

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

CA (Writ) Application No.: 394/2016

Bandula Sujith Senarathna
No.76, Muruthawala,
Pasyala.

Petitioner

Vs.

Y. I. M. Silva,
Divisional Secretary,
Mirigama.

Respondent

C.A. (Writ) Application No.394/2016

BEFORE : VIJITH K. MALALGODA PC J (P/CA) AND
S. THURAIRAJA PC J

COUNSEL : Dr. Sunil Cooray for the Petitioner
Maithri Amarasinghe Jayathilake SC for the
Respondent

ARGUED AND
DECIDED ON : 16.12.2016

VIJITH K. MALALGODA PC J (P/CA)

Heard Counsel for the petitioner in support of this application and the learned State Counsel representing the respondents. The petitioner to the present application one Bandula Sujith Senarathna has come before this Court seeking a Writ of Certiorari to quash the quit notice served on him by the Divisional Secretary, Meerigama on 06.10.2016. The petitioner has taken up the position before this Court that he is a bona fide purchaser of the land in question which is to the extent of over 21 acres of land adjoining Kandy Road in Meerigama. The petitioner has produced before this Court several title deeds in support of his position and as observed by us the predecessor-in-title to the petitioner Rainco (Private) Limited has sold this land to the petitioner finally on 13.09.2016 for a consideration of 2.5 million. However, when

going through the documents filed by the petitioner we observed that a quit notice is also issued on the predecessor-in-title that is Rainco (Private) Limited on 15.09.2016 two days after the said transfer. As submitted by the petitioner produced marked P26 on 28th September the said Rainco (Private) Limited had informed the Divisional Secretary of the change of the title and thereafter a fresh quit notice has been served on the petitioner on 6th October as referred above. As submitted by the learned State Counsel before this Court the petitioner's predecessor-in-title was given opportunity on several occasions by the Divisional Secretary, Meerigama, to submit the documentation in support of their claim with regard to this land since there was a dispute with regard to the title of the said land. As observed by us several letters have been transferred between two parties and it was agreed to conduct a survey to resolve the matter. The petitioner has produced before this Court the documents produced marked P27 a Tracing prepared in July 2016. However, the petitioner has not produced the surveyor's report with regard to the said Tracing. Learned State Counsel produces before this Court the report submitted along with the said tracing by the same Surveyor A.R. Jayakody, Government Surveyor. In the said report it was referred that several requests were made to the petitioner's predecessor-in-title to come and show the boundaries of the lands claimed by him. But there was a delay on the part of the petitioner's predecessor to show the boundaries but, finally on 28.04.2016 few officers from the said

company were present for the surveyor but, failed to produce any deeds or plans before him when they were requested to produce them before him. When they were requested to sign the documents on that day they too have refused to sign those documents. The surveyor whilst noting down the events took place on that day had given reasons as to why he conclude that this Tracing he prepared on that day was a State land. However the petitioner had not produced this part before this Court and the learned Counsel in this regard submits that he could not obtain this and he only could obtain the Tracing to be submitted before this Court. The learned State Counsel during her submissions further submitted a Plan prepared on 06.07.1976 again by the Surveyor General Department with regard to this land and she submits that this is a land which was acquired under the Land Acquisition Act. Even though the petitioner has produced the documentation before this Court to show that they have title to the land in question firstly they have failed to substantiate the same before the government agent who requested them to produce the said documents before him. When the surveyor went to survey the land and requested them to produce the relevant deeds and plans to the land, they have not only refused to submit any one of them but they have also refused to sign the documents with regard to the surveyor. The petitioner's predecessor-in-title who took part in all these process in the last minute had decided to transfer the land to the petitioner in fact two days prior to the quit notice was issued on him. The conduct of the

petitioner and the petitioner's predecessor-in-title are questionable and therefore there is a doubt with regard to the genuineness of the petitioner's presence in this application since he said to have spent only 2.5 million to purchase the land bordering Kandy Road to the extent of 21 acres. When considering all these matters placed before this Court we see no merit in this application and therefore we refuse to issue notice in this case.

PRESIDENT OF THE COURT OF APPEAL

S. THURAIRAJA PC J

I agree.

JUDGE OF THE COURT OF APPEAL

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