

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

CA Writ Application No. 398/14

W.W.W. Wasanthi Bhadra Priyani Fernando
of 01st Lane, Bodhirajapura,
Puttalam.

And other

Petitioners

Vs.

R.P.R Rajapakse
Land Commissioner,
Land Commissioner's General's Department,
"Mihikatha Medura",
No. 1200/6, Rajamalwatte Road,
Battaramulla.

And others

Respondents

C.A. (Writ) Application No. 398/2014

BEFORE : VIJITH K. MALALGODA, PCJ (P/CA) &
P.PADMAN SURASENA, J.

COUNSEL : Chamantha Unamboowe SWeerakoon with Oshadi
Premarate for the Petitioner.
Srinath Perera P.C. with P. Kumarawadu for the
5th respondent.
Chaya Sri Nammuni S.C. for the 1st to 4th and 6th
respondents.

SUPPORTED ON : 01st August, 2016.

VIJITH K. MALALGODA, PCJ (P/CA)

Heard Counsel for the petitioner and the Counsel for the respondents.

The 1st and 2nd petitioners have come before this Court with regard to a land which is shown in the document P6 which had been identified as lot 34. According to the petitioners their father was in occupation in lot 46 which is on the Southern Boundary of the lot 34. Lot 34 was occupied by one K.K. M. Perera and the petitioners' father had purchased 3 acres from the said lot 34 and the said 3 acres were divided among the two petitioners 1 acre and 2 acre respectively. The two petitioners have received annual permits with regard to the said two lots in the year 1981 valid for a period of one year. The balance portion of lot 34 was sold by the said K.K.M. Perera to the 5th respondent. It is evident before this Court that the 5th respondent too had got an annual permit for the said portion thereafter. However, in December, 1982 the 5th respondent had received a Presidential Grant with regard to lot 34. The 5th

respondent said to have filed a District Court action to eject the 1st and 2nd petitioners from the said portions in the year 1988 and they have been litigating since then before the District Court, High Court and the Supreme Court. As observed by this Court the Supreme Court had finally dismissed the appeal preferred before the Supreme Court by the 1st and 2nd petitioners on 23.07.2013. As observed by this Court the petitioners were well aware on the grant made to the 5th respondent when the District Court case was filed in 1988. Even though they have been litigating, the petitioners have not decided to come before this Court by way of a writ application. At the same time we observed that there was no valid permit issued to the 1st and 2nd petitioners at the time the grant was made in December 1982, since the permits were issued to the 1st and 2nd petitioners were valid only for one year even though the petitioners have relied on an endorsement made on P1 and P2. In considering these factors we see no reason to issue notices in this case. We therefore refuse to issue notices. No cost is ordered.

PRESIDENT OF THE COURT OF APPEAL

P.PADMAN SURASENA, J.

I agree.

JUDGE OF THE COURT OF APPEAL

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