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

In the matter of Petition of Appeal under and in terms of Section 331 of the Criminal Procedure Code, read with Section 11 of the High Court of the Provinces (Special Provisions) Act No. 19 of 1990.

CA/Case No: CA/(PHC) 115/18

PHC of Panadura Case No. 15/2018 (RA)
MC of Horana Case No 84641

Jayaweera Mudiyanselage Chandrika Priyadharshani,
Competent Authority,
Plantation Management Monitoring Division,
Ministry of Plantation Industries,
2nd Floor,
Sethsiripaya (2nd Stage),
Battaramulla.

APPLICANT

Vs.

Aluthge Kamalawathi Ratnaweera,
No. 177,
Ratnapura Road,
Hoarana.

RESPONDENT

THEN

Jayaweera Mudiyanselage Chandrika
Priyadharshani,
Competent Authority,
Plantation Management Monitoring
Division,
Ministry of Plantation Industries,
2nd Floor,
Sethsiripaya (2nd Stage),
Battaramulla.

APPLICANT-PETITIONER

Aluthge Kamalawathi Ratnaweera,
No. 177,
Ratnapura Road,
Hoarana.

RESPONDENT-RESPONDENT

AND NOW

Jayaweera Mudiyanselage Chandrika
Priyadharshani,
Competent Authority,
Plantation Management Monitoring Division,
Ministry of Plantation Industries,
2nd Floor,
Sethsiripaya (2nd Stage),
Battaramulla.

A. Wickrama Arachchilage Leelanath
Wickrama Arachchi,
Competent Authority
Plantation Management Monitoring

Division,
Ministry of Plantation Industries,
11th Floor, "Sethsiripaya" – Stage II,
Battaramulla

SUBSTITUTED – A- APPLICANT-PETITIONER-PETITIONER

Vs.

Aluthge Kamalawathi Ratnaweera,
No. 177,
Ratnapura Road,
Hoarana.

RESPONDENT-RESPONDENT-RESPONDENT

Before: **B. Sasi Mahendran, J.**
Amal Ranaraja, J

Counsel : Ashan Nanayakkara with Sachin Jayalath, for the Applicant-Petitioner-Petitioner
Boopathi Kahathuduwa for the Respondent

Written Submissions On: 03.06.2022 (by the Applicant-Petitioner-Petitioner)
02.01.2023 (by the Respondent-Respondent-Respondent)

Argued On: 13.02.2026

Judgment On: 30.04.2026

JUDGEMENT

B. Sasi Mahendran, J.

The Applicant-Petitioner-Petitioner (hereinafter referred to as the "Applicant") has filed this appeal before this court seeking to set aside the order delivered by the learned High Court Judge of the Provincial High Court of the Western Province, holden in Panadura, dated 12th July 2018, in Case No. 15/2018, where the learned High Court Judge affirmed the order of the Learned Magistrate of Horana on 11th August 2017 in Case No. 84641.

The following facts are relevant to this case

The applicant is the competent authority of the Plantation Management Monitoring Division of the Ministry of Plantation Industry had made an application on 22nd February 2013 to the Magistrate Court of Horana in case bearing No 84641 under and in terms provisions of Section 5 of the State Lands (Recovery of Possession) Act No. 07 of 1979 (as amended) (hereinafter referred to as the Act) for the eviction of the Respondent-Respondent-Respondent (herein after referred to as the Respondent) from a State Land as morefully described in the schedule to the application on the basis that the Respondent is unlawfully occupying the land. (hereinafter called and referred to as the 'State Land).

The Respondent, having appeared before the Magistrate's Court of Horana in compliance with the summons issued by the Court, filed a statement dated 5th June 2018 showing cause against the application. In that statement, he raised several preliminary objections to the maintainability of the application, primarily on that premise.

a. The land which forms the subject matter of this case belonged to the Land Reform Commission.

b. The Land Reforms Commission, by way of Deed No 218 dated 13.02.2009, has sold the said land to the Respondent.

c. Therefore, there is no illegal occupation of state land by the Respondent.

In response, the Applicant filed counter-objections on 20th June 2013. In her statement, she referred to the schedule set out in Deed No. 218.

Page 519 of the brief,

"බස්නාහිර පළාතේ කලතර දිස්ත්‍රික්කයේ රයිගම් කෝරළයේ කුඹුකේ පත්තුවේ හොරණ ප්‍රාදේශීය ලේකම් කොට්ඨාශයේ හොරණ ගමේ පිහිටි ඇල්ලකන්ද වත්ත වරිපනම් අංක 179 කොටසක්, රත්නපුර භාර නැමැති ඉඩමට, මැනුම්පතිගේ අංක මු. පි. 2337 සහ 1989.10.10 දින දරන පිඹුරෙ දැක්වෙන බෙදා වෙන් කරන ලද කැබලි අංක 3 දරන ඉඩම් කොටසට මායිම,

උතුරට රාජ්‍ය වැවිලි සමාගම විසින් පාලනය කරන ඇල්ලකන්දූ වත්තද,

නැගෙනහිරට, පාරද,

දකුණට: පී. පී. ක. 2337 හි කැබලි අංක 2ද සහ

බස්නාහිරට: ඩී. ආර. වී. ජයකොඩ හිමි කීම කියන අම්බලන්ගේන ද

යන මෙකී මායිම තුල පිහිටි පරිවස් දහතුනයි දශම අටයි එකක (අ0 රූ0 පර්.13.81) ක ධම සහ ඒ තුල පිහිටි ගහකොළ පලතුරු යනාදී සෑම සියලු දේද වේ "

Furthermore, she referred to the land described in the schedule to the application.

Page 520 of the brief,

" බස්නාහිර පළාතේ කලුතර දිස්ත්‍රික්කයේ රයිගම් කෝරළයේ කුඹුකේ පත්තුවේ හොරණ හොරණ නහර සභා සීමාව තුල පිහිටි අංක 4194 සහ 2010.05.28 දින දරණ අවසරලත් මහින්දෝරු ඩී. එච්. ඇතුලත් මුදලි මහතා විසින් මැන් කදන ලද පිඹුරෙහි දැක්වෙන සොරණ වත්තේ ඇල්ලකන්ද එසේටෙට් නැමැති කොටසෙහි කොටසක් වන කැබලි අංක 1 ලෙස දක්වා ඇති කොටසට මායිම

උතුරට : අංක 939 පිඹුරේ දැක්වෙන ඇල්ලකන්ද වත්ත නැමැති දේපලෙහි කර්මාන්ත ශාලාව පිහිටි කොටස්,

නැගෙනහිරට: අංක 939 පිඹුරේ දැක්වෙන ඇල්ලකන්ද වත්තේ කරර්මාන්ත ශාලාව පිහිටි කොටස සහ අංක 4194 දරණ පිඹුරෙ කැබලි අංක 3

දකුනට අංක 2337 දරන මූලික පිඹුරෙ කැබලි අංක 3 සහ අංක 4194 දරණ පිඹුරේ කැබලි අංක 2 හා 3

බස්නාහිරට රත්නපුර පාර වරිපනම් අංක 171 දරන අබල මේ හේන ගැමැති දේපල"

The Applicant drew the Court's attention to a dispute concerning the identity of the land, contending that the written authority (Deed No. 218) produced by the Respondent relates to State Land described in the application.

According to the written submission filed by the Applicant by Gazette Extraordinary of the Democratic Socialist Republic of Sri Lanka dated 21.04.1994, on the request of the Land Reform Commission, the said land described in the schedule was vested in the Applicant.

Subsequently, by letter dated 2nd March 2005, the minister issued directions stating that the Land Reform Commission has no authority over lands vested either in the Sri Lanka State Plantation Corporation and the Janatha Estate Development Board. This letter was annexed to the said counter objections and marked as X1. Therefore, the Applicant claims that the subsequent transfer of the said deed was **not in accordance with the law.**

Thereafter, the learned Magistrate directed both parties to file written submissions. On 11th August 2017, the learned Magistrate delivered an order dismissing the application on the basis that the Respondent possessed a valid document to occupy the land under Deed No. 218 issued by the Land Reform Commission.

It is pertinent to refer to the said portion of the impugned order

Page 278 of the brief,

> "ඉඩම් ප්‍රතිසංස්කරණ කොමිෂන් සභාවට ඉඩම් පැවරීම සඳහා බලයක් පවතීද එසේ නොවන්නේද යන්න මෙම අධිකරණයට තීරණය කිරීමේ හැකියාවක් නොමැත. අංක 218 දරණ නිසි ලෙස ලියාපදිංචි කරන ලද විකුණුම්කරයක් අධිකරණය වෙත ඉදිරිපත් කොට ඇත. එකී ඔප්පුවේ වලංගුභාවය මෙම අධිකරණය විසින් තීරණය කළ නොහැක.
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> පනතේ ප්‍රතිපාදන අනුව මෙම අධිකරණය විසින් සොයා බැලිය යුත්තේ වලංගු අවසරයක් වග උත්තර කාර්ය වෙත පවතින්නේද යන්න පමණි. ප්‍රශ්නගත ඔප්පුව නිසි බලයකින් තොරව සකස් කොට ඇති බවට පැමිණිල්ල වෙනුවෙන් කියා සිටින්නේ නම් එයට එරෙහිට නිසි අධිකරණය වෙත ප්‍රවේශ විපියවර ගැනීමේ වගකීම පැමිණිල්ල වෙත පවතී. අංක 218 දරණ ඉඩම් ප්‍රතිසංස්කරණ කොමිෂන් සභාට මගින් වග උත්තර කාර්ය වෙත ඉඩම විකිණීමට සකස් කළ ඔප්පුව බැලූ බැල්මට පෙනෙන වලංගු අවසර පත්‍රයක් බවට තීරණය කරමි. එකී විකුණුම් කරයි නෛතික භාවය මෙම අධිකරණය විසින් තීරණය කළ නොහැකි බවට නිගමනය කරමි. වලංගු අවසරයක් පවතින බවට වග උත්තරකාරිය විසින් සනාථ කොට ඇති හෙයින් වග උත්තරකාරයට නෙරපීම සඳහා පැමිණිල්ල විසින් සිදු කොට ඇති ඉල්ලීම ප්‍රතික්ෂේප කරමි."

The learned Magistrate, without conducting an inquiry to ascertain whether the deed granted to the Respondent was issued in accordance with the Land Reform Law, nevertheless concluded that the said deed was valid.

The law requires the Respondent to establish before the learned Magistrate that he was in occupation of the land described in the schedule to the application under a valid permit or other written authority of the State. If he fails to do so, the learned Magistrate must issue an order directing the Respondent and his dependents to be evicted from the land. In this instance, the Applicant has drawn the Court's attention to the fact that the land referred to in the said deed differs from the land described in the schedule. It must be noted that the summons was issued under Section 6 of the Act in respect of the land identified in the schedule, where the Respondent was in occupation. This issue was not considered by the learned Magistrate.

In addition, the Applicant brought to the Court's notice that the said deed had not been granted in accordance with the law. When this issue was raised, the learned Magistrate was required to hold an inquiry. Instead, he simply accepted the deed, stating that it was a valid document.

Against the said order, the Applicant filed a revision application before the Provincial High Court of the Western Province, holden at Panadura. By order dated 12th July 2018, the learned High Court Judge dismissed the revision application on the ground that Deed No. 218 is a valid document and therefore found no reason to interfere with the order of the learned Magistrate. The Learned High Court Judge further observed that the Applicant must challenge the said deed before the District Court.

Page 25 of the brief,

> "පෙත්සම්කරුගේ පෙත්සම පරීක්ෂා කිරීමේදී පෙත්සම්කරු විසින් මෙම අංක 218 දරණ ඔප්පුව දණ්ඩ නීති සංග්‍රහයේ අරුත යටතේ කූඨ ලේඛනයක් බව හෝ එහි මායිම් වලින් දැක්වෙන්නේ නෙරපීමේ ඉල්ලීමට අදාල නොවන වෙනත් ඉඩමක් බවක් දක්වා නැත.
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> අදාල ඔප්පුව විස්තර කිරීමේදී පෙත්සම්කරුට එය කූඨ ලේඛනයක් ලෙසට හැඳින් වීමට නොහැකි වීම මත නීතිය නොහඳුනන වචනයක් වන "ඊනියා ලේඛනයක් " යන වචනය යොදාගෙන ඇති බවටත් අධිකරණයේ අවධානය යොමු වෙයි.
>
> යම් ඉඩමකට වලංගු ඔප්පුවක් පැවතීමේදී එම ඉඩම පැවරීමට හෝ විකිණීමට දීමනාකරුට හෝ විකුණුම්කරුට (මෙම අවස්ථාවේ රජයේ ආයතනයක් වන ඉඩම් ප්‍රතිසංස්කරණ කොමිෂන් සභාවට)

> බලය නොතිබීම මත ලැබුම්කාර මිලදී ගන්නා පාර්ශවයට නීත්‍යානුකූල අයිතියක් ලැබී ඇත්තේ දැයි තීරණය කිරීමට හැකියාව ඇත්තේ දිසා අධිකරණයකටය."

Being aggrieved by the aforementioned order of the Learned High Court Judge, the Applicant has filed this appeal before this court.

The main argument put forward by the applicant was that the Learned Magistrate had failed to hold an inquiry under section 9 of the said Act, whether the Respondent had a valid permit or other written authority of the state granted in accordance with any written law.

In the instant application, the scope of the inquiry before the learned Magistrate under Section 9 of the Act is to find out whether such a person has established that he is in a position or the occupation in the land in question upon a valid permit or other written authority of the state granted **in accordance with any written law.**

The scope of inquiry that has to be held by the learned Magistrate and the defence that could be taken up by a person against whom an application has been made have been set out in Section 9 (1) of the said act, which reads as follows,

> *"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."* [emphasis mine]

The scope of the inquiry is discussed in the following judgment:

In ***Muhandiram V. Chairman, No.111, Janatha Estate Development Board*** (1992) 1 SLR 110 at 112, His Lordship Grero J held that:

> *"Under Section 9(1) of the State Lands (Recovery of Possession) Act No. 7 of 1979, the person on whom summons has been served(in this instance, the respondent-petitioner) 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 in 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 written authority is in force and not revoked or otherwise rendered invalid.*

The said Section clearly reveals that at an inquiry of this nature, the person on whom the summons has been served has to establish that his possession or occupation is upon a valid permit or other written authority of the State granted according to the written law. The burden of proof that fact lies on that particular person on whom the summons has been served and appears before the relevant Court. In this case the burden was on the respondent-petitioner to establish the fact that he had a valid permit or other written authority of the State to occupy the land which is stated in the schedule to the application of the Competent Authority."

In the instant case, the Applicant indicated to the Court that the schedule referred to in Deed No. 218 and the land described in the schedule to the application are different. It should be mindful the competent authority has formed the opinion that the land described in the schedule to the application is state land on the basis that this action was instituted against the Respondent. I am also mindful of Section 9(2) of the said Act.

(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."

When this discrepancy was brought to the notice of this court, the learned Magistrate should have considered the document tendered by the Respondent, that is, Deed No. 218, which had a different land, that is not identical to the land described in the schedule. This dispute on identity can arise for consideration when the party produced written authority summoned.

When the Applicant informed the Court that the schedule described in the deed differed from the land described in the schedule to the application, the learned Magistrate should have considered whether the written authority produced by the Respondent related to the state land described in the application by conducting an inquiry. Where it did not, the Magistrate was required to issue an order of eviction in terms of the Act.

This dictum was considered by S.N. Silva J, (as he was then) in CA 1299/87, decided on 14.06.1995. The above judgment was considered by His Lordship Janak De Silva J, in CA (PHC) APN 29/2016, decided on 09.07.2018, held that,

"The identity of the land can arise for consideration only to the extent of examining whether the valid permit or other written authority produced by the party summoned is in relation to the state land described in the application. Where it is

not, the Magistrate must issue an order of eviction in terms of the Act. In C.A. 1299/87, C.A.M. 14.06.1995, S.N. Silva J. (as he was then) held that if the case of the party summoned is that he is in occupation of another land, then he would not be ejected from the land he is in occupation upon a writ that will be issued in the Magistrate's Court."

The Applicant further contended that, under the Gazette, the land had been vested in them, emphasizing that once land is vested, the Land Reform Commission has no authority over it. The Respondent, however, had obtained land from the Land Reform Commission. The central issue, therefore, is whether the deed in question was granted in accordance with the Land Reform Law.

This position was considered by His Lordship Mahen Gopallawa J, in ***Hatton Plantation PLC V Sri Lanka State Plantation Corporation and others,*** CA (Writ) No 240/2022 Decided On 27.02.2026, held that,

"Conclusion and Orders of Court

For the reasons set out above, I hold that the 4th Respondent Land Reform Commission does not have any legal authority over the agricultural and estate lands vested in the 1st and 2nd Respondents, namely, the Sri Lanka State Plantations Corporation and the Janatha Estates Development Board, in terms of the vesting orders under section 27A(1) of the Land Reform Law"

Nevertheless, the learned Magistrate simply accepted the deed submitted by the Respondent and formed the opinion that it was a valid deed. The scope of inquiry under Section 9(1) emphasizes that the person who occupies the said land has to establish that the written authority of the state, which was granted to him in accordance with any written law.

In ***Farook v. Gunewardene, Government Agent, Ampara,*** 1980 (2) SLR 243 at page 246, Abdul Cader J held that;

"At the inquiry before the Magistrate, the only plea by way of defence that the petitioner can put forward is "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."

Both the learned Magistrate and the learned High Court Judge had failed to consider that the land described in the schedule to the application is the same land described in the said deed No. 218 produced by the Respondent, and they had also failed to consider that the said deed was in fact, granted to the Respondent in accordance with Land Reform Law when applicant brought to notice to them that the said deed was not in accordance with the law. This matter ought to have been clarified by the learned Magistrate through an inquiry conducted under Section 9 of the Act.

I am of the view that the learned Magistrate ought to have conducted an inquiry to determine whether the deed was properly granted in accordance with any written law. At such an inquiry, evidence should have been led to establish the requirement under Section 9 of the Act that the Respondent was in occupation or possession of the land in question on the basis of a valid permit or other written authority issued by the State. Such an inquiry would also have resolved the dispute regarding the identity of the land.

Accordingly, I set aside the orders made by both the learned High Court Judge on 12.07.2018 and the learned Magistrate on 11.08.2017, and direct the Magistrate to conduct a proper inquiry in accordance with Section 9(1) of the State Lands (Recovery of Possession) Act, in order to determine whether the Respondent holds a valid permit or other written authority of the State.

Appeal Allowed.

In these circumstances, I direct the Registrar of this Court to communicate a copy and the original record to the Magistrate Court of *Horana*.

JUDGE OF THE COURT OF APPEAL

Amal Ranaraja, J.
I AGREE

JUDGE OF THE COURT OF APPEAL