

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

Court of Appeal Case No:
CA (PHC) 211/2023

HC Panadura: HC/RA/14/2023

MC Horana: 61610

In the matter of an application for appeal submitted in accordance with the provisions of the Provincial High Court (Special Provisions) Act No. 19 of 1990, as amended, and the Appellate Court rules of 1988 and Rule No. 02, which should be read together with Article 154 (P) (6) and Article 138 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

K.D.S. Sajeewana,
Divisional Secretary (Competent Authority),
Divisional Secretariat Office,
Horana.

Applicant

Vs.

Amarakoonge Piyasena,
A.P.L. Traders,
Koaralaima,
Gonapola.

Respondent

AND BETWEEN

Amarakoonge Piyasena,
A.P.L. Traders,
Koaralaima,
Gonapola.

Respondent-Petitioner

Vs.

K.D.S. Sajeewana,
Divisional Secretary (Competent Authority),
Divisional Secretariat Office,
Horana.

Applicant-Respondent

AND NOW BETWEEN

Amarakoonge Piyasena,
A.P.L. Traders,
Koaralaima,
Gonapola.

Respondent–Petitioner–Appellant

Vs.

K.D.S. Sajeewana,
Divisional Secretary (Competent Authority),
Divisional Secretariat Office,
Horana.

Applicant-Respondent-Respondent

Before: **Damith Thotawatte, J.**

K.M.S. Dissanayake, J.

Counsels: Chamara Nanayakkarawasam with Ridma Senarath for the
Appellant.

P. Witharana, S.C. for the Respondent

Argued: 21.01.2026

Written submissions 16.01.2026 by Defendant-Petitioner-Petitioner.

tendered on: 16.03.2026 by Applicant-Respondent-Respondent

Judgment Delivered: 29.04.2026

Thotawatte, J.

This appeal arises from the order dated 25.07.2023 of the learned High Court Judge of the High Court of Western Province Holden at Panadura made in Revision Application No. HCRA 14/2023, whereby the learned High Court Judge dismissed the revision application filed against the order dated 15.06.2023 of the learned Magistrate of Horana made in Case

No. 61610/21 under the provisions of the State Lands (Recovery of Possession) Act No. 7 of 1979.

In the Petition of Appeal presented to this Court, the Appellant is described as Amarakoonge Piyasena, Respondent–Petitioner–Appellant. It is observed, however, that in the Written Submissions filed thereafter on behalf of the Appellant, the designation has, without explanation, been altered to Defendant–Petitioner–Petitioner. In the absence of any application for, or leave granted by this Court permitting, an amendment to the caption, the original designation appearing in the Petition of Appeal shall be treated as the proper and operative caption for the purposes of this judgment.

History and Factual Matrix

The Respondent-Petitioner-Appellant, Amarakoon Piyasena (hereinafter sometimes referred to as the Appellant) asserted that the business operations of A.P.L. Traders (Pvt) Ltd., of which he is a shareholder, were conducted on privately owned land situated along the Horana-Colombo main road. It was further stated that, in or about the year 2013, a portion of the said land had been identified for acquisition in connection with a road widening project, and that discussions thereafter ensued between the Appellant and officers of the Road Development Authority regarding the use of land in close proximity thereto for operational purposes connected with the business.

The Appellant maintained that, following discussions with the officials of the Road Development Authority and other government functionaries, letters dated 25th September 2018 and 5th October 2018 were issued by the Chairman of the Road Development Authority indicating that the Company could utilize a portion of land situated opposite its premises for the limited purpose of storing building materials. The Appellant asserted that these communications were issued in the context of road development activities and were intended to facilitate temporary storage associated with the Company's operations.

It was further claimed that the premises in question were thereafter utilized for storage purposes connected with the commercial activities of A.P.L. Traders, particularly in connection with building materials associated with its warehouse operations. The Appellant contended that this arrangement arose as a practical measure during the course of infrastructure development works and according to the Appellant, it was understood to operate pending further formalization of long-term arrangements through the Divisional Secretariat.

However, by application dated 19.12.2020, together with a supporting affidavit, the Applicant-Respondent-Respondent (hereinafter sometimes referred to as the Respondent), being the Divisional Secretary of Horana, initiated proceedings before the Magistrate's Court of Horana seeking to recover possession of the said State land alleged to be in the unlawful occupation of the Appellant.

The Respondent had asserted in the application preferred in terms of the State Lands (Recovery of Possession) Act, No. 7 of 1979, that the subject land constituted State land as described in the schedule annexed to the application. Further that a quit notice had been duly served on the Appellant in accordance with the provisions of the said Act, as the Appellant was in unauthorized occupation of the said land and that the Appellant had failed to vacate the said land in compliance with the said quit notice.

Upon issuance of summons by the Court, the Appellant tendered objections asserting, *inter alia*, that he had been permitted to use the land by the Road Development Authority (RDA) and that the premises were used for storage purposes connected with A.P.L. Traders.

Following inquiry, the learned Magistrate of Horana delivered the order dated 15.06.2023, directing ejectment of the Appellant from the subject land.

Being aggrieved by the said order, the Appellant preferred Revision Application (No. HCRA 14/2023) to the High Court of the Western Province holden at Panadura. The learned High Court Judge dismissed the revision application on 25.07.2023, holding that the Appellant had failed to demonstrate exceptional circumstances warranting the exercise of revisionary jurisdiction.

The present appeal has been preferred against the said dismissal.

Grounds Urged by the Appellant

The principal contentions advanced on behalf of the Appellant may be summarized as follows:

1. The subject land allegedly belonged to A.P.L. Traders (Pvt) Ltd., and therefore proceedings instituted against the Appellant personally were improper.
2. The Divisional Secretary lacked authority to initiate proceedings under the Act, particularly where the land allegedly belonged to the Road Development Authority.

3. The supporting affidavit filed in the Magistrate's Court was defective and therefore rendered the proceedings void.
4. The learned Magistrate and learned High Court Judge failed to properly appreciate the legal status of the land and the Appellant's entitlement to occupy the same.
5. The learned High Court Judge erred in dismissing the revision application without issuing notice to the Respondent.

On these grounds, the Appellant invited this Court to set aside both the Magistrate's order and the High Court order.

Position of the Respondent

The Respondent, on the other hand, contended that:

1. The inquiry conducted under Section 9 of the Act is limited in scope, and the only permissible defence available to a person in occupation is proof of possession under a valid permit or written authority granted by the State.
2. The Appellant failed to produce any valid permit issued by the competent authority authorising occupation of the land.
3. The purported permission issued by the Road Development Authority was limited in duration and had expired prior to institution of proceedings.
4. The Divisional Secretary, being custodian of the State land within the administrative division, acted strictly within the statutory framework.
5. The learned High Court Judge correctly declined to exercise revisionary jurisdiction in the absence of exceptional circumstances.

The Legal Framework

The proceedings before the Magistrate were instituted in terms of the State Lands (Recovery of Possession) Act No. 7 of 1979 (hereinafter sometimes referred to as the "Act").

In terms of Section 5 of the Act, where a person fails to comply with the requirements of a quit notice, the competent authority may apply to the Magistrate seeking recovery of possession. Section 9 of the Act limits the scope of inquiry to determining whether the

person in occupation holds possession upon a valid permit or written authority granted by the State.

It is well settled that, in proceedings instituted under the State Lands (Recovery of Possession) Act, No. 7 of 1979, the burden of proof rests squarely upon the person in occupation of State land to establish that such occupation is lawful and supported by a valid permit or written authority issued in accordance with law. The inquiry before the learned Magistrate is accordingly confined to determining whether the person summoned has discharged that statutory burden by producing a valid permit or other written authority of the State that remains in force. Where the occupier fails to establish lawful possession upon the strength of such valid authority, the Magistrate is left with no discretion in the matter and is obliged to order ejectment. This principle has been consistently affirmed in judicial authority, including *Muhandiram v. Chairman, No. 111, Janatha Estate Development Board*¹, where it was held that the onus lies entirely upon the person summoned to establish lawful occupation and that, upon failure to discharge that burden, the only course open to the Magistrate is to order ejectment. It has been further reiterated in *Namunukula Plantations PLC v. Nimal Punchihewa and others*², where the Court emphasized that the statutory inquiry under the Act is limited in scope and that the absence of lawful authority necessarily compels an order of ejectment, and in *M.C. Margrate Perera v. Divisional Secretary, Naula*³, where the Court reaffirmed that the occupier must strictly satisfy the statutory requirements of lawful occupation and that failure to do so mandates recovery of possession in favour of the State.

The purported permission received from the RDA

The history surrounding the Appellant's reliance on RDA correspondence reflects that the occupation of the subject land was initially justified on the basis of temporary administrative accommodation for storage purposes connected with the operations of A.P.L. Traders, rather than on the basis of a legally recognised permit issued by the competent authority under the State Lands (Recovery of Possession) Act.

At paragraph 13 of the written submissions of the Appellant, it is stated;

¹ [1992] 1 Sri L.R 110

² C.A. (PHC) APN 29/2016 Decided on 09.07.2018

³ CA (PHC) 41/2010 Decided on 31.01.2017

“On 14th June 2017, a discussion was held between the Petitioner, the then Minister of Highways, and the Chairman of the Road Development Authority, during which the Petitioner was informed that a portion of Land Parcel No. 15, located in front of his business premises, would be granted to the company on a long-term lease. Subsequently, by letters dated September 25, 2018, and October 5, 2018, the Chairman of the Road Development Authority granted permission to utilize a portion of the said land in front of the road for the purpose of storing building materials, instead of acquiring the land belonging to the Petitioner. Copies of the said letters were also forwarded to the relevant local government officials”.

Of the two letters dated 25th September 2018 and 5th October 2018 relied upon by the Appellant to contend that permission had been granted to utilize the said land, copies thereof have been annexed to the application and marked P11 and P12 respectively. Both letters appear to be identical in content, save for the variation in dates, and it is of significance that neither letter is addressed to the Appellant. Moreover, the contents of the said letters expressly disclose that the arrangement contemplated therein was of a purely temporary character, limited to a period of six months. As such, these letters cannot, by any reasonable construction, be regarded as constituting valid permits for the purposes of the Act. It is therefore apparent that the Appellant could not be deemed to have been in possession of the land pursuant to a valid permit or written authority granted by the State.

Alleged Defect in the Supporting Affidavit and the corporate personality

The Appellant contended that the supporting affidavit was defective in law in that the jurat merely certified the identity of the deponent without properly verifying the contents, and that the failure to annex documentary proof of the authority of the officer acting as the Competent Authority rendered the proceedings *void ab initio*. Reliance was placed on ***Clifford Ratwatte v. Thilanga Sumathipala and Others (2001) 2 Sri L.R. 55***. I am unable to accede to this submission. A careful consideration of the affidavit does not disclose any defect going to the root of jurisdiction, and even if a technical irregularity existed, such irregularity would not render the proceedings invalid. The authority of the Competent Authority arises by operation of statute, and in the absence of evidence to the contrary, the alleged defects amount at most to technical irregularities which do not vitiate the proceedings.

The Appellant's contention based on corporate personality is likewise without merit. The proceedings were properly directed against the person found to be in occupation of the land, and under the statutory framework, the obligation rests squarely upon such occupier to demonstrate lawful entitlement to remain in possession. The Appellant cannot rely upon the doctrine of corporate personality as a means of evading the statutory burden imposed upon the person in occupation. In any event, and without prejudice to the foregoing position, the Appellant has failed to produce any material to establish that the subject land had been granted to a company rather than to him in his personal capacity.

Revisionary Jurisdiction

It is well settled that the jurisdiction exercised by a superior court in revision is extraordinary and discretionary in nature and is not intended to function as a substitute for an appeal. In *Dr. A. H. M. Marjan and others v. M. H. Mohideen Abdul Cader*⁴, the Court emphasised that revisionary jurisdiction is invoked only in very rare instances where exceptional circumstances are demonstrated, particularly where the impugned order has occasioned a failure of justice or is manifestly erroneous in a manner that would shock the conscience of Court. Further, in *Thilagaratnam v. E.A.P. Edirisinghe*⁵, the Court of Appeal declined to exercise revisionary powers where no exceptional circumstances were established and where the application had been filed belatedly, thereby reaffirming that mere dissatisfaction with an order or procedural lapse does not justify the invocation of revisionary jurisdiction. The same principle was reiterated in *Dharmaratne and another v. Palm Paradise Cabana Ltd and others*⁶, where the Court underscored that the existence of exceptional circumstances operates as a necessary filtering mechanism to prevent revision from becoming an indirect avenue of appeal, and that failure to plead or establish such circumstances warrants refusal of relief *in limine*. Taken together, these authorities firmly establish that revisionary jurisdiction is to be exercised sparingly and only where illegality, jurisdictional error, or manifest injustice of an exceptional character is clearly demonstrated, and not merely because a party seeks to re-agitate matters that properly fall within the appellate domain.

In the present case, the learned High Court Judge correctly identified that no exceptional circumstances had been established. The dismissal of the revision application without

⁴ C.A. RII No. 06/2023 Decided on 02.05.2023

⁵ [1982] 1 Sri.LR 056

⁶[2003] 3 Sri. L.R 24

notice was consistent with settled principles governing the threshold exercise of revisionary jurisdiction.

Conclusion

Upon a consideration of the totality of the material placed before this Court, I am satisfied that the learned Magistrate acted strictly within the powers conferred by the State Lands (Recovery of Possession) Act No. 7 of 1979, and that the Appellant failed to establish lawful possession under a valid permit or written authority as required by law. In such proceedings, where lawful authority is not established, the Magistrate is obliged to order ejectment, and in the present case the learned High Court Judge properly exercised revisionary jurisdiction in dismissing the revision application, as no exceptional circumstances been demonstrated.

For aforesaid reasons, this Court holds that the judgment of the learned High Court Judge of Panadura dated 25.07.2023 does not disclose any reason warranting appellate interference. Accordingly, the order of the learned High Court Judge dated 25.07.2023 is affirmed, the Appeal is dismissed, with costs fixed at Rs. 40,000/- to be paid by the Appellant.

Judge of the Court of Appeal

K.M.S. Dissanayake, J.

I agree

Judge of the Court of Appeal