

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

In the matter of an Appeal under and in terms of Article 138 of the Constitution read with Section 11 of the High Court of the Provinces (Special Provisions) Act no. 19 of 1990.

Court of Appeal

Case No: CA/PHC/17/2023

[Case No: CA/PHC/16/2023

Case No: CA/PHC/18/2023

Case No: CA/PHC/19/2023

Case No: CA/PHC/20/2023

Case No: CA/PHC/21/2023]

Conservator General of Forest,
Forest Conservation Department,
Hatton

Applicant

Vs.

High Court of Nuwara Eliya

Case No: HC/NE/REV/21/2019

Mukaiya Murugaiya,
Beeconfield Part, Olton State,
Upcot.

Magistrate Court of Hatton

Case No: 13788

Respondent

And

Mukaiya Murugaiya,
Beeconfield Part, Olton State,
Upcot.

Respondent- Petitioner

Vs.

Conservator General of Forest,
Forest Conservation Department,
Hatton

Applicant- Respondent

Hon. Attorney General,
Attorney General's Department,
Colombo 12.

Respondent

And now between

Mukaiya Murugaiya,
Beeconfield Part, Olton State,
Upcot.

Respondent- Petitioner- Appellant

Vs.

Conservator General of Forest,
Forest Conservation Department,
Hatton.

Applicant – Respondent- Respondent

Hon. Attorney General,
Attorney General's Department,
Colombo 12.

Respondent- Respondent

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

Counsels: Thanuka Nandasiri with M. Pandithage appears for the Respondent –
Petitioner- Appellant.
Jemiah Sourjah, SC for the Respondent- Respondent.

Written submissions 31.08.2026 by Respondent – Petitioner – Appellant.
tendered on: 16.03.2026 by Applicant- Respondent- Respondent & Respondent –
Respondent.

Judgement 26.10.2026
Delivered:

Thotawatte, J.

Introduction

This appeal is directed against the Order dated 26 January 2023 made by the learned Judge of the Provincial High Court of the Central Province holden at Nuwara Eliya, dismissing the Respondent- Petitioner- Appellant's (hereinafter sometimes referred to as the "Appellant") revision application and declining to interfere with the Order of ejectment dated 9 August 2019 made by the learned Magistrate of Hatton in Case No. 13788 under the State Lands (Recovery of Possession) Act, No. 7 of 1979, as amended (hereinafter referred to as "the Act"), whereby the Appellant was ordered to be ejected from the land described in the schedule to the application.

The table below lists appeals to this Court from Orders of ejectment made against persons (Respondent- Petitioner- Appellants), alleged to have occupied portions of a large area declared to be a conservation forest.

CA Number	MC Hatton Number	HC N'Eliya Number	Appellant
PHC 16/2023	MC Hatton 13797	HC N'Eliya HC/NE/REV 20/2019	Sidambaram Mahakrishnan
PHC 17/2023	MC Hatton 13788	HC N'Eliya HC/NE/REV 21/2019	Mukaiya Murugaiya
PHC 18/2023	MC Hatton 13789	HC N'Eliya HC/NE/REV 22/2019	Sellaiya Muththu Krishnan
PHC 19/2023	MC Hatton 13802	HC N'Eliya HC/NE/REV 23/2019	Siniwasagam Balakrishnan
PHC 20/2023	MC Hatton 13798	HC N'Eliya HC/NE/REV 24/2019	Murugesu Dharmaraj
PHC 21/2023	MC Hatton 13787	HC N'Eliya HC/NE/REV 25/2019	Seeniwasagam Sundararalingam

As the impugned orders of the High Court and the grounds of appeal are substantially similar, the parties agreed, on 22 June 2026 and again on 23 October 2026, to abide by the judgment in this appeal in the connected appeals, namely CA (PHC) 16/2023 and CA (PHC) 18/2023 to CA (PHC) 21/2023.

Factual Matrix

The proceedings concern a portion of State land in the “Beeconfield Part, Olton State, Upcot”. The quit notice issued by the Applicant-Respondent-Respondent (hereinafter sometimes referred to as the “Respondent”), the Conservator General of Forests sought recovery of 0.05 hectares of land from the Appellant.

As the Appellant failed to comply with the quit notice, the Respondent filed an application in the Magistrate’s Court of Hatton seeking recovery of possession of the said land and ejectment of the Appellant.

The Appellant, however, relied on receipts issued by the Land Reform Commission and claimed that he had occupied and used the land with the Commission’s permission since 1989.

Progression of the Litigation

The Appellant appeared before the Magistrate’s Court and showed cause by filing written submissions and tendering supporting documents. In substance, the Appellant claimed that he had long cultivated the land, together with other cultivators, with the Land Reform Commission’s permission. The Appellant further claims to have occupied and used a larger extent of land, in respect of which he paid user fees to the Land Reform Commission, and contends that the 0.05 hectares described in the quit notice forms only part of that extent. The Appellant’s admission that he paid user fees to the Land Reform Commission in respect of the land he occupied appears to indicate his acceptance that the land is State land. However, the Appellant disputes the Conservator General of Forests’ competence to institute and maintain proceedings under the State Lands (Recovery of Possession) Act, contending that he was not the competent authority in respect of the land in question.

By Order dated 09.08.2019, the learned Magistrate held that none of the documents tendered was a valid permit or other written authority of the State within the meaning of Section 9(1) of the Act. Accordingly, the learned Magistrate ordered the ejectment of the Appellant under Section 10(1) of the Act.

Aggrieved by that Order, the Appellant invoked the revisionary jurisdiction of the Provincial High Court of the Central Province holden at Nuwara Eliya. The Respondents filed objections, the matter was argued, and written submissions were tendered. By Order dated 26.01.2023, the learned High Court Judge dismissed the application for the following reasons:

1. **No statutory authority proved** - The documents tendered before the Magistrate did not establish that the Appellant occupied the scheduled land under a valid permit or other written authority of the State.
2. **The inquiry was limited** - Under section 9 of the Act, the Magistrate's inquiry concerned whether the Appellant held such a permit or authority, relying on *Herath v. Morgan Engineering*¹ and *Muhandiram v. Chairman, Janatha Estate Development Board*².
3. **The burden rested on the Appellant** - Relying on *M.C. Margrate Perera v. Divisional Secretary, Naula*³ the learned Judge held that the Appellant had to establish lawful authority to occupy the land and that the Appellant had not done so.
4. **The land and the competent authority were identified** - Gazette Extraordinary No. 150/12, dated 24.07.1981 vested Olton Estate in the Sri Lanka State Plantations Corporation. Extraordinary Gazette No. 1834/14, issued on 28.10.2013 under section 3A of the Forest Conservation Ordinance, has declared the relevant forest area a conservation forest and as such Conservator General was determined to be the competent authority in respect of the land.
5. **The Appellant's own position and the LRC inquiry did not establish a permit** - The Appellant accepted that the land was State land and that he occupied a portion within the area surveyed on the Land Reform Commission's instructions. Although a letter by Zonal Assistant Director of the District Land Reform Board to the Chairman of the Land Reform Commission asked whether permits had been, or could be, granted to the cultivators was produced that was held not to be a substitute for a permit.
6. **No basis for revision was shown** - As the Appellant had not established a valid permit or written authority, the learned Judge found no ground to revise the Magistrate's Order of ejectment made under Section 10 of the Act. The revision application was dismissed.

Being dissatisfied with the Order of the learned High Court Judge, the Appellant has submitted the present application to this Court.

¹ [2013] 1 Sri L.R. 222.

² [1992] 1 Sri L.R. 110.

³ CA (PHC) 41/2010, decided 31 January 2017.

Grounds of Appeal

The Appellant contends that the learned Magistrate and the learned High Court Judge erred in:

1. Failing to determine whether the Conservator-General of Forests was the competent authority to issue the quit notice and maintain the ejectment proceedings, given the land's vesting in the Sri Lanka State Plantations Corporation and its administration by the Land Reform Commission.
2. Failing to give proper consideration to the Land Reform Commission's records and the user-fee receipts, which, the Appellant submits, supported his claim that his occupation was authorised.
3. Finding that the Appellant's occupation was unauthorised without adequately resolving whether the Conservator-General had established authority or control over the land.
4. Accepting the identification of the land in the quit notice, despite the difference between the land presently occupied (for which user fees were paid) and the extent of land sought to be recovered.

Statutory Scheme

The State Lands (Recovery of Possession) Act, No. 7 of 1979, as amended, provides a summary procedure for recovering State land from persons in unauthorised possession or occupation. Under Section 3, a competent authority who forms the opinion that land is State land and is in unauthorised occupation may issue a quit notice. If the notice is not obeyed, Section 5 permits a competent authority to apply to the Magistrate's Court for ejectment.

Where the person summoned shows cause, the inquiry is governed by Section 9. The person may establish only that the occupation is under a valid permit or other written authority of the State, granted according to written law and still in force; the Magistrate shall not call for evidence from the competent authority. If the person summoned fails to establish a defence recognised by the Act, the Magistrate must make an order of ejectment under section 10(1). Section 10(2) provides that no appeal lies from such an order. Sections 12 and 13 preserve separate remedies concerning title and compensation.

The Conservator General of Forests is Not the Competent Authority

The Appellant submits that the land was vested in the Land Reform Commission and conveyed to the Sri Lanka State Plantations Corporation. He contends that the Land Reform Commission, rather than the Conservator General of Forests, was the competent authority and that the learned High Court Judge wrongly relied on *Farook v. Government Agent, Amparai*⁴.

Section 18 of the Act expressly defines “State land” to include land vested in, owned by, or under the control of the Land Reform Commission or the Sri Lanka State Plantations Corporation. Accordingly, proof that the land was vested in or administered by one of those institutions would not, without more, establish that it ceased to be State land for the purposes of the Act. Nor would that fact alone establish the Appellant’s right to occupy the land.

The learned High Court Judge considered the competing documents and the Order refers to Gazette No. 150/12 of 1981 concerning Olton Estate and to the Extraordinary Gazette No. 1834/14 of 28 October 2013, by which the Bogawantalawa Sri Pada Reserve (Part) forest was declared a conservation forest with effect from 15.11.2013. The learned High Court Judge compared the land described in the quit notice with the relevant portions of Plan P.P. 22/2237 and found sufficient correspondence to establish the Conservator General’s authority in respect of the land in dispute.

The statutory scheme also answers the submission that the learned Magistrate was required to determine which State institution had exclusive control of the land. In *Namunukula Plantations PLC v. Nimal Punchihewa*⁵, this Court held that the objection that the Respondent was not the competent authority in respect of land said to be vested in the Sri Lanka State Plantations Corporation could not be raised before the Magistrate or determined in the proceedings under the Act. The objection had to be tested in appropriate proceedings. The same restricted approach is reflected in *Sinniah Amirthalingam Delvin v. J.M.C. Priyadharshani and others*⁶.

The Appellant himself accepted that the land was State land and had failed to establish a valid permit or other written authority to occupy it. The High Court has held that the

⁴ [1980] 2 Sri L.R. 243.

⁵ CA (PHC) APN 29/2016, decided on 9 July 2018.

⁶ CA (PHC) 138/2023 Decided on 20.10.2026.

contention that one State entity, rather than another, should recover the land conferred no right on the Appellant to remain in occupation⁷.

The statutory provisions must be read together. Section 18 of the State Lands (Recovery of Possession) Act includes as “State land”, land vested in, owned by, or under the control of the Land Reform Commission or the Sri Lanka State Plantations Corporation. The fact that the land was vested in the Sri Lanka State Plantations Corporation under Gazette Extraordinary No. 150/12 does not, however, conclude the question of control. By Gazette Extraordinary No. 1834/14, the relevant area had been declared a conservation forest with effect from 15 November 2013. Section 3A(2) of the Forest Conservation Ordinance placed conservation forests under the control of the Conservator-General of Forests. Section 18(h) of the Act, in turn, recognises the head of a Government department or institution created by law as a competent authority in respect of land under its control. Accordingly, the Appellant’s contention that the quit notice was issued and the ejectment application filed by the wrong competent authority cannot be sustained.

Not considering the Material Placed Before Them in Favour of the Appellant

The High Court Order records that the learned Magistrate considered all the documents produced by the Appellant, including the Gazette, plan, correspondence with the Land Reform Commission, land-use fee receipts, Grama Niladhari’s certificate and a further letter. The learned Magistrate had on examination of these documents concluded that none constituted a valid permit or other written authority for the purposes of Section 9. The learned High Court Judge upon perusal of those documents has agreed with that conclusion.

The Appellant mainly relies on receipts for user fees allegedly paid to the Land Reform Commission from 1989 onwards, contending that they evidence occupation under a licence of a state authority. He submits that the payments established lawful occupation or, at the least, required a specific determination whether they evidenced a permit, licence or other written authority.

I am unable to accept that the receipts establish anything beyond the fact that payments were made to the Land Reform Commission. They were issued over a period said to have commenced in 1989 and must be considered in the context of the Appellant’s claim that his occupation was permitted by a State authority. The letter

⁷ *Ibid.*

dated 27 September 2018 merely sought information as to whether a permit or other written authority had been granted, or could be granted, to the occupiers of the relevant land. It does not indicate that any such authority existed. Nor does the absence of a reply establish that one had been granted.

These matters required the nature and legal effect of the Appellant's occupation and the documents relating to it to be examined. The learned High Court Judge properly assessed that material and concluded that, without an underlying grant or other instrument issued in accordance with written law, the documents did not establish a valid permit or written authority.

The contention that the High Court Judge failed to consider the documents presented by the Appellant is therefore untenable.

Burden of Proof

Section 9 of the Act confines the inquiry to whether the person summoned can establish occupation under a valid permit or other written authority of the State, granted in accordance with written law and still in force. The person summoned may not contest the matters stated in the Section 5 application, and the Magistrate may not call for evidence from the competent authority in support of it. As held in *Muhandiram v. Chairman, No. 111, Janatha Estate Development Board*⁸, the burden of establishing such authority rests on the person summoned; if that burden is not discharged, the Magistrate must order ejectment.

Identification of the Land

The Appellant contends that the receipts relate to a larger extent of land, whereas the quit notice seeks to recover 0.05 hectares, and that this difference shows the land was not properly identified. The learned High Court Judge, however, compared the schedule to the notice with Plan P.P. 22/2237 submitted to court by the Appellant in support of his position and found a correspondence between the eastern boundary described in the notice and the boundary shown in the plan. This finding has not been disputed by the Appellant.

The difference in extent, without more, does not establish a discrepancy in location or boundaries. The Appellant has produced no measurement evidence or other material showing that the 0.05 hectares described in the notice fall outside the area occupied

⁸ [1992] 1 Sri L.R. 110.

by the Appellant or the land depicted in the Plan P.P. 39/2237 submitted by the Appellant. The land-use fee receipts may relate to a larger area, but they do not, by themselves, undermine the identification of the smaller portion sought to be recovered. Accordingly, I am unable to accept the Appellant's contention.

Conclusion

For the reasons set out above, the Appellant has not established that the learned High Court Judge erred in declining to exercise revisionary jurisdiction. He has also failed to establish possession or occupation under a valid permit or other written authority of the State, as required by Section 9 of the Act.

The appeal is dismissed. The Order of the learned High Court Judge dated 26 January 2023 is affirmed. The Order of ejectment made by the learned Magistrate of Hatton remains undisturbed.

As the parties agreed, on 22 June 2026 and on 23 October 2026, to accept and abide by the judgment delivered in the present appeal, in respect of the connected appeals, CA (PHC) 16/2023 and CA (PHC) 18/2023 to CA (PHC) 21/2023 shall also stand dismissed on the same terms.

Under the circumstances of these cases, I make no order with regard to costs.

Judge of the Court of Appeal

K.M.S. Dissanayake, J.

I agree

Judge of the Court of Appeal