection, that the 5th Respondent is entitled to succeed to the grant of the land, despite the fact that the Petitioner claims that his father had been in possession of the land, and thereafter the Petitioner has succeeded to her father's rights. Therefore, the Petitioner's mere assertion cannot be taken or weighed against the findings of the 3rd Respondent who has no interest in this matter, except as an officer entrusted to carry out his official duties in terms of the provisions of the Ordinance.

Therefore, as an officer who is entrusted with the task of deciding matters relating to succession, the 3rd Respondent's version has to be taken into consideration, particularly in view of the

documents marked as **P12**, **P13**, and **P14** where the 3rd Respondent has recommended that the 5th Respondent should be declared as the successor to his late father, the original grantee.

In addition to that, the Petitioner has not established that his father had succeeded to the rights of the original grantee, except for the mere assertion of the fact that his father had right throughout remained in possession of the property granted by **P1**. Thus, it is my view that if the Petitioner asserts something contrary to the said findings of the 3rd Respondent, in **P12** and **P13** that is a matter to be looked into by the District Court and not by the writ court; which the Petitioner has failed to establish. This is clearly borne out by the document marked as **P22** as well.

Accordingly, it is my view that this Court cannot even issue notice in respect of this matter. If at all, the Petitioner has to go to the District Court to establish her rights against the 4th Respondent.

In order to come to my conclusion, I did not consider the fact that Mr. Gunaratne, the learned Crown Counsel's position that there had been a nomination prior to the issuance of **P1**, issued to the same grantee as the permit holder; according to which, Mr. Rathnapala had been nominated as the successor. However, no evidence has been placed before this Court. Therefore, I am not going to consider that and make any order or findings based on that. Based on **P12**, **P13**, **P14** and **P22**, it is my view that the 3rd Respondent is quite capable of coming to a finding unless the Petitioner establishes her rights in a proper forum based on evidence. Therefore, it is my view that I cannot issue notice, and accordingly, this Application is refused and dismissed *in limine*.

JUDGE OF THE COURT OF APPEAL