

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

Court of Appeal Case No:
CA/PHC/138/2023

Ratnapura High Court Case No:
HCRA 64/2013

Rakwana Magistrate Court Case No:
55359

In the matter of an appeal under Section 11 of the High Court of the Provinces (Special Provisions) Act No. 19 of 1990 reading with Article 154 (P)(6) and 138 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

J.M.C Priyadharshani,
The Competent Authority,
Director,
Plantation Management Supervision Unit,
Ministry of Plantation Management,
No. 55/75,
Vauxhall Lane, Colombo-02.

Complainant

Vs.

Sinniah Amirthalingam Delvin (B Division),
Hedarly Estate, Rakwana

Respondent

And

Sinniah Amirthalingam Delvin (B Division),
Hedarly Estate, Rakwana

Respondent- Petitioner

Vs.

J.M.C Priyadharshani,
The Competent Authority,
Director,
Plantation Management Supervision Unit,
Ministry of Plantation Management,

No. 55/75,
Vauxhall Lane, Colombo-02.

Complainant- Respondent

And now

Sinniah Amirthalingam Delvin (B Division),
Hedarly Estate, Rakwana

Respondent- Petitioner- Appellant

Vs.

1. J.M.C Priyadharshani, The Competent Authority.
Director,
Plantation Management Supervision Unit,
Ministry of Plantation Management,
No. 55/75,
Vauxhall Lane, Colombo-02.
- 1 (A) Wickrama Arachchilage Leelanath
Wickramaarachchi,
The Competent Authority,
Director,
Plantation Management Monitoring Division,
Ministry of Plantation and Community
Infrastructure,
11th Floor,
Sethsiriypa-Stage-II,
Battaramulla.

1 (B) Weerappulige Chandana Saman Kumara
Rathnayaka,
The Competent Authority,
Director,
Plantation Management Monitoring Division,
Ministry of Plantation and Community
Infrastructure,
11th Floor,
Sethsiriyapa-Stage-II,
Battaramulla.
Complainant – Respondent- Respondents

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

Counsels: E. Thambiah with Neshanee De Zoysa instructed by Thambiah Law
Associates for the Respondent- Petitioner- Appellant.

Priyantha Alagiyawanna with Vihanga Fernando instructed by
Purnima Gnanasekere for the Complainant- Respondent-
Respondent.

Argued: 07.08.2026

Written submissions 21.07.2026 by Respondent – Petitioner – Appellant.
tendered on: 08.06.2026 and 21.09.2026 by Complainant – Respondent –
Respondents.

Judgment 20.10.2026
Delivered:

Thotawatte, J.

Introduction

This appeal is preferred by the Respondent-Petitioner-Appellant (hereinafter referred to as the "Appellant") against the Judgment dated 22.02.2023 of the learned Judge of the Provincial High Court of the Sabaragamuwa Province holden at Ratnapura in Revision Application No. HC/RA 64/2013. By the said judgment, the learned High Court Judge dismissed the revision application and affirmed the order of ejectment dated 06.11.2013 made by the learned Magistrate of Rakwana in Case No. 55359 under Section 10(1) of the State Lands (Recovery of Possession) Act No. 7 of 1979, as amended (hereinafter referred to as "the Act"). The Appellant seeks to have both the Judgment and the order of ejectment set aside.

Factual Matrix

The Appellant occupies a portion of land measuring slightly over two roods situated in the Delvin B Division of Hatherleigh Estate, Rakwana, where he cultivates tea and has constructed a house. He claims no title to it. His position is that the land belongs to the Land Reform Commission and that he has been seeking a permit from the said Commission.

The Complainant-Respondent-Respondent (hereinafter referred to as the "Respondent"), acting in the capacity of the competent authority, issued a quit notice dated 11.10.2012 under Section 3 of the Act. The notice described the land as being situated in Field No. 3 of the Delvin B Division, bounded on the North by the Delvin B line-houses and on the West, East and South by Field No. 9B, and measuring about 160 feet in width and 190 feet in length. As the Appellant failed to comply with the said notice, the Respondent instituted proceedings before the Magistrate's Court of Rakwana on 07.06.2013 under Section 5 of the Act, seeking an order of ejectment.

In his statement of cause, the Appellant admitted having received the quit notice and stated that it related to land in Field No. 3 of the Delvin B Division. He contended that the land belonged to the Land Reform Commission and, consequently, that the Respondent lacked the authority to issue the notice. He further contended that the notice was not accompanied by a plan or a sufficiently detailed description of the land. He tendered letters seeking a permit, a Grama Niladhari's report confirming his possession, and documents relating to his tea cultivation. The matter was disposed of on written submissions. By order dated 06.11.2013, the learned Magistrate held that

the Appellant had failed to establish possession under a valid permit or grant and, in terms of Section 10(1) read with Section 9(1) of the Act, ordered his ejectment.

As Section 10(2) bars an appeal against such an order, the Appellant invoked the revisionary jurisdiction of the Provincial High Court. By order dated 11.11.2015, that Court dismissed the application *in limine* for want of jurisdiction, following ***Solaimuthu Rasu v. The Superintendent, Stafford Estate***¹. On appeal, this Court in CA (PHC) 208/2015² held that ***Solaimuthu Rasu***³ was confined to the writ jurisdiction under Article 154P(4) of the Constitution, and that Article 154P(3)(b) vests the Provincial High Court with revisionary jurisdiction over such orders. It set aside the order and remitted the matter for determination on the merits.

Upon remittal, and after further written submissions, the learned High Court Judge delivered the impugned judgment. She acknowledged that the learned Magistrate had not addressed the objections raised in the statement of cause, and held that a court exercising revisionary jurisdiction must itself examine those matters.

She then held as follows. First, the objection that the registered postal receipt had not been annexed was never taken below, and was futile since receipt of the notice had been admitted. Secondly, Section 5 requires only a supporting affidavit in Form C, which had been filed, and no separate affidavit verifying the quit notice. Thirdly, Section 9 bars the Magistrate from inquiring into the competence of the competent authority, and the Respondent was in any event a public officer with delegated power to issue quit notices. Fourthly, no plan is required, and the notice described the land sufficiently. Finally, the Appellant's letters seeking a permit, marked "V1" to "V4", all bore dates after the application was filed, so that he held no permit when it was filed. Finding no exceptional circumstances, she dismissed the application without costs.

Grounds of Appeal

The Appellant's written submissions advance five grounds:

(1) that the Respondent is not a competent authority, since Extraordinary Gazette No. 718/16 dated 11.06.1992 describes Hatherleigh Estate as "owned by the Land Reform Commission and managed by the Sri Lanka State Plantations Corporation";

(2) that the Respondent did not form the opinion required by Section 3(1) on a rational basis;

¹ [2013] 1 Sri L.R. 25, SC Appeal No. 21/2013.

² CA (PHC) 208/2015 (decided on 01.04.2022).

³ [2013] 1 Sri L.R. 25, SC Appeal No. 21/2013.

(3) that the quit notice does not properly describe the land, no plan having been annexed;

(4) that the High Court misappreciated the documents tendered by the Appellant; and

(5) that the learned Magistrate gave no reasons for his order.

The Respondent contends that no exceptional circumstances have been shown, and that Grounds 1 and 2, as now framed and founded on the Gazette, present a case that was not made in the courts below.

Statutory Framework and Scope of Review

The Act provides a summary procedure for the recovery of State land, without recourse to an ordinary civil action⁴. Where a competent authority is of the opinion that any land is State land and that a person is in unauthorised possession of it, Section 3 empowers it to serve a quit notice, and Section 5 empowers it to apply to the Magistrate for ejectment if the notice is not complied with.

The scope of the inquiry is fixed by Section 9:

(1) At such inquiry the person on whom summons under section 6 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.

(2) 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.

If the Magistrate is not satisfied that the person showing cause is entitled to the possession or occupation of the land, Section 10(1) requires an order of ejectment, and Section 10(2) bars an appeal against it. A person aggrieved is not without remedy: Section 12 preserves an action for the vindication of title, and the decision of the competent authority remains amenable to judicial review.

The revisionary jurisdiction of the High Court is discretionary and is exercised only upon proof of exceptional circumstances, such as a patent illegality or a miscarriage of justice⁵. The question for this Court is, therefore, whether the learned High Court Judge erred in law in finding that there were "no exceptional grounds to intervene".

⁴ *Ihalapathirana v. Bulankulame, Director-General, U.D.A.* [1988] 1 Sri L.R. 416.

⁵ *Rustom v. Hapangama & Co.* [1978-79-80] 1 Sri L.R. 352; *Caderamanpulle v. Ceylon Paper Sacks Ltd.* [2001] 3 Sri L.R. 112.

Analysis

Grounds 1 and 2: Competence of the Respondent and the opinion under Section 3

The first issue is whether the order of ejectment is vitiated because the Respondent was not the competent authority, or did not form a rational opinion under Section 3.

The Appellant did raise the Land Reform Commission's ownership before the Magistrate. However, the Gazette on which Ground 1 now rests was neither produced before the Magistrate nor relied on in the High Court; it was annexed for the first time to the written submissions in this Court. A party may not present in appeal a case different from that presented below, save on a pure question of law, or if it could have been raised at trial and the record contains all the facts needed to decide it⁶. Whether the Appellant's land forms part of the estate described in the Gazette, and with what consequence, are questions of fact that were never tested.

In any event, these grounds must be considered in light of the statutory scheme. Section 5(1)(a)(i) requires the application to state that the applicant is a competent authority, and section 9(1) precludes the person summoned from contesting matters stated in the application, subject to the exception set out in that subsection. The learned High Court Judge was therefore correct, following *Udayasiri Kariyawasam, Chairman, Industrial Development Board v. Bandara Jayasundara*⁷ and *Thissa Abeywickrama v. R.M.T.B. Hathiya*⁸, to hold that the Magistrate's Court is not the forum for challenging the competent authority's status. *Banda v. President, Multipurpose Co-operative Societies Ltd., Madirigiriya*⁹ is distinguishable because the purported delegate there was not a public officer. In the present case, the learned High Court Judge treated *Banda*¹⁰ as inapplicable and had further stated that if the Plantation Supervision Officer had been delegated powers to issue quit notices, there would be no issue as to competency.

Equally, the rationality of the competent authority's opinion is a matter for judicial review, not for the Magistrate, whose jurisdiction is restricted by section 9(2) of the Act. In *Nikaathagoda vs. Divisional Secretary, Uva Paranagama*¹¹, the Court of Appeal, exercising jurisdiction under Article 140, held that it could examine whether the competent authority had a rational basis for its opinion, while the Magistrate could neither question that opinion nor call for evidence from the competent authority in support of the application. The Appellant's assertion that the land belongs to the Land

⁶ *Setha v. Weerakoon* (1948) 49 NLR 225.

⁷ CA (PHC) 56/2013 (decided on 06.08.2018).

⁸ CA (PHC) 159/2010 (decided on 14.02.2019).

⁹ [2003] 1 Sri L.R. 153.

¹⁰ *Ibid.*

¹¹ CA Writ 293/2017, decided on 18.11.2019.

Reform Commission and his application for a permit may corroborate independent material supporting the opinion, but, as *Nikaathagoda*¹² makes clear, cannot alone establish the State's lawful entitlement to the land.

The Appellant relies on *Kelani Valley Plantations PLC v. Punchihewa*¹³ for two propositions. First, that management of land by the Sri Lanka State Plantations Corporation did not transfer ownership from the LRC, and that disputes about land identity and boundaries may be resolved in the Magistrate's Court proceedings. The Supreme Court held that disputes over the precise identity and boundaries of the land should be resolved in the Magistrate's Court proceedings under the Act, while a claim to title could be pursued in the District Court or through the statutory remedies. Those alternative forums and remedies made writ relief inappropriate. The Court's decision turned on its finding that the LRC remained the owner of the Scrubs Division and was itself entitled to issue the notice. It did not decide whether another public officer, duly authorised to act for the LRC, could issue a notice, or expand the defence permitted by section 9(1) of the Act.

On the Appellant's own case the land is State land, which he occupies without a permit. A contention that the State's land should have been recovered by one State entity rather than another confers on him no right to remain in occupation. I am unable to accept the submissions advanced under Grounds 1 and 2.

Ground 3: Description of the land

In *Priyankara Vithanilage Dayananda Kolabagama v. Sunethra Nallaperuma Dissanayake*¹⁴, the Court rejected the contention that a separate plan demarcating the boundaries had to be prepared. The notice referred to lots in a final village plan, and the Court considered that reference together with the other material before it in identifying the land. The notice identifies the land as situated in Part B of the Delvin section of Hadali Estate and states its boundaries and the extent of the strip from which ejectment is sought. The learned High Court Judge examined the notice and the ejectment application and found that they provided sufficient particulars to identify the land. The Appellant alleged that the schedule and extent did not correspond to the land he occupied, but the material before this Court does not establish the alleged discrepancy by measurement or other supporting evidence. His assertion that he

¹² *Ibid.*

¹³ SC Appeal 84/2019, decided on 31.03.2026.

¹⁴ CA (PHC) Appeal No. 52/2010, decided on 27 September 2011.

possessed more than two roods does not, without such evidence, displace the High Court Judge's finding. As such, Ground 3 is accordingly rejected.

Ground 4: The documents tendered by the Appellant

Under section 9(1), the Appellant was required to establish that he occupied the land under a valid permit or other written authority of the State, granted in accordance with written law and in force. In the absence of such authority, the Magistrate was required to order ejectment¹⁵. The documents relied upon, including permit-related correspondence, reports confirming possession, and receipts or records relating to the Appellant's cultivation, do not themselves constitute a permit or written authority. Long possession and an uncompleted application for a permit cannot take its place.

The learned High Court Judge noted that V1 was dated 4 August 2013 and that V2 to V4 post-dated the filing of the Section 5 application on 7 June 2013. She concluded that those documents did not establish a valid permit or grant in force. She made no finding as to ownership of the land; rather, she held that the Magistrate could not inquire into ownership and addressed the competent authority's status on the basis that the relevant powers had been delegated. The complaint that she treated the permit-related documents as proof of the Ministry's ownership is therefore unfounded. I therefore find no merit in Ground 4.

Ground 5: Absence of reasons

The learned High Court Judge correctly observed that the Magistrate had not given detailed reasons. In *Karunadasa v. Unique Gem Stones Ltd. and Others*¹⁶, the Supreme Court held that natural justice entitles a party to a reasoned consideration of the case presented. That principle does not, however, make every brief order invalid. The Magistrate's order recorded the determinative finding under section 9(1): that the Appellant had not established a valid permit or grant. The High Court Judge then considered the objections left unaddressed and explained why they did not warrant setting aside the ejectment order. In the circumstances, the brevity of the Magistrate's reasons has not been shown to have resulted in an arbitrary decision or a miscarriage of justice. Ground 5 does not warrant appellate intervention.

The Appellant has not pursued before this Court the objections concerning the registered postal receipt or an affidavit supporting the quit notice. In any event, the

¹⁵ *Muhandiram v. Chairman, No. 111, Janatha Estate Development Board* [1992] 1 Sri L.R. 110.

¹⁶ [1997] 1 Sri L.R. 256.

High Court Judge had correctly rejected them. The Appellant had acknowledged receipt of the notice, and the Act did not require a separate affidavit in support of it.

Conclusion

The Appellant has not shown that he occupied the land upon a valid permit or written authority of the State, and no exceptional circumstances have been established. This Court is therefore unable to find fault with the Judgment of the learned High Court Judge. Nothing in this judgment precludes the Appellant from pursuing any pending application for a permit, or any other remedy lawfully available to him.

Accordingly, the appeal is dismissed subject to cost fixed at Rs. 50,000/- to be paid by the Appellant to the State. The Judgment dated 22.02.2023 in HC/RA 64/2013 is affirmed, and the order of the learned Magistrate of Rakwana dated 06.11.2013 in Case No. 55359 stands.

The Registrar is directed to transmit a copy of this judgment, with the record, to the Provincial High Court of Ratnapura and the Magistrate's Court of Rakwana.

JUDGE OF THE COURT OF APPEAL

K.M.S. Dissanayake, J.

I agree.

JUDGE OF THE COURT OF APPEAL