

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

CA (PHC) No. 51/2021

High Court Ratnapura Case No.
HCR RA 55/2019

MC Ratnapura Case No. 29227 A

J.M.C. Priyadharshani,
Competent Authority,
Plantation Management Monitoring
Division,
Ministry of Plantation Industries,
11th floor, Sethsiripaya,
Stage II,
Battaramulla.

Applicant

Vs.

Dinesa Wahampurage Ariyadasa,
Kosgala, Kahangama,
Ratnapura.

Respondent

AND BETWEEN

Dinesa Wahampurage Ariyadasa,
Kosgala, Kahangama,
Ratnapura.

Respondent-Petitioner

Vs.

J.M.C. Priyadharshani,
Competent Authority,
Plantation Management Monitoring
Division,
Ministry of Plantation Industries,
11th floor, Sethsiripaya,
Stage II,
Battaramulla.

Applicant- Respondent

AND NOW BETWEEN

Wickarama Arachchilage Leelanath
Wickarama Arachchi,
Competent Authority,

Plantation Management Monitoring
Division,
Ministry of Plantation Industries,
11th floor, Sethsiripaya,
Stage II,
Battaramulla.

Substituted Applicant- Respondent-
Appellant

Vs.

Dinesa Wahampurage Ariyadasa,
Kosgala, Kahangama,
Ratnapura.

Respondent-Petitioner-Respondent

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

Counsels: Samantha Vithana with Hiranga Fernando for the Applicant –
Respondent- Appellant instructed by Thilina Fernando.

Seevali Amithirigala PC with Pathum Wijepala for the
Respondent- Petitioner- Respondent instructed by Sanath
Perera.

Argued: 12.01.2026

Written submissions
tendered on: 28.08.2025 by Substituted Applicant – Respondent –
Appellant.

19.09.2025 by Respondent – Petitioner – Respondent.

Judgment Delivered: 29.04.2026

Thotawatte, J.

This appeal is preferred against the judgment of the learned Provincial High Court Judge of the provincial High Court of Sabaragamuwa Province holden at Ratnapura dated 22.04.2021, whereby the learned High Court Judge set aside the order of the learned Magistrate of Ratnapura dated 25.10.2019, made under the provisions of the State Lands (Recovery of Possession) Act No. 7 of 1979 (hereinafter sometimes referred to as the Act).

The Applicant-Respondent-Appellant (hereinafter sometimes referred to as the Appellant) seeks to have the said High Court judgment vacated and the order of the learned Magistrate restored.

Factual Background

The Appellant, in the capacity as a Competent Authority under the Act, instituted proceedings before the learned Magistrate's Court of Ratnapura seeking an order of ejectment against the Respondent-Petitioner-Respondent (hereinafter sometimes referred to as the Respondent) under Section 5 of the Act on the basis that the Respondent was in unauthorized possession of State land.

The Respondent appeared before the Magistrate's Court and showed cause against the application. After considering the material placed before Court, the learned Magistrate made the order dated 25.10.2019, directing the ejectment of the Respondent from the land in question.

Being aggrieved by the said order, the Respondent preferred a Revision Application before the Provincial High Court of Sabaragamuwa holden at Ratnapura. The learned High Court Judge, by judgment dated 22.04.2021, allowed the Revision Application and set aside the Magistrate's order.

Proceedings Before the Magistrate Court

When invoking the jurisdiction of the Magistrate's Court upon a failure to comply with a quit notice, the statutory application for ejectment made under Section 5 of the Act is required to be accompanied by a copy of the quit notice issued under Section 3 of the Act. However, at the inquiry before the learned Magistrate, it transpired that the quit notice

relied upon in the application for ejectment, although identical in its contents, appeared in two versions bearing different dates.

The Respondent raised a preliminary objection to the ejectment application on the basis that the quit notice alleged to have been served on him was not identical to the copy of the quit notice annexed to the application, and that such discrepancy rendered the application defective for want of compliance with Sections 5(2) and 5(3) of the Act; however, the learned Magistrate dismissed the said preliminary objection and thereafter proceeded with the inquiry, culminating in an order directing the ejectment of the Respondent from the land in question.

Principal Reasons for Overturning the Magistrate's Order

Upon considering the revision application filed against the ejectment order of the learned Magistrate, the learned High Court Judge took the view that the Applicant had failed to comply with the mandatory requirements of Section 5(2) of the State Lands (Recovery of Possession) Act by annexing a quit notice different from that alleged to have been served on the Respondent, which discrepancy was held to be misleading and to render the application legally defective. Accordingly, the learned Magistrate's rejection of the preliminary objection was found to be contrary to law, and the Magistrate's order was set aside.

The learned High Court Judge proceeded on the footing that compliance with Section 5(2) of the Act constitutes a mandatory statutory precondition to the institution of ejectment proceedings, requiring that the application be accompanied by a copy of the very quit notice issued to the person alleged to be in unauthorized occupation. In view of the discrepancy between the notice served and the notice annexed to the application, the learned High Court Judge held that the learned Magistrate had failed to ensure strict compliance with the statutory requirements governing the initiation of proceedings, and accordingly treated such discrepancy as a material defect warranting the setting aside of the ejectment order.

Being dissatisfied with and aggrieved by the said judgment of the learned High Court Judge, whereby the order of the learned Magistrate was set aside, the Appellant has preferred the present Appeal seeking appellate intervention of this Court.

Grounds of Appeal

The Appellant has contended, *inter alia*, that:

1. The learned High Court Judge misdirected herself in law in holding that a discrepancy between notices rendered the application defective.
2. The learned High Court Judge failed to properly interpret the statutory scheme governing quit notices under the Act.
3. The learned High Court Judge erred in exercising revisionary jurisdiction in circumstances where no exceptional circumstances were established.

Nature of Proceedings under the State Lands (Recovery of Possession) Act

Proceedings under the Act constitute a special statutory mechanism designed to ensure the expeditious recovery of State land from unauthorized occupants.

Section 5(2) of the Act requires that every application for ejectment shall be supported by an affidavit and accompanied by a copy of the quit notice.

The statutory requirement is directed toward ensuring that notice is issued and proceedings are properly grounded in law. However, the Act must be interpreted in light of its purpose, namely the recovery of possession of State lands from unauthorized occupants.

Service and Receipt of Quit Notices

In the affidavit dated 11.02.2019, filed by the Respondent in Magistrate's Court Case No. 29227/A in objection to the application for ejectment filed by the Appellant, the Respondent has averred at paragraph 03 that he had received a quit notice dated **05.03.2018**, issued under section 03 of the Act, requiring him to vacate the relevant land and deliver vacant possession on or before **20.04.2018** (the said quit notice being annexed to the Respondent's affidavit marked "☉ 01").

However, the copy of the quit notice annexed to the Appellant's application for ejectment under Section 5(2), dated **28.12.2017**, specifies the date on which the Respondent was required to vacate the relevant land as **09.02.2018**, thereby indicating that it was not a copy of the quit notice received by the Respondent.

Upon examination of the respective quit notices, the Court observes that the documents are identical in substance, save for the date of signature and the date specified for compliance in sub-paragraph (a) thereof, which appear to have been handwritten in an otherwise printed notice conforming to **Form A** set out in the Schedule to the State Lands (Recovery of Possession) Act.

It is evident that the notice acknowledged by the Respondent and the notice annexed to the application for ejectment, although relating to the same subject land, constitute two separate and distinct notices. Significantly, the Appellant has not disputed the issuance of either notice, nor has the Appellant specified which of the said notices, or whether both, were in fact served upon the Respondent.

No explanation has been given by the Appellants with regards to the existence of two differently dated notices.

The Appellant's position appears to be founded, in the first instance, upon the procedural requirement contained in Section 5(2) of the Act, which mandates that an application for ejectment shall be supported by an affidavit and accompanied by a copy of the quit notice. In reliance upon that provision, the Appellant appears to treat the quit notice annexed to the ejectment application as the notice relied upon for the purpose of instituting proceedings under the Act, it being the document produced before the Court in purported compliance with the statutory precondition governing the commencement of ejectment proceedings.

In addition, the Appellant appears to rely upon the admitted receipt by the Respondent of a quit notice sent by registered post, and to contend that such admission is sufficient to establish due service of notice in terms of the Act. Proceeding on that basis, the Appellant appears to maintain that the existence of quit notices bearing different dates does not, in itself, render the proceedings defective, provided that it is established that a quit notice had in fact been issued and received by the Respondent prior to the institution of the ejectment proceedings.

Although the Respondent, as the recipient, is capable of affirming receipt of a notice, it is inherently difficult to prove the non-receipt thereof. In any event, the Appellant is not required to establish actual dispatch by registered post, particularly in light of Section 3(3) of the State Lands (Recovery of Possession) Act, which stipulates that a quit notice shall be deemed to have been served if sent by registered post. Accordingly, this Court is unable to hold that the notice annexed to the ejectment application was not served on the

Respondent. Further, the service of an additional notice, (the notice that is accepted as being received by the Respondent) in itself, does not constitute a violation of the procedure contemplated under the said Act.

It is pertinent to observe that, despite admitting receipt of the quit notice, the Respondent failed to act in compliance therewith, and it is consequent upon such non-compliance that proceedings were initiated under section 5 of the State Lands (Recovery of Possession) Act. Moreover, although afforded an opportunity at the inquiry before the Magistrate's Court, the Respondent failed to tender any valid permit or written authority to substantiate lawful possession of the subject land compelling the learned Magistrate to order ejectment.

The Jurisdiction of the Magistrate to consider the application for ejectment

The uncertainty as to whether the quit notice annexed to the ejectment application was identical to the notice that had in fact been served upon the Respondent was treated by the learned High Court Judge as indicative of a defect in compliance with the statutory requirements governing the institution of ejectment proceedings, rather than as an express finding that the learned Magistrate lacked jurisdiction *ab initio* to entertain the application.

Erroneous Exercise of Revisionary Jurisdiction

It is well settled that the revisionary jurisdiction is an extraordinary jurisdiction, to be exercised sparingly and only in exceptional circumstances where illegality, material irregularity, impropriety, or a miscarriage of justice is demonstrated. In the present case, the learned High Court Judge intervened principally on the basis of a procedural discrepancy relating to the dates appearing on the quit notices placed before the Court. However, such discrepancy, in the circumstances of this case, did not deprive the learned Magistrate of jurisdiction to entertain the application, nor did it occasion prejudice to the Respondent or amount to illegality or a miscarriage of justice warranting the exercise of revisionary powers.

The record further discloses that the learned Magistrate considered the objections raised by the Respondent, examined the statutory requirements governing the institution of ejectment proceedings, and thereafter made an order consistent with the provisions of the State Lands (Recovery of Possession) Act. There is nothing on record to demonstrate any illegality, impropriety, or material irregularity in the exercise of the Magistrate's

powers. In those circumstances, the order made by the learned Magistrate must be regarded as lawful and valid.

Conclusion

For the reasons set out above, I am of the considered view that the learned High Court Judge misdirected herself in holding that the discrepancy relating to the quit notices rendered the ejectment application defective, and that the learned High Court Judge thereby improperly exercised revisionary jurisdiction in circumstances where no illegality, impropriety, or material irregularity had been established. The material placed before Court demonstrates that the learned Magistrate acted within jurisdiction and made an order consistent with the requirements of the State Lands (Recovery of Possession) Act. Accordingly, this Court holds that the judgment of the learned Provincial High Court Judge of the Sabaragamuwa Province holden at Ratnapura dated 22.04.2021 cannot be sustained in law. The said judgment is hereby vacated, the order of the learned Magistrate of Ratnapura dated 25.10.2019 is restored, and the appeal is allowed. In all the circumstances of this case, I make no order as to costs.

Judge of the Court of Appeal

K.M.S. Dissanayake, J.

I agree

Judge of the Court of Appeal