

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

CA/PHC/146/2022
(CA PHC 147/22 and CA PHC
148/22)

Uva Provincial High Court Case No:
Rev 52/2017

Magistrate's Court of Welimada
Case No: 33096/2016

In the matter of a Revision Application
tendered in terms of Article 154 P (3) (b) of
the 13th Amendment of the Constitution of
1978 of the Democratic Socialist Republic of
Sri Lanka read together with the Provincial
High Court (Special Provisions) Act No. 19 of
1990.

J. M. Chamila Indika Jayasinghe,
Divisional Secretary, Divisional Secretariat,
Uva-Paranagama.

Complainant

Vs.

Wijethunga Mudiyanseelage Wijesingha,
Siri Niwasa, Ambagasdowa.

Respondent

And between

1. Wijethunga Mudiyanseelage Wijesingha,
Siri Niwasa, Ambagasdowa.
2. Uva-Paranagama South Multi-Purpose
Cooperative Society Limited,
New Town, Ambagasdowa.

Respondent- Petitioners

Vs.

1. J. M. Chamila Indika Jayasinghe,
Divisional Secretary, Divisional Secretariat,
Uva-Paranagama.
2. Hon. Attorney General,
Attorney Generals Department,
Colombo 12.

Complainant- Respondents

And now between

1. Wijethunga Mudiyanseelage Wijesingha,
Siri Niwasa, Ambagasdowa.
2. Uva-Paranagama South Multi-Purpose
Cooperative Society Limited,
New Town, Ambagasdowa.

Respondent- Petitioner- Appellants

Vs.

1. W.G.M.S. Kumara,
Divisional Secretary, Divisional Secretariat,
Uva-Paranagama.
2. Hon. Attorney General,
Attorney Generals Department,
Colombo 12.

Complainant- Respondent- Respondents

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

Counsels: M.P. Manathunga instructed by L. Ruhunuarachchi for the
Appellants.

Shelloma Gunarathna, S.C. instructed by Nimalika
Wickramasinghe, SSA for the Respondents.

Argued: 12.03.2026

Written submissions
tendered on: 09.01.2026 by Respondent- Petitioner- Appellants.
09.03.2026 by Plaintiff- Respondent- Respondents.

Judgement Delivered: 24.07.2026

Thotawatte, J.

Introduction

The present appeal is one of three connected appeals, namely CA (PHC) Nos. 146/2022, 147/2022 and 148/2022, which arise from the judgments of the Provincial High Court of the Uva Province holden at Badulla in Revision Application Nos. 52/2017, 50/2017 and 53/2017, respectively. Those revision applications, in turn, originated from proceedings in the Magistrate's Court of Welimada bearing Case Nos. 33096/2016, 33095/2016 and 33098/2016 respectively.

Each of the aforementioned cases concerns proceedings instituted under the State Lands (Recovery of Possession) Act, No. 7 of 1979, as amended (hereinafter referred to as the "Act"), by the Divisional Secretary of Uva-Paranagama in respect of three separate occupants who are in occupation of different portions of a larger land claimed by the state, upon whom quit notices had been served in terms of the Act.

Upon the conclusion of the inquiry, the learned Magistrate, by order dated 04.04.2017, directed the ejectment of the Respondents in all three proceedings in terms of Section 10(1) of the Act.

Thereafter, the order dated 04.04.2017 of the learned Magistrate of Welimada was challenged by way of three separate revision applications before the Provincial High Court of the Uva Province holden at Badulla. In each of those applications, the Uva-Paranagama South Multi-Purpose Cooperative Society Limited was cited as the 2nd Petitioner, asserting to be the actual owner of the respective portions of land in dispute and, as such, the party principally aggrieved by the impugned order. The Hon. Attorney General was likewise cited as the 2nd Respondent in each of the revision applications.

Upon hearing the three revision applications together, the learned Judge of the Provincial High Court of the Uva Province holden at Badulla, by identical judgments dated 07.09.2022, affirmed the order dated 04.04.2017 of the learned Magistrate of Welimada and dismissed all three revision applications.

Being dissatisfied with the said judgments, the Petitioners have preferred the present connected appeals, namely CA (PHC) Nos. 146/2022, 147/2022 and 148/2022, seeking to have the judgment dated 07.09.2022 of the Provincial High Court, as well as the order dated 04.04.2017 of the learned Magistrate of Welimada, set aside.

In each of the Appeals, the caption of the petition of appeal has identifies both Appellants as **Respondent-Petitioner-Appellants**. However, it is the party sought to be ejected by the competent authority can be described as **Respondent-Petitioner-Appellant** (hereinafter referred to as the “**1st Appellant**”). As the Cooperative Society intervened only at the revisionary stage the Cooperative Society should be correctly described as the **Petitioner-Appellant** (hereinafter referred to as the “**2nd Appellant**”).

However, in my view, this misidentification does not occasion any prejudice to any party in the substantive determination of the issues arising in this appeal.

The 2nd Appellant, who claims ownership of the land in dispute, is common to all three appeals. Likewise, the Complainant-Respondent-Respondent, namely the Competent Authority (hereinafter referred to as the “1st Respondent”), is the same in each appeal. As the factual background, the issues arising for determination and the grounds of appeal are substantially identical, learned Counsel appearing for both parties informed Court on 12.03.2026 that the parties agreed to abide by and be bound by the determination to be made in CA (PHC) No. 146/2022 in the connected appeals bearing CA (PHC) Nos. 147/2022 and 148/2022.

The appeal CA (PHC) No. 146/2022 has been preferred by the 1st and 2nd Appellants against the judgment dated 07.09.2022 of the learned High Court Judge of the High Court of the Uva Province holden at Badulla, exercising revisionary jurisdiction, whereby the learned High Court Judge dismissed Revision Application No. 52/2017 and affirmed the order dated 04.04.2017 made by the learned Magistrate of Welimada under the provisions of the State Lands (Recovery of Possession) Act, No. 7 of 1979 in Magistrate's Court Case No. 33096/2016.

Factual Background

The material presently available discloses that the 1st Respondent, in his capacity as the Competent Authority under the State Lands (Recovery of Possession) Act, caused a quit notice dated 09.09.2016 to be served upon the 1st Appellant under Section 3 of the Act. Upon the failure of the 1st Appellant to vacate the premises, proceedings were instituted before the Magistrate's Court of Welimada under Section 5 of the Act seeking an order of ejectment.

The 1st Appellant thereafter tendered a show cause before the learned Magistrate. Following inquiry, the learned Magistrate made order on 04.04.2017 directing the

ejection of the 1st Appellant under Section 10(1) of the Act. Being dissatisfied with that order, the 1st Appellant and the Multi-Purpose Co-operative Society, claiming to be the owner of the land in dispute, intervening as the 2nd Petitioner, invoked the revisionary jurisdiction of the Provincial High Court. The learned High Court Judge, by judgment dated 07.09.2022, dismissed the revision application and affirmed the order of the learned Magistrate. It is from that judgment that the present appeal has been preferred.

Grounds of Appeal as urged by the Appellants

The Appellants contend, *inter alia*, that the Competent Authority failed to establish that the land in dispute constituted "State land" within the meaning of the Act. They further submit that the affidavit accompanying the application before the Magistrate failed to disclose the manner and date of service of the quit notice on the 1st Appellant and that documentary proof of service was absent at the stage when the application was instituted.

It is further contended that the High Court improperly relied upon material which had not formed part of the proceedings before the Magistrate, particularly a certificate issued by the Grama Niladhari. The Appellants maintain that such defects rendered the proceedings before the Magistrate fundamentally defective and warranted intervention by the High Court in the exercise of its revisionary jurisdiction.

Reliance has also been placed upon decisions such as *Senanayake v. Damunupola*¹, *Edwin v. Tillakaratne*², and *Nirmal Paper Converters (Pvt) Ltd. v. Sri Lanka Ports Authority*³ in support of the proposition that strict compliance with the statutory procedure is a condition precedent to the exercise of jurisdiction by the Magistrate.

Position of the Respondents

The Respondents support the judgment of the learned High Court Judge. Their primary submission is that the Appellants failed to plead or establish the existence of exceptional circumstances warranting the exercise of the High Court's revisionary jurisdiction. Reliance is placed upon *Caderamanpulle v. Ceylon Paper Sacks Ltd.*⁴ and *Dharmaratne and Another*

¹ (1982) 2 Sri LR 621

² [2001] 3 Sri.LR 034

³ [1993] 1 Sri.LR 219

⁴ [2001] 3 Sri L.R 112

*v. Palm Paradise Cabanas Ltd.*⁵ in support of the settled principle that revision is an extraordinary discretionary remedy and not a substitute for an appeal.

The Respondents further submit that the inquiry before the learned Magistrate was governed by Section 9 of the State Lands (Recovery of Possession) Act. Accordingly, the only matter which the 1st Appellant was entitled to establish was that he occupied the land upon a valid permit or other written authority of the State granted according to written law. They rely upon *Muhandiram v. Chairman, Janatha Estate Development Board*⁶ and *Herath v. Morgan Engineering (Pvt) Ltd.*⁷ in support of this proposition.

Scope of the Present Appeal

It must be borne in mind that the present appeal does not arise directly from the order of the learned Magistrate. Rather, it is directed against the judgment of the learned High Court exercising revisionary jurisdiction.

Consequently, this Court is not called upon to undertake a fresh evaluation of the factual matters considered before the Magistrate. The principal question is whether the learned High Court Judge misdirected himself in refusing to exercise the extraordinary jurisdiction vested in that Court.

Requirement of Exceptional Circumstances

The first and principal submission advanced on behalf of the Respondents is, in my view, well founded. Revisionary jurisdiction is extraordinary in character. It is not intended to provide litigants with a second appeal under the guise of revision. In *Caderamanpulle v. Ceylon Paper Sacks Ltd.*⁸, His Lordship Nanayakkara J. held that the existence of exceptional circumstances is a necessary precondition to the exercise of the Court's revisionary jurisdiction. That principle was subsequently affirmed by this Court in *Dharmaratne and Another v. Palm Paradise Cabanas Ltd.*⁹, where Amaratunga J. observed that the requirement of exceptional circumstances serves as the mechanism by which the Court confines the exercise of its extraordinary jurisdiction, thereby preventing revision from

⁵ [2003] 3 Sri L.R 24

⁶ [1992] 1 Sri. L.R 110

⁷ [2013] 1 SRI L.R. 222

⁸ *Supra*

⁹ [2003] 03 Sri. L.R 24

becoming a gateway for litigants to pursue a second appeal or an appeal where none has been provided by law.

The material presently available does not disclose that the Appellants pleaded or established any circumstance of such an exceptional nature as would justify interference by the Provincial High Court. The alleged procedural irregularities relied upon by the Appellants are matters which primarily concern the correctness of the proceedings before the Magistrate. Mere assertions of legal error, without more, do not themselves amount to exceptional circumstances warranting the invocation of revisionary jurisdiction.

In those circumstances, I am unable to conclude that the learned High Court Judge erred in declining to exercise revisionary jurisdiction.

Scope of the Inquiry before the Magistrate

Even assuming that the Appellants had succeeded in crossing the threshold required for revision, I find no merit in the substantive complaints disclosed in the available material.

Section 9(1) of the State Lands (Recovery of Possession) Act expressly confines the inquiry before the Magistrate. A person served with summons is precluded from contesting the matters stated in the application under Section 5 except by establishing that he occupies the land upon a valid permit or other written authority of the State granted according to written law. This statutory limitation has been consistently recognized by the superior courts.

In *Muhandiram v. Chairman, Janatha Estate Development Board*¹⁰, the Court of Appeal held that the burden rests squarely upon the person summoned to establish possession upon a valid permit or written authority of the State and, in the absence of such proof, the Magistrate has no option but to order ejectment.

Likewise, the Supreme Court in *Herath v. Morgan Engineering (Pvt) Ltd.*¹¹ explained that the legislative object of the Act is to provide an expeditious machinery for the recovery of State lands and that the Magistrate's inquiry is deliberately confined to determining whether the occupant possesses a valid permit or other written authority recognized by the statute.

¹⁰ *Supra*

¹¹ *Supra*

The submissions presently before this Court do not indicate that the 1st Appellant produced any permit or written authority of the State within the meaning of Section 9. Instead, the Appellants rely upon the asserted ownership of the 2nd Appellant and the derivative occupation of the 1st Appellant under the Society.

Such matters, even if assumed to be correct, do not fall within the limited inquiry contemplated by Section 9 of the Act. They may be relevant in separate civil proceedings concerning title or proprietary rights but do not constitute a defence available before the Magistrate in proceedings under the State Lands (Recovery of Possession) Act.

The Remaining Grounds

The Appellants further contend that the Competent Authority failed to establish that the land in dispute constituted "State land" within the meaning of the Act and that the affidavit accompanying the application did not disclose the manner or date of service of the quit notice upon the 1st Appellant, nor was documentary proof of such service produced at the stage when the application was instituted. I am unable to accept either contention.

The argument that the Competent Authority was required to establish, by independent evidence before the Magistrate, that the land in question was in fact State land proceeds upon a misconception of the statutory scheme. Following the amendments introduced by Act No. 29 of 1983, the application under section 5 is required only to state that the land is, **"in the opinion of the Competent Authority"**, State land and that the respondent is, in the opinion of the Competent Authority, in unauthorized possession or occupation. The Magistrate is not required to embark upon an inquiry into title or to require the Competent Authority to prove State ownership by survey plans, title deeds or other evidence.

Indeed, the authorities consistently hold that the inquiry contemplated by sections 5 to 10 of the Act is of a limited character. As explained in *Muhandiram v. Chairman, Janatha Estate Development Board*¹² and reaffirmed by the Supreme Court in *Herath v. Morgan Engineering (Pvt) Ltd*¹³, the only matter open to the person summoned is to establish that his possession or occupation is founded upon a valid permit or other written authority of the State granted in accordance with written law and that such authority remains in force. Failing such proof, the Magistrate is required to make an order of ejectment.

¹² *Supra*

¹³ *Supra*

The same principle has been reiterated in a consistent line of subsequent decisions. In *Divisional Secretary, Manikhinna v. Buhardeen*¹⁴, Samayawardhena J. emphasised that the Magistrate's jurisdiction is strictly circumscribed by section 9 and that any challenge to the Competent Authority's opinion that the land is State land must be pursued, if at all, by way of appropriate writ proceedings and not within the summary inquiry before the Magistrate.

Likewise, in *Industrial Development Board v. Chandrakumar*¹⁵, the Court held that the validity of the Competent Authority's decision to issue a quit notice cannot be challenged collaterally before the Magistrate or by invoking revisionary jurisdiction, since the Magistrate's inquiry is confined to the matters expressly permitted by section 9.

The more recent decisions of this Court have consistently adopted the same approach. In *M.C. Margrate Perera v. Divisional Secretary, Naula*¹⁶, *Sunil Liyanage v. Divisional Secretary, Athuruliya*¹⁷, *Rathnayake Mudiyansele Kingsly Charles v. Competent Authority*¹⁸, *Thiruwam Cooray Muhandiramge Nihal and Another v. General Manager of Railways*¹⁹ and *Ranasinghe Arachchillage Sudharma Rathnaweera v. Director General of Irrigation*²⁰, it has been reiterated that a respondent to an application under the Act is not entitled to challenge the Competent Authority's opinion that the land is State land or to convert the statutory inquiry into an adjudication of title or ownership. Those authorities uniformly recognize that the Magistrate's jurisdiction is confined to the limited inquiry prescribed by section 9, namely whether the respondent establishes a valid permit or other written authority of the State granted in accordance with law.

I am equally unable to accept the Appellants' submission concerning the alleged insufficiency of the affidavit. Neither section 5 nor the prescribed Forms require the Competent Authority to annex documentary proof of service of the quit notice when instituting the application. The statutory requirement is that the application be accompanied by the affidavit prescribed by Form C verifying the matters contained in the application. Whether the notice was in fact served is a matter capable of being established in the proceedings before the Magistrate. The absence of an annexed acknowledgment or other documentary proof of service at the time of filing does not, by itself, render the application incompetent. This proposition was expressly recognized in *Industrial*

¹⁴ CA (PHC) 140/2013 Decided on 10.10.2019

¹⁵ [2019] 02 Sri. L.R 223

¹⁶ CA (PHC) 41/2010 Decided on 31.01.2017

¹⁷ CA (PHC) 174/2015 Decided on 18.11.2020

¹⁸ CA (PHC) 64/2017 Decided on 04.10.2024

¹⁹ CA (PHC) No. 0190/2018, Decided on 02.12.2025.

²⁰ CA (PHC) No. 0084/2020, Decided on 19.06.2026

*Development Board v. Chandrakumar*²¹, where a similar objection based upon the absence of proof of service attached to the application was rejected.

Accordingly, neither the alleged failure to prove that the land was State land nor the absence of documentary proof of service of the quit notice at the stage of institution discloses any error of law or procedural irregularity capable of vitiating the proceedings before the learned Magistrate. The Appellants' submissions, in substance, seek to enlarge the limited statutory inquiry prescribed by sections 5 to 10 of the Act into an inquiry upon title and administrative validity—a course consistently rejected by the appellate courts.

Equally, I am unable to accept the Appellants' complaint that the production of the Grama Niladhari certificate together with the Statement of Objections before the High Court vitiated the impugned order. Even assuming that such document was not before the learned Magistrate, the revisionary jurisdiction of the High Court was directed principally to examining the legality, regularity and propriety of the proceedings before the Magistrate. The central question remained whether the learned Magistrate had correctly applied the limited statutory inquiry prescribed by the State Lands (Recovery of Possession) Act. The High Court did not determine competing claims of title upon the basis of fresh evidence, nor does its judgment disclose that the revision was decided upon the Grama Niladhari certificate. The Appellants have therefore failed to demonstrate that the impugned judgment proceeded upon any erroneous appreciation of the statutory scheme or that the production of the said document occasioned any prejudice capable of vitiating the proceedings.

Conclusion

Having carefully considered the material available before this Court, I am of the view that the Appellants have failed to establish any basis upon which this Court should interfere with the judgment of the learned High Court Judge.

The learned High Court Judge correctly appreciated the limited nature of revisionary jurisdiction and was justified in concluding that the Appellants had failed to establish exceptional circumstances warranting intervention.

Furthermore, the submissions presently available do not disclose that the 1st or 2nd Appellant established possession or occupation upon a valid permit or other written

²¹ *Supra*

authority of the State as required by Section 9 of the State Lands (Recovery of Possession) Act. In the absence of such proof, the order of ejectment made by the learned Magistrate cannot be faulted.

For aforementioned reasons, I find no merit in the appeal. Accordingly, this appeal CA PHC 146/22 and the connected appeals CA PHC 147/22 and CA PHC 148/22 (as agreed by parties on 12.03.2026) is dismissed subject to costs fixed at Rs 25,000/- to be paid by the Appellants of each case separately and individually to court.

Judge of the Court of Appeal

K.M.S. Dissanayake, J.

I agree

Judge of the Court of Appeal