

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 read with Article 154P (6) of the
Constitution of Republic of Sri Lanka.

Court of Appeal No-
CA (PHC) 188/2022

High Court No- HCR/RA/46/2019
High Court of Ratnapura

Magistrate Court No- 32873 A
Magistrate Court of Ratnapura

J.M.C Priyadarshani,
Competent Authority,
Supervising Branch of Plantation,
Ministry of Plantation,
11th Floor, Sethsiripaya, 2nd Stage,
Battaramulla.

Applicant

Vs.

Garu Wahumpurage Nimal Sirisena,
Uda Erabadda, Daala.

Respondent

AND BETWEEN

Garu Wahampurage Nimal Sirisena,
Uda Erabadda, Daala.

Respondent-Petitioner

Vs.

J.M.C Priyadarshani,
Competent Authority,
Supervising Branch of Plantation,
Ministry of Plantation,
11th Floor, Sethsiripaya, 2nd Stage,
Battaramulla.

Applicant-Respondent

AND NOW BETWEEN

Garu Wahampurage Nimal Sirisena,
Uda Erabadda, Daala.

Respondent-Petitioner-Appellant

Vs.

1. J.M.C Priyadarshani,
Supervising Branch of Plantation,
Ministry of Plantation,
11th Floor, Sethsiripaya, 2nd Stage,
Battaramulla.

1A. Leelanath Wickrama Arachchi,
Ministry of Plantation and
Community Infrastructure,
11th Floor, Sethsiripaya,
2nd Stage, Battaramulla.

1B. Weerappulige Chandana
Saman Kumara Rathnayake,
Director, Plantation
Management Monitoring Division,
D-wing, 9th Floor, Ministry of
Plantation and Community
Infrastructure, Sethsiripaya, 2nd Stage,
Battaramulla.

Applicant-Respondent-Respondent

Before:

Damith Thotawatte, J.
K.M.S. Dissanayake, J.

Counsels: Kasun Liyanage with Mr. Thilakkana instructed by Aloka Anura Jayasundera for the Respondent-Petitioner-Appellant.

Nisal Kohona Instructed by H.P.S.N. Erandi Hikkaduwa for the Applicant-Respondent-Respondent.

Argued: 23.07.2026

Written submissions tendered on: 18.02.2026 By Applicant-Respondent-Respondent
23.04.2026 By Respondent-Petitioner-Appellant

Judgment Delivered: 08.10.2026

Thotawatte, J.

Introduction

The Respondent-Petitioner-Appellant (hereinafter referred to as the “Appellant”) has preferred this appeal against the order dated 24.08.2022 of the High Court of the Sabaragamuwa Province holden in Ratnapura, dismissing his application to revise the order of ejectment made by the learned Additional Magistrate of Ratnapura in case No. 32873/A under the State Lands (Recovery of Possession) Act, No. 7 of 1979, as amended (hereinafter referred to as the “Act”).

The High Court order and the written submissions of both parties identify the Magistrate’s order as having been made on 05.08.2019. Although the prayer in the petition of appeal refers to 15.08.2019, the challenge concerns the order made on 05.08.2019. I accordingly use the latter date in this judgment.

Background and Proceedings

The Applicant-Respondent-Respondent (hereinafter referred to as the “Respondent”), acting as the Competent Authority, issued a quit notice dated 21.09.2017, requiring the Appellant to vacate the land described therein. The Respondent’s position is that the disputed portion forms part of Poronuwa Estate, which had been leased to Kahawatte Plantations PLC for a period commencing on 15.06.1992 and ending on 14.06.2045. The Appellant disputes the State character of the land and asserts private ownership.

On 06.12.2018, the Respondent instituted proceedings in the Magistrate Court of Ratnapura under section 5 of the Act seeking the ejectment of the Appellant from the land described in the schedule to the application, stated to be approximately two acres in extent. The Appellant filed objections on 27.05.2019. Both parties tendered written submissions, following which the learned Additional Magistrate made the order of ejectment dated 05.08.2019.

The Appellant relied upon a chain of private deeds and possession by his predecessors extending, according to the petition, beyond ninety years and, according to the written submissions, beyond one hundred years. He referred to Lot 4 in Plan No. 4673 dated 30.03.2015 prepared by Nandasena Kalupahana, Licensed Surveyor, containing four acres, two roads and twenty perches, and maintained that the Respondent sought to recover two acres forming part of that privately owned land.

The material relied upon by the Appellant included Transfer Deeds No. 64 dated 07.11.2014 and No. 1783 dated 24.03.2016, a Deed of Partition (mutually agreed) No. 1852 dated 20.05.2017, and a letter dated 03.02.2017 from the Divisional Secretary of Nivithigala, said to confirm that the land described in Deed No. 1783 was not State land. The Appellant also relied upon a gem-mining licence No. 42619 dated 20.07.2018, issued by the National Gem and Jewellery Authority, and a letter dated 10.10.2017 sent through his Attorney-at-Law disputing the quit notice.

Being dissatisfied with the order of ejectment, the Appellant invoked the revisionary jurisdiction of the High Court on 29.08.2019. Notice was issued, objections and written submissions were tendered, and oral submissions were heard on 06.04.2022. The Appellant was also permitted to tender further written submissions. By the order dated 24.08.2022, the learned High Court Judge dismissed the revision application, holding that the Appellant had failed to establish possession or occupation of the land under a valid permit or other written authority of the State within section 9 of the Act.

Grounds of Appeal and the Respondent's Position

The principal grounds upon which the Appellant seeks to impugn the judgment of the learned High Court Judge may be summarised as follows:

- a The land was not clearly identified or surveyed, and the field map referred to in the schedule was not supplied with the quit notice.
- b The Appellant's claim of private ownership and lawful possession, supported by registered deeds and long possession, was not adequately considered.
- c The Divisional Secretary's letter and the mining licence disclosed inconsistent positions taken by public authorities concerning the land.
- d The alleged procedural defects, namely the use of Form C instead of Form B, were not addressed.
- e A decision delivered in 1980, upon which the learned High Court Judge relied, was inapplicable to the facts of the case.

These contentions must be examined on their merits, while distinguishing arguments concerning ownership of the land from objections concerning the lawful exercise of powers under the Act.

The Respondent submits that the Appellant failed to establish the sole defence available under section 9 of the Act; that a dispute regarding ownership cannot be determined in the ejectment inquiry; and that the High Court properly refused revisionary relief.

The Statutory Inquiry and Revisionary Jurisdiction

The Act provides a special procedure for the recovery of possession of State land. Under section 3, as amended by Act No. 29 of 1983, the Competent Authority may act upon the opinion that the land is State land and that the person concerned is in unauthorised possession or occupation. Section 3(1A) excludes an entitlement to a hearing or representation in respect of the quit notice. Section 5 requires an application in Form B, supported by an affidavit in Form C verifying the matters set forth in the application, and accompanied by a copy of the quit notice.

Where cause is shown, section 8 provides for an inquiry. Section 9(1) confines the defence to establishing possession or occupation under a valid permit or other written authority of the State, granted in accordance with written law, which remains in force and has not been revoked or otherwise rendered invalid. Section 9(2) prohibits the Magistrate from calling

for evidence from the Competent Authority in support of the application. These are distinct provisions.

In *Muhandiram v. Chairman, No. 111, Janatha Estate Development Board*¹ His Lordship Grero J. held that the burden rests upon the person summoned to establish the statutory authority for his occupation. Where that burden is not discharged, the Magistrate must order ejectment. The same approach was adopted in *Karuppaia Rengaraj v. J. M. C. Priyadharshani*², and *M. C. Margrate Perera v. Divisional Secretary, Naula and Another*³.

Section 10(2) expressly excludes an appeal against an ejectment order made by a Magistrate under section 10(1). In *Lakshman Ravendra Watawala v. Chandana Karunathilake*⁴, the Supreme Court confirmed the statutory exclusion of an appeal, while recognising the general principle that the absence of a right of appeal does not prevent the exercise of revisionary jurisdiction in exceptional circumstances.

Revision is a discretionary jurisdiction directed to the due administration of justice and the correction of errors warranting supervisory intervention. Exceptional circumstances must emerge from the grounds and material presented; merely repeating a disagreement with the result does not suffice. It is unnecessary to use the expression “exceptional circumstances” as a rigid formula where the pleaded circumstances themselves disclose the requisite injustice. *Mullangedara Ananda Wijeratne v. Logeshwaran Thasayini and Another*⁵, illustrates that distinction.

Identification of the Land and the Missing Field Map

The Appellant’s first ground is that the land was not adequately identified and had not been surveyed. In his written submissions, he further alleges that the field map referred to in the schedule did not accompany the quit notice. The Act requires the land to be described in the Schedules to the quit notice and the application for ejectment, but does not generally require a fresh survey or an attached survey plan. In *Rajiv Hundlani v. Director General of the Urban Development Authority*⁶, this Court accepted that a plan

¹ [1992] 1 Sri L.R. 110

² CA (PHC) 67/2011, decided on 26.10.2017

³ CA (PHC) 41/2010, decided on 31.01.2017

⁴ SC Appeal No. 31/2009 and connected appeals, decided on 06.07.2018

⁵ CA (PHC) 14/2013, decided on 20.12.2019

⁶ (2020) 2 Sri L.R. 413, C.A. Writ 261-2016 Decided on 26th February 2020

need not accompany the quit notice where the property can otherwise be identified. The omission of the field map therefore does not, by itself, establish non-compliance.

In *Nihal Nilaweera, Director, Plantation Management Monitoring Division v. N. D. Nimal*⁷, this Court held that, at the section 9 inquiry, the Competent Authority is not required to produce evidence to establish that the land is State land or that the land from which ejectment is sought corresponds to the description in the quit notice. Further, *Namunukuka Plantations PLC v. Nimal Punchihewa*⁸ establishes that the Magistrate may consider identity of the land only to determine whether a valid permit or other written authority produced by the occupier relates to the land described in the application.

The Appellant's own plan and his contention that the disputed two acres form part of Lot 4 explain his claim to the land. They do not, by themselves, require the Magistrate to determine ownership or call for survey evidence from the Competent Authority.

Private Deeds, Long Possession and the Lawfulness of Occupation

The second and the third grounds overlap. Their common premise is that the Magistrate and the High Court were required to determine whether the Appellant's private deeds and long possession established lawful ownership of the disputed land. That contention rests on a mistaken view of the scope of the inquiry contemplated by section 9. A private conveyance or mutual partition deed is not converted into a permit or written authority of the State merely because it has been registered. Nor does long possession, standing alone, discharge the burden imposed by that section.

The High Court order records and discusses the Appellant's claim to private ownership, his long possession, and the documents relied upon. The complaint cannot therefore be sustained merely by asserting that those matters were ignored. The relevant question is whether the learned Judge applied the proper statutory test to them. The refusal to adjudicate the competing claim to ownership in these summary proceedings is consistent with the restricted inquiry and does not, in itself, amount to a failure to consider the Appellant's case.

⁷ CA (PHC) 48/2016, decided on 02.09.2025

⁸ CA (PHC) APN 29/2016, decided 09.07.2018

In *Divisional Secretary, Manikhinna v. Buhardeen*⁹, the occupier relied upon a District Court decree and subsequent deeds to contend that the disputed land was privately owned. This Court nevertheless held that the inquiry before the Magistrate was confined to the statutory defence under section 9 and explained that, following the amendment introduced by Act No. 29 of 1983, prolonged encroachment did not, by itself, prevent recovery under the Act. *Margrate Perera*¹⁰ likewise confirms that long possession does not substitute for a valid permit or written authority of the State. Accordingly, the antiquity of the Appellant's asserted title and possession does not require the Magistrate to adjudicate his claim to private ownership in these summary proceedings.

The Divisional Secretary's letter is relied upon as an acknowledgment that the land described in deed No. 1783 is not State land. However, the description in that deed does not correspond to the description in the quit notice. The letter therefore does not establish whether the land claimed by the State falls within the property described in the deed. Resolving that question would require an inquiry into the identity and extent of the respective lands, which falls outside the scope of the restricted statutory inquiry under section 9. The letter supports the Appellant's claim to private title but does not itself grant authority to occupy the land described in the quit notice. Nor do conflicting views of public officers concerning ownership establish possession under a valid permit or written authority of the State.

The mining licence must be considered according to its legal effect. Section 9 recognises both a valid permit and other written authority of the State granted in accordance with written law. A document cannot therefore be rejected merely because it is called a licence. In the present case, however, the licence does not establish that it relates to the land sought to be recovered or that it authorises the Appellant to possess or occupy that land. Nor does it indicate that the issuing authority independently examined the title to the land. Permission to conduct mining activities does not, by itself, establish the authority to possess or occupy the land required by section 9.

Section 12 preserves an action against the State for the vindication of title within six months from the date of the ejectment order, and section 13 provides for compensation upon a successful action within its terms. The present judgment neither determines the

⁹ (2019) 2 SLR 346, CA (PHC) No. 140/2013, decided on 10.10.2019

¹⁰ *Supra*

Appellant's private title nor enlarges that statutory period. The reservation of a distinct remedy does not permit a title action to be conducted within the restricted ejectment inquiry.

Issue with Regard to Form B and Form C

The Appellant contends that proceedings were not validly instituted because the application under section 5 of the Act was made in Form C instead of Form B. Section 5(1) requires an application in the prescribed Form B, while section 5(2) requires a supporting affidavit in Form C. The application sets out the prescribed matters and seeks ejectment; the affidavit verifies those matters.

Upon examination of the application and supporting affidavit produced with the Appellant's affidavit before the Magistrate's Court, marked ၉1န, it is apparent that the application conforms in its contents to Form B ("န" နာမည်). The letter "န", instead of "န", appears only in its heading. This is a typographical error in the designation of the form and does not constitute an omission of any mandatory statutory requirement. Nor has the Appellant identified any prejudice arising from that error. Accordingly, the incorrect form letter does not invalidate the institution of proceedings, and this objection cannot be sustained.

Reliance on *Farook v. Gunewardene*

The Appellant, in his petition of appeal, takes issue with the High Court's alleged reliance upon **Farook v. Gunewardene, Government Agent, Amparai**¹¹. The learned High Court Judge, however, considered that decision in the context of the learned Magistrate's order. The learned Magistrate cited *Farook v. Gunewardene, Government Agent, Amparai* to dispose of the Appellant's contention that the land was private land held upon title deeds. The learned Magistrate drew two propositions from that decision. First, section 9 of the Act does not empower the Magistrate to inquire into a claim of private ownership. Second, a claim resting upon title deeds is not a claim founded upon a valid permit or other written authority of the State, which constitutes the statutory defence available at the inquiry. Having so held, the learned Magistrate observed, with reference to section 12 of the Act,

¹¹ [1980] 2 Sri L.R. 243

that if the land were private land, there would be no impediment to the Appellant instituting an action in the District Court after ejectment.

The relevance of *Farook* is determined by the proposition for which it is relied upon. Its reasoning on the limited scope of the inquiry accords with the later decisions in *Muhandiram*, *Margrate Perera*, and *Karuppaia Rengaraj*. In *Margrate Perera*, this Court expressly followed *Farook* in holding that the Magistrate is not competent to question the opinion of the Competent Authority, and that the alternative relief lies under sections 12 and 13 of the Act. The State Lands (Recovery of Possession) (Amendment) Act No. 29 of 1983 further reinforced that position. Section 3(1), as amended, required the Competent Authority to form the opinion that the land is State land as well as that the person is in unauthorised possession or occupation thereof. Subsection (1A), inserted in section 3, excluded any entitlement to a hearing or to make representations in respect of the quit notice.

The learned High Court Judge reproduced the holding in *Farook* that, where the legislature has expressly provided in the Act for relief against wrongful ejectment, the Court cannot grant relief on the ground that the person aggrieved had not been heard. Having considered the statutory provisions and the relevant authorities, the learned High Court Judge concluded that the learned Magistrate's order accorded with the applicable law. Accordingly, the contention that the learned High Court Judge relied upon an inapplicable authority cannot be sustained.

Conclusion

Private deeds, long possession, and a demand for determination of ownership do not, by themselves, establish exceptional circumstances warranting revision. Having examined the schedule, application, supporting affidavit, and licence, I find no material noncompliance or subsisting written authority under section 9 warranting interference. The Appellant's grounds, individually or cumulatively, disclose neither exceptional circumstances nor a miscarriage of justice. The learned High Court Judge was therefore justified in declining revisionary relief.

Accordingly, the appeal is dismissed subject to costs fixed at Rs. 50,000/- to be paid by the Appellant to the State. The High Court order dated 24.08.2022 and the learned Magistrate's order of ejectment dated 05.08.2019 are affirmed.

Judge of the Court of Appeal

K.M.S. Dissanayake, J.

I agree

Judge of the Court of Appeal