

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

In the matter of an application for Mandates in the nature of *Writs of Certiorari*, and *Prohibition* under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

C.A. (Writ) Application

No: 0054/2020

Crustasia (Pvt) Ltd.,
No.34 4/3. Melbourne Avenue,
Colombo 04.

PETITIONER

Vs.

1. Divisional Secretary,
Divisional Secretariat,
Manmunai South West, Paddipalai,
Batticaloa.
2. Thedshanagowry Dinesh,
Divisional Secretary,
Divisional Secretariat,
Manmunai South West, Paddipalai,
Batticaloa.
3. National Development Bank PLC,
No.40, Nawam Mawatha,
Colombo 02.

4. Bank of Ceylon,
Head Office,
Bank of Ceylon Building,
No.1, BOC Square,
Bank of Ceylon Mawatha, Colombo 01.
5. Hon.S.M. Chandrasena,
Minister of Lands,
"Mihikatha Medura",
Land Secretariat,
No.1200/6, Rajamalwatta Avenue,
Battaramulla.
- 5A. Hon. K.D. Lal Kantha,
Minister of Agriculture, Livestock, Land and
Irrigation,
"Mihikatha Medura",
Land Secretariat,
No.1200/6, Rajamalwatta Avenue,
Battaramulla.
6. Land Commissioner General,
Land Commissioner General's Department,
No.7, Hector Kobbekaduwa Mawatha,
Colombo 07.
7. H.E.M.W.G.Dissanayaka,
Commissioner (Acting),
Eastern Province,
Provincial Land Commissioner's Department,
Department of Land Administration,
Orr's Hill,
Trincomalee.

7A. V. Ravindaran,
Provincial Commissioner,
Eastern Province,
Provincial Land Commissioner's Department,
Department of Land Administration,
Kanniya Road, Varothayanagar,
Trincomalee.

8. The Hon. Attorney General,
Attorney General's Department,
Colombo 12.

RESPONDENTS

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

Counsel : N.R. Sivendran, AAL with Fihama Hanifa, AAL for the Petitioner, instructed
by Dilhani S. Ahangama, AAL.
Nirmalan Wigneswaran, D.S.G. for the 1st, 2nd, 5th, 6th and 8th Respondents.
Geethaka Goonewardene, PC, with Rishan Vidanagamage instructed by
Anushi Vithanage for the 3rd Respondent.
Rasika Dissanayake with Shabeer Huzair for the 4th Respondent.

Argued on : 24.02.2026

Written Submission

Tendered on : 31.03.2026 by the Petitioner.

Decided on : 05.05.2026

Adithya Patabendige, J.

Introduction

The Petitioner – Crustasia (Pvt) Ltd. is a Company incorporated under the Companies Act No.7 of 2007.

The Petitioner-Company has invoked the jurisdiction of this Court under Article 140 of the Constitution seeking, *inter alia*, reliefs in the nature of *writs of certiorari* and *prohibition* in respect of a Quit Notice dated 29th January 2020 marked **X1** (English translation of **X1** marked as **X1A**), purportedly issued under the State Lands (Recovery of Possession) Act No. 7 of 1979 (as amended), whereby the 2nd Respondent has contended that the lands described therein are State Lands and has called upon the Petitioner to hand over possession.

The principal grievance of the Petitioner is that the lands referred to in the said Notice are not State Lands but privately owned lands, the title to which is traceable through a series of duly registered Deeds and Certificates of Sale, and which had been sold at a public auction conducted in terms of the Recovery of Loans by Banks (Special Provisions) Act No. 4 of 1990 (as amended), culminating in the 3rd Respondent – National Development Bank acquiring statutory title.

The Petitioner further contends that, acting upon representations made by the 3rd Respondent and 4th Respondent – Bank of Ceylon, the Petitioner entered into arrangements to purchase the said properties, made substantial payments, and thereby acquired a legitimate expectation to complete the transaction and develop the said lands.

The Petitioner contends that the impugned Notice has been issued arbitrarily, without affording any hearing or inquiry, in violation of the principles of natural justice, and in abuse of statutory powers, notwithstanding that the said lands had long been treated as private property and dealt with accordingly.

Accordingly, the Petitioner seeks the intervention of this Court to quash the said Notice, to prevent further unlawful interference with the Petitioner's possession and business activities.

Reliefs Sought

The Petitioner seeks, *inter alia*, the following reliefs,

- a) a mandate in the nature of a *writ of certiorari* quashing the decision contained in the Notice dated 29th January 2020 marked **X1** issued by the 2nd Respondent, in so far as it includes the properties described in paragraphs 21 and 22 of the Petition,
- b) a mandate in the nature of a *writ of prohibition* preventing the 1st and/or 2nd Respondents from stopping or obstructing the Petitioner from possessing or carrying on business or development activities thereon,
- c) an Order directing the 1st and/or 2nd Respondents to recall the Notice dated 29th January 2020 marked **X1**.

Factual Background

The material facts, as disclosed by the pleadings and documents placed before this Court, may be summarised as follows.

The dispute relates to certain lands said to be situated within Lots 3 and 4 of Preliminary Plan No. 826 dated 18th October 1984 marked **X2**. The 1st, 2nd, 5th, 6th and 8th Respondents take up the position that the said lands are State Lands and that they had been previously granted on long-term lease to a company known as Serendib Sea Foods for a period of 30 years, a certified copy of such lease is marked **1R1**. It is their position that the said lease has lapsed and that no person presently holds any lawful right or interest in the said lands.

The 3rd and 4th Respondents, however, state that Serendib Sea Foods Ltd. had obtained banking facilities from them and had executed Mortgage Bonds bearing Nos. 140 and 141 marked **X4** and **X5**. Upon default, the 3rd Respondent proceeded under the Recovery of Loans by Banks (Special Provisions) Act and caused the mortgaged properties to be sold by way of *parate execution*. At such sale, the 3rd Respondent itself purchased the said properties and obtained Certificates of Sale bearing Nos. 1339 and 1340 dated 29th February 2012, marked **X3A** and **X3B**.

The Petitioner claims title to the lands under the Certificates of Sale and asserts that the lands are private property, not State Land. The Petitioner further relies on various documents,

including deeds, encumbrance sheets and plans, including a Plan marked **X67**, to support its claim.

It appears that subsequent to the said transactions, a series of correspondence took place between the Petitioner and the 1st Respondent, including letters marked **X54, X55, X56, X57, X58, X59, X60, X64, X65** and **X66**, wherein the Petitioner contends its claim to the land and the 1st Respondent sought clarification regarding the basis of such claim.

Upon consideration of the material available, the 1st Respondent issued the Notice dated 29th January 2020 marked **X1** under the provisions of the State Lands (Recovery of Possession) Act, requiring the Petitioner to vacate the said land on the basis that the Petitioner was in unauthorized occupation of State Land.

The 3rd Respondent, while denying that the Petitioner has acquired any enforceable right or title, states that it became the owner of the property by virtue of the Certificates of Sale marked **X3A** and **X3B** following a *parate execution*. The 3rd Respondent, however, takes the position that the properties in question are private properties and not State Land.

The 4th Respondent, being a concurrent mortgagee, supports the position that the 3rd Respondent became the lawful owner of the properties under the said Certificates of Sale and does not assert that the land in question is State Land. The 4th Respondent further refers to the mortgage transactions and subsequent settlement arrangements, but does not dispute the private character of the lands.

Issue to be Determined

In the light of the foregoing, the principal issue that arises for determination by this Court is whether the Notice dated 29th January 2020 marked **X1**, issued by the 1st Respondent under the State Lands (Recovery of Possession) Act, is lawful and valid in circumstances where the title to the land in question is seriously disputed and the Petitioner asserts that the said land is private property and not State Land.

Analysis

The preliminary objection taken on behalf of the 1st, 2nd, 5th, 6th and 8th Respondents is that the present application is not maintainable in writ jurisdiction inasmuch as it involves serious and contested questions of fact relating to the title, identity and extent of the land in question, and that the Petitioner has an adequate and effective remedy by way of a civil action for the vindication of title. These objections, in my view, go to the root of the jurisdiction invoked by the Petitioner and must be considered at the outset.

A careful consideration of the pleadings, documents and submissions before this Court reveals that the dispute between the parties extends beyond the legality of the impugned Quit Notice marked **X1** and goes to the very foundation upon which such notice was issued. The Petitioner contends that the land described in **X1** constitutes private property and seeks to establish such a claim by relying on Certificates of Sale marked **X3A** and **X3B**, a series of deeds and encumbrance extracts, and a survey plan marked **X67**. The Respondents, on the other hand, contend that the said land forms part of State Land as identified in the Survey Plan marked **X2**, and that the Petitioner is in unauthorized occupation thereof. Thus, the controversy between the parties raises substantial questions as to the title, identity, and extent of the land.

It is well settled that the jurisdiction of this Court under Article 140 is supervisory in nature and is primarily concerned with the legality of administrative action rather than the adjudication of disputed private rights. Where the determination of the issues raised requires a detailed inquiry into contested questions of fact, including the evaluation of competing documentary material and, if necessary, oral and expert evidence, such matters fall more appropriately within the domain of the Civil Courts.

This principle has been consistently recognised in judicial decisions, including *Thajudeen v. Sri Lanka Tea Board and Another (1981) 2 SLR 471*, where it was observed that matters involving serious disputes of fact are not amenable to determination in writ proceedings.

In the present case, the challenge advanced by the Petitioner cannot be resolved without determining whether the land in question is State Land or private land, and whether the land claimed by the Petitioner corresponds to that described in the impugned Notice. Such matters cannot be satisfactorily resolved on affidavits alone and would require a detailed inquiry, including the comparison and superimposition of survey plans and, if necessary, the evidence

of qualified witnesses responsible for preparing such plans. Such an exercise lies outside the proper scope of writ jurisdiction.

In this context, the Respondents have placed considerable reliance on the Survey Plan marked **X2**. In terms of Section 83 of the Evidence Ordinance, maps, plans or surveys purporting to be signed by the Surveyor-General or an officer acting on his behalf are entitled to a presumption of accuracy. The Plan marked **X2**, therefore, carries a statutory presumption of correctness, albeit a rebuttable one.

The Petitioner challenges the correctness of **X2** by relying on the document marked **X67**. It is to be observed that **X67** appears to be a plan prepared by a private surveyor. While such a document may, in appropriate proceedings, be relied upon to challenge an official survey, the question whether **X67** is sufficient to rebut the presumption attaching to **X2** is not a matter that can be determined on affidavits alone. The determination of that issue would necessarily require this Court to examine the methodology adopted in preparing the respective plans, to compare their contents, and to consider the evidence of the persons responsible for their preparation, including, if necessary, expert testimony.

In these circumstances, this Court is unable to undertake such an inquiry in the exercise of its writ jurisdiction. It is therefore neither possible nor appropriate for this Court to make a definitive finding as to whether the Plan marked **X67** successfully rebuts the presumption of accuracy attaching to the Plan marked **X2**.

Therefore, my considered view is that the Petitioner's challenge to the impugned Quit Notice is inextricably linked to the resolution of such disputed factual issues. The Petitioner cannot, in proceedings of this nature, seek to displace the evidentiary effect of **X2** without inviting this Court to engage in a fact-finding exercise which lies outside the proper scope of judicial review.

Further, the statutory framework itself provides a clear indication of the appropriate forum for resolving disputes of this nature. Section 12 of the State Lands (Recovery of Possession) Act expressly preserves the right of any person claiming title to land to institute an action against the State to vindicate that title. The legislature has thus recognised that disputes relating to ownership of land, particularly when contested, are to be resolved through a full inquiry in the Civil Courts. In the present case, where the Petitioner's claim is fundamentally one of title, the remedy provided under Section 12 cannot be regarded as inadequate.

Conclusion and Order

For the foregoing reasons, I am of the view that the present application involves seriously contested questions of fact, the determination of which falls outside the scope of the writ jurisdiction of this Court. The Petitioner has an adequate and appropriate remedy by way of an action in the District Court for the vindication of title.

Accordingly, I hold that this is not a fit case for the exercise of the writ jurisdiction of this Court.

Hence, the application of the Petitioner is dismissed without costs.

JUDGE OF THE COURT OF APPEAL

Dhammika Ganepola, J

I agree.

JUDGE OF THE COURT OF APPEAL