

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

In the matter of an appeal in terms of Article 154 P of the Constitution read with Section 11 of the High Court of the provinces (Special Provisions) Act No. 19 of 1990.

CA/PHC/13/2022

Provincial High Court (Ratnapura)
No: HC/RA/39/2019

MC Ratnapura No: 30957/A

J. M. C. Priyadarshani,
Competent Authority,
Plantation Management Supervision
Division,
Ministry of Plantations, 11th Floor,
Sethsiripaya, 2nd Stage, Battaramulla.

Applicant

Vs.

Ramasamy Padumanayagam,
Rubber Meda Kotasa, Niriella Estate,
Digana Kanda Sub Post Office,
Ratnapura.

Respondent

And

Ramasamy Padumanayagam,
Rubber Meda Kotasa, Niriella Estate,
Digana Kanda Sub Post Office,
Ratnapura.

Respondent- Petitioner

Vs.

J. M. C. Priyadarshani,
Competent Authority,
Plantation Management Supervision
Division,
Ministry of Plantations, 11th Floor,
Sethsiripaya, 2nd Stage, Battaramulla.

Applicant- Respondent

And

Ramasamy Padumanayagam,
Rubber Meda Kotasa, Niriella Estate,
Digana Kanda Sub Post Office,
Ratnapura.

Respondent- Petitioner- Appellant

Vs.

1. J. M. C. Priyadarshani (ceased to hold office),
Competent Authority,
Plantation Management Supervision
Division,
Ministry of Plantations, 11th Floor,
Sethsiripaya, 2nd Stage, Battaramulla.

- 1A. W. A. L. Wickrama Arachchi,
Competent Authority,
Plantation Management Supervision
Division,
Ministry of Plantations, 11th Floor,
Sethsiripaya, 2nd Stage, Battaramulla.

**Added 1A Applicant- Respondent-
Respondent**

And now between

Ramasamy Padumanayagam,
Rubber Meda Kotasa, Niriella Estate,
Digana Kanda Sub Post Office,
Ratnapura.

Respondent- Petitioner- Appellant

Vs.

1. J. M. C. Priyadarshani (ceased to hold office),
Competent Authority,
Plantation Management Supervision
Division,
Ministry of Plantations, 11th Floor,

Sethsiripaya, 2nd Stage, Battaramulla.

- 1A. W. A. L. Wickrama Arachchi (ceased to hold office),
Competent Authority,
Plantation Management Supervision
Division,
Ministry of Plantations, 11th Floor,
Sethsiripaya, 2nd Stage, Battaramulla.
- 1B. Weerappulige Saman Kumara Ratnayake,
Competent Authority,
Plantation Management Supervision
Division,
Ministry of Plantations, 11th Floor,
Sethsiripaya, 2nd Stage, Battaramulla.

**Added 1B Applicant- Respondent-
Respondent**

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

Counsels: Sandamal Rajapaksa with Harsha Mendis for the Respondent-
Petitioner – Appellant.

Anuruddha Dharmaratne with Zahara Hassim instructed by S.
Kumudini for the Applicant- Respondent- Respondent.

Argued: 19.03.2026

Written submissions 02.06.2025 by Applicant- Respondent- Respondent.
tendered on: 08.06.2026 by Respondent- Petitioner- Appellant.

Judgment Delivered: 21.07.2026

Thotawatte, J.

Introduction

The present appeal has been preferred by the Respondent–Petitioner–Appellant (hereinafter referred to as the "Appellant") against the judgment dated 05.08.2021 delivered by the learned High Court Judge of the Provincial High Court of the Sabaragamuwa Province holden at Ratnapura in Revision Application No. HC/RA/39/2019. By the said judgment, the learned High Court Judge declined to exercise the revisionary jurisdiction of that Court and affirmed the order made by the learned Magistrate of Ratnapura under the provisions of the State Lands (Recovery of Possession) Act, No. 7 of 1979, as amended (hereinafter referred to as the "Act"), directing the ejectment of the Appellant from the land described in the schedule to the application filed by the Competent Authority, Applicant- Respondent-Respondent (hereinafter referred to as the "Respondent")

Factual Background

The dispute concerns an extent of approximately 20 perches of land situated within Niriella Estate, which the Competent Authority formed the opinion to be State land within the meaning of the Act.

Having formed the opinion that the land was State land and that the Appellant was in unauthorized occupation thereof, the Competent Authority issued a quit notice under section 3 of the Act requiring the Appellant to vacate the premises within the statutory period. However, the Appellant had failed to comply with the said notice.

Consequently, the Competent Authority instituted proceedings before the Magistrate's Court under section 5 of the Act seeking an order ejecting the Appellant from the land described in the schedule to the application.

The Appellant resisted the application principally upon the basis that the land was not State land, that the land had not been properly identified, that he had been in long possession thereof, and that the Competent Authority had failed to establish the jurisdictional facts necessary for the invocation of the statutory procedure.

Proceedings before the Magistrate's Court

At the inquiry, held by the learned Magistrate, the Appellant failed to produce any valid permit or other written authority of the State authorizing his occupation of the land. Instead, the Appellant sought to dispute whether the land was State land, the correctness of the opinion formed by the Competent Authority, the identity and extent of the land, his alleged long possession, and the legality of the proceedings. The learned Magistrate rejected those contentions as matters falling outside the limited scope of the inquiry under section 9 of the Act and, having found that the Appellant had failed to establish possession or occupation under a valid permit or other written authority of the State, ordered his ejectment from the land described in the application.

Proceedings before the Provincial High Court

Being aggrieved by the aforesaid order, the Appellant invoked the revisionary jurisdiction of the Provincial High Court, substantially reiterating the same grounds that had been advanced before the learned Magistrate.

Upon a consideration of the proceedings before the learned Magistrate and the submissions of the parties, the learned High Court Judge concluded that the learned Magistrate had acted in strict conformity with the provisions of the Act, holding that the inquiry contemplated by section 9 was of a limited nature and that none of the matters relied upon by the Appellant constituted a defence recognized by the statute. Accordingly, the learned Judge declined to exercise the revisionary jurisdiction of the Court and dismissed the application.

It is against that judgment that the present appeal has been preferred.

Grounds of Appeal

The Appellant has advanced several grounds in support of this appeal which, in substance, may be summarized as follows:

- (a) that the Courts below failed to appreciate that the Competent Authority had not established that the subject land was State land;
- (b) that the land described in the application had not been properly identified;

- (c) that the learned Magistrate erred in proceeding upon the footing that the Appellant bore the burden of proving lawful occupation;
- (d) that the learned Magistrate ought to have investigated the title of the State before making order for ejectment;
- (e) that the summary procedure prescribed by the Act was inappropriate in view of the alleged dispute regarding ownership;
- (f) that the learned High Court Judge failed to exercise the revisionary jurisdiction vested in that Court in accordance with law.

The principal contention advanced by the Appellant is that the learned Magistrate erred in making order for ejectment without first determining whether the land described in the application was, in fact, State land. It is submitted that before invoking the summary procedure under the State Lands (Recovery of Possession) Act, the Competent Authority was required to establish the State's title in the same manner as a plaintiff in an ordinary civil action. According to the Appellant, in the absence of such proof, the proceedings before the learned Magistrate were fundamentally defective.

Statutory Scheme & Analysis

The proceedings before the learned Magistrate were not instituted for a declaration of title, *rei vindicatio* or ejectment founded upon proprietary rights. Nor was the learned Magistrate called upon to adjudicate competing claims of ownership. The jurisdiction exercised was a special statutory jurisdiction created by the State Lands (Recovery of Possession) Act for the limited purpose of securing the expeditious recovery of possession of State land from persons in unauthorized occupation. The extent of that jurisdiction is therefore determined exclusively by the provisions of the Act itself and not by the principles governing ordinary civil litigation.

A substantial part of the Appellant's submissions is founded upon a misconception of the nature and scope of an inquiry contemplated by the State Lands (Recovery of Possession) Act, No. 7 of 1979, as amended. It is therefore necessary, at the outset, to examine the statutory scheme governing such inquiries.

The Act was enacted to provide a special and expeditious statutory mechanism for the recovery of possession of State land from persons in unauthorized possession or occupation, without compelling the State to institute ordinary civil proceedings for recovery of possession. In *Ihalapathirana v. Bulankulame, Director-General, Urban Development Authority*¹, the Court of Appeal held that the clear object of the Act is "to secure possession of such land by an expeditious machinery without recourse to an ordinary civil action." That statement of principle was subsequently cited with approval by the Supreme Court in *Herath v. Morgan Engineering (Pvt) Ltd*².

The statutory process commences with section 3 where the Competent Authority forms the opinion that:

(a) the land is State land; and

(b) a person is in unauthorized possession or occupation thereof,

the Competent Authority is empowered to issue a quit notice requiring such person to vacate the land within the prescribed period.

The expression employed by Parliament is significant. The Competent Authority is not required at that stage to establish title in the manner required in an ordinary civil action. Rather, the statutory trigger is the formation of the requisite opinion contemplated by Section 3.

If the quit notice is not complied with, the Competent Authority may invoke section 5 by filing an application before the Magistrate's Court seeking ejectment of the person in occupation. The inquiry thereafter conducted by the Magistrate is governed entirely by section 9 of the Act.

Section 9(1) expressly provides that the person upon whom summons has been served:

"...shall not be entitled to contest any of the matters stated in the application under section 5 except that such person may establish that he is in possession or occupation of the land upon a valid permit or other written authority of the State granted in accordance with any written law and that such permit or authority is in force and not revoked or otherwise rendered invalid."

¹ [1988] 1 Sri. L.R 416

² [2013] 01 Sri. L.R 222

The limitation imposed by Parliament could scarcely have been expressed in clearer language.

Section 9(2) reinforces that legislative intention by further providing that:

"It shall not be competent to the Magistrate's Court to call for any evidence from the competent authority in support of the application under section 5."

The combined effect of these provisions is that the inquiry before the Magistrate is deliberately narrow. Parliament has removed from the Magistrate's jurisdiction the determination of the very matters which ordinarily arise in civil litigation concerning land, and has confined the inquiry to the single statutory defence expressly preserved by section 9.

The effect of these provisions has repeatedly been explained by the superior courts.

In *Muhandiram v. Chairman, Janatha Estate Development Board*³, Grero J. held that the burden rests entirely upon the person summoned to establish that his occupation is founded upon a valid permit or other written authority of the State. If that burden is not discharged, "the only option open to the Magistrate is to order ejectment."

The same principle was reaffirmed by the Supreme Court in *Herath v. Morgan Engineering (Pvt) Ltd*⁴. There, Sripavan J. observed that section 9 imposes a clear limitation upon the scope of the inquiry and that the Magistrate is concerned only with determining whether the person summoned is in possession or occupation under a valid permit or other written authority of the State granted in accordance with written law. The Court further emphasized that where the language of the statute is clear and unambiguous, the Courts are not entitled to enlarge the scope of the inquiry by implication or judicial interpretation.

Likewise, in *Divisional Secretary, Manikhinna v. Buhardeen*⁵, the Court of Appeal observed that, when sections 6 to 10 of the Act are read together, the inquiry before the Magistrate is not intended to be a full-scale civil trial but a limited statutory inquiry designed solely to afford the respondent an opportunity to establish the existence of a valid permit or other written authority of the State. The Court further distinguished a challenge to the Competent Authority's decision under section 3 by way of writ from an appeal against an

³ [1992] 1 Sri L.R 110

⁴ *Supra*

⁵ CA (PHC) 140/2013, Decided on 10.10.2019

ejection order under section 10, and held that the High Court had erred in relying upon *Senanayake v. Damunupola*⁶ without appreciating the effect of the amendments introduced by Act No. 29 of 1983.

Effect of the Amendments Introduced by Act No. 29 of 1983

A substantial portion of the Appellant's written submissions is founded upon authorities decided shortly after the enactment of the principal Act but prior to the material amendments introduced by Parliament through Act No. 29 of 1983 altering the statutory scheme.

Most notably:

- the definition of "unauthorized possession or occupation" was expanded to include possession by encroachment;
- the scope of the inquiry under Section 9 was expressly confined;
- the respondent's right to contest the matters stated in the application was correspondingly restricted; and
- the Magistrate was expressly prohibited from calling upon the Competent Authority to prove the matters alleged in the application.

Accordingly, whilst earlier decisions such as *Farook v. Gunewardene*⁷ and *Senanayake v. Damunupola*⁸ remain of historical significance in explaining the original enactment, they cannot be treated as authoritative statements of the law governing proceedings under the Act in its present form where they are inconsistent with the amended statutory provisions. Indeed, the Court of Appeal in *Divisional Secretary, Manikhinna v. Buhardeen*⁹ expressly held that the High Court had erred in relying upon *Senanayake v. Damunupola* after the legislative amendments.

It therefore follows that the present appeal must be determined in accordance with the statutory framework as amended and the subsequent jurisprudence interpreting that

⁶ [1982] 2 Sri. L.R 621

⁷ [1980] 02 Sri. L.R 243

⁸ *Supra*

⁹ *Supra*

amended framework, rather than by reference to authorities decided under a materially different legislative regime.

Once that statutory framework is properly appreciated, the foundation of the Appellant's principal argument necessarily falls away. To accept the Appellant's submission would require the Court to disregard the express limitations contained in section 9 and to transform what Parliament intended to be a summary statutory procedure into an ordinary civil action for the adjudication of title. Such an interpretation would not only contradict the plain language of the Act but would also frustrate the legislative purpose consistently recognized in the authorities.

Authorities Relied upon by the Appellant

The authorities relied upon by the Appellant fall broadly into three categories: first, authorities such as *Jamaldeen Abdul Latheef v. Abdul Majeed Mohamed Mansoor*¹⁰ concerning *rei vindicatio* and declaration of title; secondly, authorities relating to the identification of immovable property in civil proceedings; and thirdly, public law authorities such as *Sirisena and Others v. Hon. H. S. R. B. Kobbekaduwa, Minister of Agriculture and Lands*¹¹ and *Attorney-General v. Punchi Banda*¹² concerning jurisdictional facts and the legality of administrative action. Whilst those authorities correctly state the law within their respective spheres, they do not govern the present proceedings, which arise under the special statutory procedure established by the State Lands (Recovery of Possession) Act. Unlike an ordinary civil action, the learned Magistrate is neither required to determine title nor adjudicate competing proprietary claims, and the description of the land in the application serves only to identify the premises in respect of which recovery of possession is sought.

The Appellant has not specifically denied that the land occupied by him is State land, nor has he asserted that the land belongs to him. His contention, however, is that the Competent Authority failed to establish, by title documents, survey evidence or other cogent material, that the land occupied by him was in fact State land. That contention merely restates the principal argument already rejected and is inconsistent with the limited

¹⁰ [2010] 2 Sri LR 333

¹¹ [1978] 80 NLR 1 (SC), Decided on 03.09.1974

¹² [1986] 01 Sri. L.R 40

inquiry prescribed by Section 9 of the Act. Equally, “*Sirisena*” and “*Punchi Banda*”, decided under different statutory and legal contexts, cannot enlarge the scope of that inquiry.

The Appellant's reliance on *Senanayake v. Damunupola*¹³ is likewise misplaced. Those decisions preceded the substantial amendments introduced by Act No. 29 of 1983, which confined the defences available under Section 9 and reinforced the summary character of the proceedings. As recognised by this Court in *Divisional Secretary, Manikhinna v. Buhardeen*¹⁴, those amendments materially altered the statutory scheme, with the result that “*Damunupola*” no longer represents the present law where it is inconsistent with the amended Act. Accordingly, none of the authorities cited by the Appellant alters or enlarges the limited statutory inquiry prescribed by Sections 5 to 10 of the Act.

Viewed in that light, the Appellant's authorities do not undermine the conclusion already reached. They either concern principles developed for ordinary civil proceedings, public law remedies or statutory provisions considered before the amendments of 1983. None addresses the present statutory scheme in its amended form, nor do they detract from the clear legislative command contained in Section 9 that the Magistrate's inquiry is confined to determining whether the respondent has established possession or occupation under a valid permit or other written authority of the State.

This, however, does not mean that the opinion formed by the Competent Authority is beyond judicial scrutiny. Where it is alleged that the Competent Authority has acted without jurisdiction, in bad faith, upon no material, or in excess of the powers conferred by the Act, such questions remain amenable to the supervisory jurisdiction of the superior courts in an appropriate case. The present proceedings, however, were not instituted to review the legality of the administrative decision of the Competent Authority. The learned Magistrate was exercising the limited statutory jurisdiction conferred by sections 5 to 10 of the Act and was therefore required to confine himself to the inquiry prescribed by Parliament.

For aforesaid reasons neither the learned Magistrate nor the learned High Court Judge can be faulted for declining to apply authorities which either arise in a fundamentally different legal context or no longer represent the law governing proceedings under the amended State Lands (Recovery of Possession) Act.

¹³ *Supra*

¹⁴ *Supra*

As held in *Muhandiram v. Chairman, Janatha Estate Development Board*¹⁵, the burden imposed by section 9 rests upon the respondent, and where that burden is not discharged, the Magistrate has no alternative but to order ejectment. That approach is entirely consistent with the subsequent decision of the Supreme Court in *Herath v. Morgan Engineering (Pvt) Ltd.*¹⁶, which reaffirmed that the inquiry under section 9 is confined to determining whether the respondent has established possession or occupation under a valid permit or other written authority of the State. The learned Magistrate therefore acted in accordance with the statutory scheme in making the consequential order for ejectment under Section 10.

In those circumstances, I am unable to conclude that the learned Magistrate either exceeded the jurisdiction vested in him or failed to exercise it in accordance with law. On the contrary, the record demonstrates that he correctly identified the issue which Parliament required him to determine, confined the inquiry to the matters permitted by the Act, afforded the Appellant the opportunity contemplated by section 9 to establish a valid permit or other written authority of the State, and, upon the Appellant's failure to do so, made the order which the statute required.

Accordingly, none of the grounds advanced by the Appellant relating to the State's title, the identity of the land or the alleged insufficiency of the evidence disclose any error warranting appellate intervention. The submissions advanced on behalf of the Appellant had proceed upon the mistaken assumption that proceedings under the State Lands (Recovery of Possession) Act are equivalent to an ordinary civil action for declaration of title or recovery of possession.

Conclusion

Upon consideration of the proceedings before the learned Magistrate, the judgment of the learned High Court Judge, the written submissions of both parties and the authorities cited, I am satisfied that the appeal is devoid of merit.

The learned High Court Judge correctly appreciated both the statutory scheme and the limited scope of revisionary jurisdiction. I find no basis upon which this Court should disturb that determination.

¹⁵ *Supra*

¹⁶ *Supra*

Accordingly, the judgment of the learned High Court Judge dated 05.08.2021 is hereby affirmed and the appeal is dismissed with cost fixed at Rs. 50,000/- to be paid to court.

Judge of the Court of Appeal

K.M.S. Dissanayake, J.

I agree

Judge of the Court of Appeal