

**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: 0380/2018

1. Sri Lanka State Plantations Corporation,
No. 11, Duke Street,
Colombo 01.

(Appearing by its duly appointed attorney namely Kotagala Plantations PLC by Power of Attorney No. 215, dated 05.08.1996 attested by O.J. Kottage, Notary Public).

2. Kotagala Plantations PLC,
No. 53 1/1,
Sir Baron Jayathilaka Mawatha,
Colombo 01.

PETITIONERS

Vs.

1. Land Reform Commission,
No. 475, Kaduwela Road,
Battaramulla.
2. Sirimewan Dias,
Chairman,
Land Reform Commission,
No. 475, Kaduwela Road,
Battaramulla.

- 2A. Nilantha Wijesinghe,
Chairman,
Land Reform Commission,
No. 475, Kaduwela Road,
Battaramulla.
- 2B. Panduka Keerthinanda,
Chairman,
Land Reform Commission,
No. 475, Kaduwela Road,
Battaramulla.
- 2C. R.K. Nihal,
Chairman,
Land Reform Commission,
No. 475, Kaduwela Road,
Battaramulla.
3. Hon. Naveen Dissanayake,
The Minister,
Ministry of Plantation Industry,
8th Floor, Sethsiripaya 2nd Stage,
Battaramulla.
- 3A. Hon. Ramesh Pathirana,
The Minister of Plantation,
Minister of Plantation Industries and Export
Agriculture,
8th Floor, Sethsiripaya 2nd Stage,
Battaramulla.

3B. Hon. Mahinda Amaraweera,
Minister of Agriculture and Plantation
Industries,
8th Floor, Sethsiripaya 2nd Stage,
Battaramulla.

3C. Hon. K.V. Samantha Vidyaratna,
Minister of Plantation and Community
Infrastructure,
Ministry of Plantation and Community
Infrastructure,
8th Floor, Sethsiripaya 2nd Stage,
Battaramulla.

4. Upali Marasinghe,
Secretary,
Ministry of Plantation Industry,
8th Floor, Sethsiripaya 2nd Stage,
Battaramulla.

4A. Rawindra Hewawitharana.
Secretary,
Ministry of Plantation Industry,
8th Floor, Sethsiripaya 2nd Stage,
Battaramulla.

4B. Janaka Dharmakeerthi,
Secretary,
Ministry of Plantation Industry,
8th Floor, Sethsiripaya 2nd Stage,
Battaramulla.

- 4C. Prabath Chandrakeerthi,
Secretary,
Ministry of Plantation and Community
Infrastructure,
8th Floor, Sethsiripaya 2nd Stage,
Battaramulla.
5. Hon. Gayantha Karunathilaka,
The Minister of Lands,
Ministry of Lands,
No. 1200/6, Rajamalwatta Lane,
Battaramulla.
- 5A. Hon. S.M. Chandrasena,
The Minister of Lands,
Ministry of Lands,
No. 1200/6, Rajamalwatta Lane,
Battaramulla.
- 5B. Hon. Harin Fernando,
The Minister of Lands,
Ministry of Lands,
No. 1200/6, Rajamalwatta Lane,
Battaramulla.
- 5C. K.D. Lal Kantha,
Minister of Agriculture, Livestock, Land and
Irrigation,
“Mihikatha Madura”,
Land Secretariat,
No. 1200/6, Rajamalwatta Road,
Battaramulla.

6. The Secretary,
The Minister of Lands,
Ministry of Lands,
No. 1200/6, Rajamalwatta Lane,
Battaramulla.

- 6A. D.P. Wickramasinghe,
Secretary,
Ministry of Agriculture, Livestock, Land and
Irrigation,
“Mihikatha Madura”,
Land Secretariat,
No. 1200/6, Rajamalwatta Road,
Battaramulla.

7. The Divisional Secretary,
Divisional Secretariat,
Horana.

8. The Commander,
Sri Lanka Army,
Army Headquarters,
Colombo 01.

9. The Brigade Commander,
“582 Brigade”,
Wagawatta, Horana.

10. Hon. Attorney General,
Attorney General’s Department,
Colombo 12.

RESPONDENTS

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

Counsel : Senaka de Saram with Nirosh Bandara and Hansika S. Athapaththu
instructed by L. P. S.T. Liyanage for the Petitioners.

Thisath Wijayagunawardane, P.C. with Gihan Liyanage and Induri
Perera instructed by Mallowarachchi Associates for the 1st and 2nd
Respondents.

N. Kahawita, S.S.C. for the State.

Argued on : 28.01.2026

Written Submission

Tendered on : 04.03.2026 by the 3A, 4A, 5A, 6th to 10th Respondents.

Decided on : 28.04.2026

Adithya Patabendige, J.

Introduction

This is an application invoking the writ jurisdiction of this Court under Article 140 of the Constitution seeking, *inter alia*, a mandate in the nature of a *writ of certiorari* to quash the Order and/or decision made under Section 38(a) of the Land Acquisition Act No. 9 of 1950, as amended, published in Gazette Extraordinary No. 2084/61 dated 17th August 2018, marked **P9** and **P9(A)**.

The dispute concerns the acquisition of an extent of approximately 10 acres of land known as “Ellakanda Watta”, forming part of “Sorana Estate”, situated within the Horana Divisional Secretariat Division.

Whilst the Petitioners challenge the legality of the said acquisition on several grounds, including non-compliance with the Land Reform Law and the Land Acquisition Act, the Respondents contend that the acquisition was carried out strictly in accordance with the Land Acquisition Act for a valid public purpose, namely the establishment of the 582nd Brigade Headquarters of the Sri Lanka Army.

Factual Background

The subject land forms part of “Sorana Estate”, which was originally vested in the Land Reform Commission under the Land Reform Law No. 1 of 1972. Thereafter, by a Gazette Extraordinary No.815/10 dated 21st April 1994, marked **P1**, issued under Section 27A of the said Law, the land was vested in the 1st Petitioner, the State plantation corporation.

Subsequently, the 1st Petitioner, by indenture of lease bearing No. 214 dated 05th August 1996 marked **P4**, leased the said land to the 2nd Petitioner, the Kotagala Plantations PLC, who has been in possession and management of the land.

On or about 10th February 2018, a notice under Section 2 of the Land Acquisition Act marked **P6** was issued by the Divisional Secretary, Horana, indicating the intention to acquire an extent of approximately 10 acres of the said land for a public purpose, namely the establishment of the 582nd Brigade Headquarters of the Sri Lanka Army.

An Advance Tracing Plan No. KA/DSO/2018/334, dated 17th May 2018, marked **P7**, was thereafter prepared. Subsequently, by Gazette Extraordinary No. 2084/61 dated 17th August 2018, marked **P9** and **P9A**, the Minister invoked the urgency provisions under Section 38(a) of the Land Acquisition Act.

The Respondents state that pursuant to the said Order, the Divisional Secretary, by letter dated 10th October 2018, marked **7R2**, notified the relevant parties and, on 16th October 2018, possession of the land was taken over and handed to the Sri Lanka Army as reflected in the document dated 31st October 2018, marked **7R3**. It is further stated that the Army has since developed the land for the establishment of the Brigade Headquarters.

Thereafter, further steps under the Land Acquisition Act were taken, including the publication of a declaration under Section 5, as reflected in Gazette Extraordinary No. 2117/47 dated 04th April 2019, marked **7R11**, and a notice under Section 7 as reflected in Gazette Extraordinary No. 2165/50 dated 05th March 2020, marked **7R12**.

Position of the Petitioners

The Petitioners challenge the impugned acquisition primarily on the following grounds:

Firstly, it is contended that the subject land, having been vested in the 1st Petitioner under Section 27A of the Land Reform Law, is governed by a special statutory regime, and any divestment or alienation must be effected strictly in terms of that Law. The Petitioners contend that the Respondents have acted outside that statutory framework and thereby acted *ultra vires*.

Secondly, the Petitioners assert that the invocation of Section 38(a) of the Land Acquisition Act is unjustified, as no genuine urgency existed to warrant bypassing the ordinary procedure prescribed by law.

Thirdly, it is contended that the acquisition is arbitrary, unreasonable, and unlawful, particularly as the land is a productive plantation, and that the Respondents have failed to comply with the mandatory procedural requirements.

Accordingly, the Petitioners seek to quash the impugned Gazette marked **P9** and **P9A**.

Position of the 1st and 2A Respondents (Land Reform Commission)

The 1st and 2A Respondents raise several preliminary objections as well as substantive defences.

At the outset, it is contended that the application is not maintainable in writ jurisdiction as the dispute fundamentally relates to title and ownership of land.

It is further contended that the Petitioners have suppressed material facts and lack *locus standi* to maintain the application.

On the merits, the 1st Respondent asserts that it is the absolute owner of the subject land, and that the purported vesting in the 1st Petitioner under Section 27A and the subsequent lease marked **P4** are legally defective and contrary to the provisions of the Land Reform Law.

It is also contended that the Power of Attorney relied upon by the Petitioners is invalid and that the 2nd Petitioner is not a lawful lessee in terms of the applicable statutory framework.

Accordingly, the 1st and 2A Respondents contend that the Petitioners have no legal right to challenge the acquisition.

Position of the 3A, 4A, 5A and 6th to 10th Respondents

These Respondents also raise both preliminary objections and substantive defences.

By way of preliminary objections, it is contended that the application is barred by laches, that the Petitioners have failed to exhaust alternative remedies, that the application is misconceived in law, frivolous and vexatious, and that the Petitioners have not come before the Court with clean hands. These Respondents further rely on the Cabinet decision dated 31st May 2018, marked **7R1**, in which the Cabinet encouraged government institutions to resolve their differences and disputes amicably, and, in case of failure to communicate such a dispute to the Cabinet through the relevant minister.

It is further contended that the application has become futile, as possession of the land has already been taken and substantial development has been carried out by the Sri Lanka Army.

On the merits, these Respondents assert that the acquisition was carried out strictly in accordance with the provisions of the Land Acquisition Act, including the issuance of notices under Sections 2, 5, and 7.

They further contend that the invocation of Section 38(a) was justified by urgency and that the acquisition serves a valid public purpose related to national security.

It is also contended that the powers under the Land Acquisition Act can be exercised independently of the Land Reform Law and that the Minister has acted well within the powers conferred upon him.

Issues to be Determined

In light of the pleadings and submissions, the following issues arise for determination.

- a) Whether the present application is maintainable in writ jurisdiction, having regard to the preliminary objections raised by the Respondents, including laches, failure to exhaust alternative remedies, alleged suppression of material facts, and
- b) whether the dispute pertains to title and is thus not amenable to the writ jurisdiction of this Court.
- c) Whether the Petitioners have the requisite *locus standi* to maintain this application.

- d) Whether the acquisition of the subject land under Section 38(a) of the Land Acquisition Act was lawful, including whether the invocation of urgency provisions was justified.
- e) Whether the provisions of the Land Reform Law, particularly Section 27A, preclude or restrict the acquisition of the subject land under the Land Acquisition Act.
- f) Whether the impugned decision marked **P9** and **P9A** is *ultra vires*, arbitrary, unreasonable, or otherwise vitiated by illegality or procedural impropriety.

Analysis

The Respondents have raised several preliminary objections to the maintainability of this application, contending, *inter alia*, that the dispute pertains essentially to title to land and is therefore not amenable to writ jurisdiction, that the Petitioners have failed to exhaust available remedies, that the application is vitiated by delay, and that the Petitioners have not approached this Court with the requisite candour. It is further contended that the present proceedings are inconsistent with the Cabinet Decision dated 31st May 2018 marked **7R1**, which discourages litigation between State entities.

At the outset, it must be observed that the impugned decision emanates from the exercise of powers under the Land Acquisition Act. Such powers are statutory in nature and, in principle, amenable to judicial review. The mere presence of questions relating to title does not, by itself, operate to exclude the writ jurisdiction of this Court. However, it is equally well settled that the jurisdiction exercised by this Court in applications for prerogative relief is discretionary, and that relief will not be granted as of right even where an arguable case is disclosed.

In that context, this Court is prepared to accept that the challenge advanced by the Petitioners, particularly in relation to the invocation of the urgency provisions under Section 38(a) of the said Act, raises issues that are not entirely devoid of merit. The exercise of such exceptional power is not immune from judicial scrutiny, and the acquiring authority bears the burden of demonstrating that the requirement of urgency was justified in the circumstances.

It is significant that the conduct of the Petitioners in invoking and pursuing this application. The Order under Section 38(a) was published on 17th August 2018, and possession of the

subject land was taken on 16th October 2018. The present application was filed on 07th December 2018. However, the application was supported only on 28th July 2020. In the intervening period, the acquisition process was allowed to proceed without interruption. A declaration under Section 5 was published in the Gazette dated 04th April 2019, and a notice under Section 7 was published in the Gazette dated 05th March 2020. These steps were taken after the application was instituted.

The Petitioners thus remained inactive for nearly four months from the date of the Section 38(a) publication marked **P9**, thereby allowing the statutory authorities to continue the acquisition proceedings. No satisfactory or cogent explanation has been given for this delay. In these circumstances, the conduct of the Petitioners discloses not merely delay but a clear degree of acquiescence in the continuation of the acquisition proceedings. It is a settled principle that the remedy by way of writ, being equitable and discretionary in nature, may be refused where there has been unexplained delay or conduct amounting to acquiescence. The Petitioners, having failed to act promptly as required of a litigant invoking the extraordinary jurisdiction of this Court, cannot now seek to unsettle a process that has progressed substantially.

The question of delay concerns the efficacy of the relief sought. The material placed before this Court establishes that possession of the land has already been taken and that the land has been handed over to the Sri Lanka Army for the establishment of the Headquarters of the 582nd Brigade. It further appears that the land has been cleared and developed, and that a substantial number of personnel are currently stationed there, as stated in the written submissions of the Respondents. In these circumstances, the grant of the reliefs prayed for would have the effect of unsettling a completed state of affairs and disrupting a project undertaken in furtherance of a public purpose. The Court must exercise restraint where the grant of relief would be futile or would result in serious practical and administrative consequences.

The Respondents have also justified the acquisition by reference to the public purpose underlying the impugned decision. The material before this Court indicates that the acquisition was effected to establish a military facility in a region prone to flooding, with a view to enhancing disaster response capability and addressing matters of national importance. It is trite law that the determination of whether land is required for a public purpose is primarily a matter entrusted to the executive, and that the scope of judicial review in that

regard is necessarily limited. On the material placed before this Court, it cannot be said that the decision lacks a rational basis or is arbitrary in character.

With regard to the invocation of Section 38(a), it is beyond dispute that such power must be exercised with caution and only where the circumstances justify immediate possession. In the present case, the Respondents have placed before this Court material indicating that the acquisition was necessitated by considerations of public safety, disaster preparedness, and national security, and that immediate possession was required to further those objectives. The Petitioners have failed to place material of sufficient weight to displace the explanation advanced by the Respondents. Accordingly, this Court is unable to conclude that the invocation of the urgency provisions was arbitrary or actuated by *mala fides*.

Land Reform Law and the Position of the 1st and 2A Respondents

Section 27A of the Land Reform Law (Sri Lanka) creates a distinct statutory mechanism whereby, at the request of the Land Reform Commission, the Minister may vest Agricultural or Estate Lands in a specified State Corporation by an Order published in the Gazette. Section 27A (2) expressly provides that such an Order shall have the effect of vesting in the State Corporation the right, title and interest in the land as was held by the Land Reform Commission immediately prior to the vesting, while Section 27A (3) further provides for the transfer of all subsisting rights and liabilities relating to such land to the State Corporation. The statutory scheme thus contemplates a complete divestiture of the Land Reform Commission's interest upon vesting.

Reversion of such land to the Land Reform Commission can occur only in the manner stipulated in Section 27A (4), namely by a further Order of the Minister published in the Gazette upon non-compliance with any term or condition relating to consideration. In the absence of such revocation, the Land Reform Commission has no subsisting proprietary interest in the land so vested.

This position has been consistently recognised in judicial decisions. In *Balangoda Plantations PLC v Janatha Estate Development Board and Others CA Writ 858/2009, decided on 07.11.2019, His Lordship Justice Arjuna Obeyesekere* observed that the right, title, and interest of the Land Reform Commission pass to the State entities upon vesting under Section 27A(1). Similarly, in *Kelani Valley Plantations PLC v Janatha Estate Development Board and Others, CA Writ 657/2011, decided on 03.06.2016*, it was held that

the Land Reform Commission cannot assert title to lands vested under Section 27A except in terms of Section 27A (4). In *Rajawela Nandarathana Thero v Land Reform Commission and Others CA Writ 45/2016, decided on 31.07.2020*, it was reiterated that upon such vesting, the Land Reform Commission ceases to be the owner of the lands in question and that title stands transferred to the State Corporation.

In these circumstances, the contention advanced by the 1st and 2A Respondents that the Land Reform Commission retains absolute ownership of the subject land cannot be accepted.

Effect of the Cabinet Decision Marked 7R1

Further, the fact that the dispute is, in substance, between State entities, coupled with the existence of a Cabinet direction encouraging the resolution of such disputes through administrative processes, is a factor this Court is entitled to take into account in the exercise of its discretion. While such a direction does not operate as a legal bar, it nevertheless constitutes a relevant consideration. In this regard, it is pertinent to refer to the decision of *P. Padman Surasena J., as His Lordship then was, in CA (Writ) 259/2018*, where the Court emphasised that disputes between State institutions ought not to be pursued through litigation in disregard of established governmental policy, and treated such conduct as a relevant factor in declining to grant discretionary relief. The Petitioners have not demonstrated that they pursued such administrative avenues prior to invoking the jurisdiction of this Court.

In view of the foregoing considerations, particularly the unexplained delay, the acquiescence evident from the conduct of the Petitioners, the advanced stage of the acquisition process, the existence of a discernible public purpose, and the discretionary nature of the relief sought, this Court is of the view that this is not a fit case for the grant of relief as prayed for in the prayer of the Petition.

Conclusion and Order

For the reasons set out above, this Court holds that this is not a fit case for the exercise of this Court's discretionary jurisdiction.

In arriving at this conclusion, this Court has taken into consideration the delay on the part of the Petitioners in invoking the writ jurisdiction, the fact that possession of the subject land has already been taken and the acquisition substantially implemented, the existence of a

discernible public purpose, and the explanation advanced for the invocation of urgency by the Respondents.

This Court is further mindful that the dispute, in substance, is between State entities, and that the Petitioners have not demonstrated that they pursued appropriate administrative avenues prior to invoking the jurisdiction of this Court.

Accordingly, this application is dismissed.

In all the circumstances, this Court makes no order as to costs.

JUDGE OF THE COURT OF APPEAL

Dhammika Ganepola, J

I agree.

JUDGE OF THE COURT OF APPEAL