

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

In the matter of an application for Mandate in
the nature of *Writ of Certiorari* under and in
terms of Article 140 of the Constitution of the
Democratic Socialist Republic of Sri Lanka.

C.A. (Writ) Application

No: 0810/2024

Mohamed Haniffa Mohamed Azreen,
No. 311/1/2, Bathiya Mawatha,
Hunupitiya,
Wattala.

PETITIONER

Vs.

1. Hon. Anura Kumarathilaka,
Minister,
Ministry of Urban Development,
Construction and Housing,
12th Floor, Sethsiripaya, Stage- II,
Battaramulla.
2. Ranjith Ariyaratne,
Secretary,
Ministry of Urban Development,
Construction and Housing,
12th Floor, Sethsiripaya, Stage- II,
Battaramulla.

3. Gamini Perera,
National Housing Commissioner,
Ministry of Urban Development,
Construction and Housing,
12th Floor, Sethsiripaya, Stage- II,
Battaramulla.
4. Fathima Masiya Anver,
No. 189/7, Uswaththa,
Enderamulla.
Wattala.
5. Fathima Suhada Nawasiya,
No. 254/3, G. Chaminda Mawatha,
Enderamulla,
Wattala.
6. Sayed Ahmed Mawalana Sithy Sareefa,
No. 311/1, Bathiya Mawatha,
Dippitigoda Road, Hunupitiya,
Wattala.
7. Mohamed Razik Shahul Hameed,
No. 28/11C, Symonds Road,
Maradana, Colombo 10.
8. Mohamad Razik Rinosi,
No. 248/2, Vihara Mawatha,
Hunupitiya, Wattala.
9. Mohamad Razik Mohammed Ramees,
No. 1168/2A, Maura Mawatha,
Hunupitiya, Wattala.

10. Mohamad Razik Mohomed Ramzeen,
No. 245/3, L.B. Samithu Mawatha,
Enderamulla, Wattala.
11. Mohamed Razik Fathima Fareena,
No. 311/1/1, Bathiya Mawatha,
Dippitigoda Road,
Hunupitiya,
Wattala.
12. N.V.S. Lakmali,
Registrar,
District Court of Colombo,
Colombo 12.
13. D.K.N. Wickramarachchi,
Registrar,
District Court of Mahara,
Kadawatha.
- 13A. S.J.C. Samanthika,
Registrar,
District Court of Mahara,
Kadawatha.
14. Hon. Attorney General,
Attorney General's Department,
No. 15, Hulftsdorp,
Colombo 12.

RESPONDENTS

Before : Dhammika Ganepola, J.
Adithya Patabendige, J.

Counsel : Diyani Gunarathna for the Petitioner.
Navida Pathirage S.C for the 1st to 3rd and 12th, 13th and 14th
Respondents.
M.R.M. Fazeen instructed by Nadeeka Senevirathna for the 4th
Respondent.
Fathima Suham for the 11th Respondent instructed by Nalin Jayaweera.

Judgement on Written Submissions

Written Submission

Tendered on : 19.03.2026 by the 4th Respondent
02.04.2026 by the Petitioner.

Decided on : 28.04.2026

Adithya Patabendige, J.

Introduction

The Petitioner has invoked the writ jurisdiction of this Court seeking, *inter alia*, a mandate in the nature of a *writ of certiorari* to quash the Deed of Transfer bearing No. 17348 dated 15th June 2005, marked **P7-A**, which was purportedly executed by the National Housing Commissioner under the provisions of the Ceiling on Housing Property Law, No. 1 of 1973, as amended.

The principal contention of the Petitioner is that the said transfer has been effected without lawful authority and in violation of the statutory provisions governing vesting and disposal of property. It is the position of the Petitioner that no valid vesting of the land in question had taken place in terms of the law and, therefore, the National Housing Commissioner lacked the

jurisdiction to execute the impugned Deed (Vide. Paragraphs 79-80 of the Petition dated 21st July 2025).

When this case was taken up for argument on 19th February 2026, all parties agreed to determine this application by way of written submissions.

Factual Background

The Petitioner asserts that he has been in possession of the land in dispute after purchasing it in 2007 and claims that title to the said land flows from private ownership. In this regard, it is to be noted that in paragraphs (Vide. Paragraphs 19 – 24 of the Petition dated 21st July 2025), the Petitioner has expressly stated that he derives title to the disputed land and claims ownership thereof, thereby placing his case on a footing of competing proprietary claims.

The impugned Deed No. 17348 dated 15th June 2005, marked **P7-A**, purports to transfer the said land to the 4th Respondent. The Petitioner contends that there is no evidence of lawful acquisition or vesting of the said property in the State and that the statutory procedures required under the Ceiling on Housing Property Law have not been complied with. In support of this position, the Petitioner relies on documents obtained under the Right to Information Act, marked **P14** and **P15**, to demonstrate that no relevant files, registers, or records exist to substantiate the alleged vesting of the land.

However, it is also disclosed in paragraphs 37 to 41 of the Petition that the property in dispute had been the subject of prior litigation before the District Court, which thereafter proceeded in appeal to the Civil High Court bearing No. WP/HCCA/COL/254/2017(F) and ultimately to the Supreme Court bearing No.SC/HCCA/LA/361/2022. Further, the Petitioner himself acknowledges that the proceedings in question ended in favour of the 4th Respondent.

The Petitioner contends that the impugned deed **P7-A** is *ultra vires* and, in terms of the statutory provisions governing the Ceiling on Housing Property Law, there had been no lawful vesting of the property in the State. It is submitted that in the absence of such vesting, the National Housing Commissioner had no authority to execute the transfer in favour of the 4th Respondent. The Petitioner further relies on the absence of records disclosed through the Right to Information documents **P14** to **P18** to contend that the transaction is illegal and void.

The 4th Respondent, on the other hand, contends that the title derived from the impugned deed has already been adjudicated upon by a competent court and that such determination has

reached finality upon refusal of special leave to appeal by the Supreme Court. It is further contended that the Petitioner has failed to make a full and candid disclosure of material facts.

The 6th to 11th Respondents have taken a position supportive of the Petitioner, while the 1st to 3rd and 12th to 14th Respondents informed this Court that they do not wish to file Objections, as reflected in the motion dated 18th February 2026. Therefore, the principal contest arises between the Petitioner and the 4th Respondent.

Reliefs Sought

The Petitioner seeks, *inter alia*, a mandate in the nature of a *writ of certiorari* to quash the Deed of Transfer bearing No. 17348 dated 15th June 2005, marked **P7-A**, and certain other incidental reliefs.

Analysis

At the outset, it must be observed that the jurisdiction exercised by this Court in matters of this nature is discretionary and governed by well-settled principles. A party invoking the writ jurisdiction is required to approach this Court with clean hands, make a full and frank disclosure of all material facts, and act without undue delay. The present application must be examined in light of these principles.

A careful consideration of paragraphs 37 to 39 of the Petition reveals that the property in dispute had already been the subject of prior litigation before the District Court of Colombo, which culminated in proceedings before the Civil Appellate High Court bearing No. **WP/HCCA/COL/254/2017(F)**, and thereafter before the Supreme Court bearing No. **SC/HCCA/LA/361/2022**. Significantly, in paragraph 40 of the Petition, the Petitioner himself acknowledges that the said proceedings concluded before the Supreme Court on 09th September 2024, with the 4th Respondent succeeding in the said litigation.

This admission clearly demonstrates that the validity of the title derived from the impugned deed **P7-A** has already been judicially determined and has reached finality. Notwithstanding such disclosure, the Petitioner has failed to place before this Court the judgments delivered in those proceedings or to candidly disclose their full effect. The Petitioner has thus chosen to disclose the existence of litigation while omitting its most material consequence, namely the final adjudication in favour of the 4th Respondent. In my view, this amounts to suppression of

material facts, which by itself is sufficient to disentitle the Petitioner to any relief in the exercise of writ jurisdiction.

Further, the contents of paragraphs 37 to 39 indicate that persons closely connected to the Petitioner, including his wife and members of his immediate family, were directly involved in the said proceedings. In particular, it is admitted that the litigation had been handled by the brothers of the Petitioner's wife, and the Petitioner's wife herself had been a party to the said proceedings after the demise of the original 2nd Defendant, Mohomad Pitchchai Mohomad Razik, who is the father of the wife of the Petitioner. In such circumstances, this Court is unable to accept the position taken by the Petitioner that he was unaware of the said proceedings. Knowledge of such proceedings must reasonably be attributed to the Petitioner.

The explanation advanced by the Petitioner for the delay, as set out in paragraphs 39 to 44 of the Petition, is wholly unsatisfactory and cannot be accepted. The Petitioner attempts to contend that he became aware of the relevant facts only after certain statements allegedly made by the 4th Respondent following the conclusion of the Supreme Court proceedings, and that it was thereafter that he sought to verify the validity of the impugned deed by making a request under the Right to Information Act.

This position, in my view, is artificial and contrary to the material placed before this Court. The proceedings relating to the very same property had been litigated over a considerable period before the District Court, the Civil Appellate High Court, and ultimately the Supreme Court. Given that the Petitioner's wife was a party to such proceedings and that his immediate family members had actively participated in the litigation, it is wholly implausible for the Petitioner to assert that he had no knowledge whatsoever of those proceedings or their implications. The attempt to attribute knowledge solely to subsequent utterances of the 4th Respondent is therefore unconvincing and appears to be a belated attempt to overcome the bar of delay.

Moreover, paragraph 43 of the Petition itself indicates that immediately upon the conclusion of the Supreme Court proceedings, the 4th Respondent had asserted ownership over the entirety of the land, including the portion claimed by the Petitioner, and had indicated that the Petitioner would be evicted. This clearly establishes that the Petitioner was aware, at the very least from that stage, that his alleged rights were directly in issue. The subsequent step of making a request under the Right to Information Act, as referred to in paragraph 44, does not

constitute a satisfactory explanation for the delay. It reinforces the conclusion that the Petitioner was attempting to reopen matters that had already been finally determined.

In the totality of the circumstances, the delay is inordinate, unexplained, and fatal to the present application.

It must also be noted that although the Respondents have not expressly raised the issue of delay in their Statement of Objections, such omission does not preclude this Court from considering the same. The grant of relief in writ jurisdiction is discretionary in nature, and it is incumbent upon this Court to be satisfied that a party seeking such relief has acted with due diligence and without undue delay. The principles relating to laches, suppression of material facts, and abuse of process go to the very root of the exercise of judicial review and may be considered by this Court even in the absence of a specific plea by the parties. Therefore, this Court is fully justified in examining the delay and the explanation tendered by the Petitioner, notwithstanding the absence of an express objection in that regard.

More fundamentally, the material before this Court establishes that the validity of the impugned deed and the competing claims to title have already been adjudicated upon by a competent civil forum, and such determination has been affirmed on appeal and has reached finality before the Supreme Court. The Civil Appellate High Court judgment produced by the 4th Respondent, marked “Y”, demonstrates that the issue of title flowing from the very same deed marked P7-A, executed by the National Housing Commissioner, had been directly in issue and determined after full trial. The Supreme Court has thereafter declined to interfere with that determination.

In such circumstances, it is not open to the Petitioner to invoke the writ jurisdiction of this Court to collaterally challenge or undermine findings which have attained finality. To permit such a course would be to defeat the principle of finality of litigation and to allow parallel proceedings in different jurisdictions in respect of the same subject matter.

It is also to be noted that, in paragraphs 19 to 35 of the Petition, the Petitioner himself asserts title to the disputed property based on a chain of deeds. The dispute raised by the Petitioner is, therefore, in essence, a dispute relating to title and competing proprietary claims. Such matters fall squarely within the jurisdiction of the civil courts and have, in fact, already been adjudicated upon. The present application is nothing but an attempt to re-litigate issues of title under the guise of judicial review.

Viewed in its entirety, the present application constitutes a clear abuse of the process of this Court. The Petitioner, having failed to assert his rights, if any, at the appropriate stage in the earlier proceedings, now seeks to invoke the discretionary jurisdiction of this Court to reopen concluded matters, while offering an explanation for delay that is neither credible nor acceptable. The writ jurisdiction being discretionary in nature, such relief cannot be granted in favour of a party who has been guilty of suppression, delay, and abuse of process.

In all these circumstances, this Court is of the view that the present application is devoid of merit and is liable to be dismissed. Further, having regard to the manner in which this application has been instituted, seeking to reopen matters that have attained finality and thereby unnecessarily invoking the jurisdiction of this Court, this is a fit case where costs should be imposed on the Petitioner.

Conclusion and Order

For the foregoing reasons, the application is dismissed. The Petitioner is ordered to pay Rs. 25,000 as costs to the 4th Respondent.

JUDGE OF THE COURT OF APPEAL

Dhammika Ganepola, J

I agree.

JUDGE OF THE COURT OF APPEAL