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

In the matter of an Application for Orders in the nature of Writs of Certiorari, Prohibition and Mandamus under Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Maskeliya Plantations PLC,
No. 310, High Level Road
Nawinna, Maharagama, Practicing.

CA (Writ) App. No. 119/2023

PETITIONER

Vs.

1. Harin Fernando,
   Minister of Tourism and Land,
   "Mihikatha Medura",
   Land Secretariat,
   No. 1200/6,
   Rajamalwatta Avenue,
   Battaramulla.

2. Chulananda Perera,
   Secretary,
   Ministry of Tourism and Land,
   "Mihikatha Medura",
   Land Secretariat,
   No. 1200/6,
   Rajamalwatta Avenue,
   Battaramulla.

3. Divisional Secretary,
   Divisional Secretariat, Ella.

4. Janatha Estates Development Board,
   No.55/75, Vauxhall Lane,
   Colombo 02.

5. Sri Lanka State Plantations Corporation,
   No.257, Siridhamma Mawatha,
   Colombo 10.

6. Secretary to the Ministry of Plantation Industries,
   Ministry of Plantation,
   11th Floor,
   Sethsiripaya Stage II,
   Battaramulla,
   Sri Lanka.

RESPONDENTS

Before: Dr. D. F. H. Gunawardhana, J.

Counsel:

Shantha Jayawardena with Nirosh Bandara and Hirannya Damunupola for the Petitioner.

Rajika Aluwihare S.C. for the Respondents.

Argued on: 05.03.2026 & 23.03.2026

Delivered on: 26.10.2026

Dr. D. F. H. Gunawardhana, J.

Judgement

Introduction

The Petitioner is a body corporate incorporated under the Companies Act, No. 07 of 2007, and therefore, is capable of suing and being sued in its corporate name. Presently, the Petitioner manages and runs the operations of an estate called "Craig Estate" of Bandarawela, which is in extent of approximately 281.99 Hectares.

The Petitioner by this Application challenges the second acquisition notice and immediate possession taken thereof marked as **P11**, as there had been a first acquisition in respect of 11.99 Acres from and out of the said land on the basis of public purpose, and thereafter, the 1st Respondent has initiated to take over another Two Acres from and out of the said Estate, directing the 3rd Respondent to take steps on that behalf. In those circumstances, the Petitioner challenges the second acquisition process initiated by the 1st Respondent through the 3rd Respondent.

The 1st Respondent is the Minister of Lands, while the 2nd Respondent is the Secretary thereof. The 3rd Respondent is the Divisional Secretary of Ella, within whose area the proposed parcel of land to be acquired is situated. The 4th Respondent is the Janatha Estates Development Board, while the 5th Respondent is the Sri Lanka State Plantations Corporation. The 6th Respondent is the Secretary to the Ministry of Plantation Industries.

After the issuance of formal notice, this was argued before me on 05.03.2026 and 23.03.2026; hence, this judgement.

Factual matrix

The Petitioner asserts that it had been established in terms of Section 2 of the Conversion of Public Corporations or Government Business Undertakings into Public Companies Act, No. 23 of 1987; the relevant Gazette is marked as **P1**, by which the Petitioner was incorporated in terms of Section 2 of the said Act of 1987. Thereafter, with the promulgation of the Companies Act, No. 07 of 2007, the Petitioner had been re-registered as a Public Limited Company, as borne out by **P2**.

The Petitioner asserts that initially the estate that is now entrusted to the Petitioner on a lease, had been initially vested with the Land Reforms Commission (LRC); thereafter, the LRC had handed over its possession to the Sri Lanka State Plantation Corporation, established by Act No. 04 of 1958, and the State Plantation Corporation thereafter, by indenture of lease marked as **P3** annexed to the Petition, had leased out the entirety of the "Craig Estate" to the Petitioner and handed over possession thereof as well. The Petitioner has further annexed the Power of Attorney, marked as **P4** annexed to the Petition, to manage the said Estate. Further, the Petitioner has annexed the documents marked as **P5** and **P5(a)** to establish the fact that it has paid annual lease rental in respect of the said Estate.

In the meantime, on the direction of the Government, the Divisional Secretary of Ella has written to the CEO of the Petitioner, his proposal to acquire twelve (12) acres of land from and out of the said Estate for the purpose of relocating people who had been rendered homeless by reason of the Uma Oya project. Accordingly, the Petitioner asserts that notice of Section 38(a) of the Land Acquisition Act was issued by the Minister by the Gazette marked as **P7**; taking possession of the said land in extent of 4.8562 Hectares (approximately 11.99 Acres) is also marked as **P8**. The said acquisition and taking of possession had occurred in 2020.

Two years thereafter, a Section 7 notice had been issued by the 3rd Respondent, marked as **P9** annexed to the Petition, to acquire a further Two-Acres from the Petitioner. Thereafter, as borne out by **P10** and **P10(a)**, the possession thereof proposed to be taken by the said Gazette dated 21.10.2022. The said two-acre is depicted in the cadastral plan marked as **P11**. The purpose of the said acquisition is referred to in the letter sent by the 3rd Respondent to the CEO of the Petitioner marked as **P12**.

Thereafter, the Petitioner had protested and objected to the said proposed second acquisition by **P13** and **P14**.

The Petitioner's complaint to this Court is that despite the said protests and objections against the second acquisition, the Respondents have taken further steps to acquire the said land of Two (2) Acres, other than the land already acquired for the purpose of relocation of the people who had been rendered homeless due to the Uma Oya project. Thus, the Petitioner was compelled to come before this Court to make this complaint against the said proposed second acquisition by the Respondents; the Petitioner has marked **P15** to establish that even the Land Manual issued by the Ministry of Land, particularly in respect of land acquisition, clearly indicates that there should not be a second acquisition of land from and out of an owner of a land which is already subjected to an acquisition, as it will come in the form of an irrational punishment against the owner of a land.

Therefore, the Petitioner seeks to prevent the proposed second acquisition by seeking *inter alia* the following relief;

> *(c) Grant and issuance of an order in the nature of Writ of Certiorari quashing the Order dated 21.10.2022 made under Section 38 Proviso (a) of the Land Acquisition Act [published in the Government Gazette (Extraordinary) No. 2302/32 dated 21.10.2022]*

marked P10, in respect of the Petitioner's land depicted as Lot A in the Advanced Tracing marked as P11;

(d) Grant and issuance of an order in the nature of Writ of Certiorari quashing the notice under Section 2 of the Land Acquisition Act (if any), pertaining to the acquisition of the Petitioner's land depicted as Lot A in the Advanced Tracing marked as P11;

(e) Grant and issuance of an order in the nature of Writ of Certiorari quashing the notice under Section 4 of the Land Acquisition Act (if any), pertaining to the acquisition of the Petitioner's land depicted as Lot A in the Advanced Tracing marked as P11;

(f) Grant and issuance of an order in the nature of Writ of Prohibition prohibiting the 1st to 3rd Respondents or anyone or more of them and/or anyone acting under them, from taking possession of the Petitioner's land depicted as Lot A in Advanced Tracing marked as P11;

(g) Grant and issuance of an order in the nature of Writ of Prohibition prohibiting the 3rd Respondent and/or anyone acting under him from acting upon and/or taking steps based on the Order dated 21.10.2022 made under Section 38 Proviso (a) of the Land Acquisition Act [published in the Government Gazette (Extraordinary) No. 2302/32 dated 21.10.2022] marked P10, in respect of the Petitioner's land depicted as Lot A in the Advanced Tracing marked as P11;

In addition to that, the Petitioner heavily relies on certain portions of the Land Manual issued by the Ministry of Lands marked as **P15**.

The Respondents' Objections

The 1st to 3rd Respondents by way of their Statement of Objections have denied the allegations levelled against them in the Petition. However, by way of preliminary objections, the

Respondents state that the Petitioner is misconceived in law and has suppressed and misrepresented material facts; therefore, the Petitioner is not entitled to any relief and moved for the dismissal of this Application.

It is the position of the Respondents that they have acted in good faith and never acted *mala fide*; therefore, they deny any allegations based thereon.

Having admitted that the Petitioner is a duly incorporated company which can sue and be sued, it is the Respondents' position that despite the proposed acquisition initially issued in respect of fourteen (14) acres, only less than 12 acres had been acquired, as reflected in the documents marked as **1R1** to **1R5** annexed to the Statement of Objections.

In addition to that, the initial taking over of less than 12-acres for the purpose of relocating homeless people who had been dislodged due to landslides in the Bandarawela area that occurred in 2014, had not taken place so far; therefore, now the Respondents are taking steps to relocate the people who have been rendered landless due to the said landslide. Thus, it is quite justified to take over the said land.

The Respondents rely upon the documents marked as **1R7** to **1R15**, to establish the steps taken to further the said object; therefore, the Petitioner is well-aware of what had taken place and what is going to take place. As such, it is the Respondents' position that the Petitioner cannot have and maintain this Application as it is formulated.

After filing Counter Affidavits, the following arguments were advanced by the counsel at the hearing.

Arguments

The thrust of the main argument of the learned Counsel for the Petitioner, Mr. Jayawardena, is that the Respondents should not have taken steps to go for a second acquisition as it is against

the same landholder, who is the Petitioner, since the Petitioner is deprived of further land by the second acquisition which is good, arable, and productive land. As such, the Petitioner is entitled to the relief as prayed for in the Petition.

On the other hand, Mr. Aluwihare argues that there is no second acquisition as it is the same acquisition that is in the process of completion since the initial Section 2 notice was issued for the purpose of acquiring 14 acres, out of which, only less than 12 acres has currently been acquired. Therefore, the Respondents are merely attempting to acquire the remaining two acres of land, as depicted in the cadastral plan. Thus, it is well-within the original Section 2 notice issued.

The oral submissions advanced by the counsel appearing on behalf of both the Petitioner and the Respondents were further elaborated by their respective Written submissions filed.

It is the argument of Mr. Jayawardena that since the 1st and 3rd Respondents were already responsible for acquiring 11.99 Acres from and out of the land held by the Petitioner, the second proposed acquisition of another 2 acres is against the directions given in the Land Manual, which is followed in every acquisition proceedings conducted by the Land Ministry and divisional secretaries, and has been accepted as subordinate legislation in several judgements. Therefore, taking steps to acquire another portion of land of the larger land that had already been acquired is *ultra vires* because it violates the directions given in the Land Manual.

In addition to that, it is argued that when the 11.99 Acre portion of land was acquired for the expansion of the Town, the Petitioner had never objected and willingly gave up its rights. However, the Petitioner only objected when it came to the second round of acquisition, as reflected by the documents marked as **P13** and **P14**.

Mr. Jayawardena relies on the judgement of *Ranawickrema v. Minister of Agriculture and Lands and Others*,[1] to establish that the Land Manual has been accepted as subordinate legislation by the Courts.

In addition to that, he further relies on His Lordship Justice Arjuna Obeysekere's judgement in the case of *Kotagala Plantations PLC v. H.A. Kamal Pushpakumara, Divisional Secretary and Others*,[2] where it is held that when there are other lands available to be acquired other than for the land proposed to be acquired, from which certain acquisition had already taken place by the Ministry, writs lie as it violates the Land Manual. It also further held that the decision and steps taken by the Minister to take immediate possession of such proposed land can be reviewed by the Court.

It is further Mr. Jayawardena's argument that the proposed second round of acquisition is oppressive since there had already been an acquisition.

On the other hand, elaborating the oral arguments advanced by Mr. Aluwihare, he argues by way of Written Submissions that the said judgement given by His Lordship Justice Obeysekere can be distinguishable as the facts are not the same.

In addition to that, he argued that the immediate issue that has arisen in this case has to be addressed since there is an urgent requirement for land to be allocated for the housing project of the displaced people due to the landslide caused by the Uma Oya project. One Hundred and Seventeen (117) families have been identified for the said project in which ten-perch plots of land will be allocated from and out of the said land proposed to be acquired.

[1] [2006] 1 Sri L.R. 42.
[2] CA/WRT/0380/2017 (CA Minutes 03.06.2021).

Issues to be considered

In view of the facts stated in the Petition, the facts stated in the Statement of Objections to counter the allegations in the Petition, as well as by the arguments advanced orally and by way of Written Submissions by the counsel on behalf of the parties, it is my view that the following questions arise for my consideration;

(i) Whether the Petitioner has any *locus standi* to assert his rights and seek relief as sought by way of this Application;

(ii) In those circumstances, whether the second acquisition proposed by the Respondents violates the Land Manual;

(iii) Whether acquisition had already taken place;

(iv) In view of the documents marked as **1R6** and **1R7** filed by the Respondents, whether the project proposed by the Respondents is urgent;

(v) If the above is answered in the affirmative, do the writs lie as sought by the Petitioner?

***Locus standi* of the Petitioner**

The Petitioner is a body corporate incorporated under the name and style of "Maskeliya Plantations PLC" in terms of the Companies Act, No. 07 of 2007. However, initially the Petitioner had been incorporated in terms Section 2 of the Conversion of Public Corporations or Government Business Undertakings into Public Companies Act, No. 23 of 1987. The Petitioner had been floated as a company to manage the assets belonging to and held by public corporations; thus, the Petitioner was empowered by the provisions of the said Act of 1987 to enter into a lease agreement, and accordingly, the Petitioner had entered into the lease agreement marked as **P3**. In addition to that, there is a Power of Attorney as well.

In terms of the said lease agreement, the State Plantations Corporation, which held and possessed and became entitled to the "Craig Estate" in extent of approximately 281.99 Hectares

of land in Bandarawela area (previously held by the LRC and vested under the Land Reforms Law No. 01 of 1972), leased it to the Petitioner for a period of 99 years. Thus, the Petitioner became entitled to the leasehold interest for 99 years.

Therefore, for 99 years, the Petitioner is empowered and has every right to hold onto the entirety of the rights to the said Estate. Accordingly, the Petitioner has *locus standi*, as in similar circumstances, His Lordship Justice Arjuna Obeysekere has also held in the case of *Kotagala Plantations PLC v. H.A. Kamal Pushpakumara, Divisional Secretary and Others*,[3] that an incorporated company similar to the Petitioner of this Application has similar rights.

Acquisition

In 2016, due to the Uma Oya project, the Government had to relocate certain families who had been rendered homeless, and thus, the Government had decided to acquire certain private property. Accordingly, the Petitioner company willingly decided to renunciate its rights in respect of 14 Acres of land which the Petitioner itself has identified as low yielding land area identified as Field No. 5A and 5B, as reflected in **1R1**. Accordingly, in 2016, the Petitioner had decided with the approval of its Board of Directors, to renunciate its leasehold rights derived from **P3** in respect of Field No. 5A and 5B as identified as low-yielding tea plantation areas.

For further clarity, the relevant sections of the document marked as **1R1** is reproduced below and reads thus;

> *ඒ අනුව අපගේ සමාංක හා 2015.12.21 දිනැතිව ඔබටද පිටපතක් සහිත ලිපියෙන් මස්කෙලිය වැවිලි සමාගම හෙත් පාලනය වන ක්‍රේග් වතුයායේ ක්ෂේත්‍ර අංක 17 තේ වගාව සහිත ඉඩමෙන් අක්කර 30 ක් උක්ත කාරණය සඳහා නිදහස් කිරීමේ හැකියාව වතු සමාගමෙන් විමසා සිටින ලදී.*

[3] CA/WRT/0380/2017 (CA Minutes 03.06.2021).

2016.01.19 දිනැතිව අප වෙත යොමු කල ලිපියෙන් මස් ස්කෙලිය වැවිලි සමාගම දන්වා ඇත්තේ ක්ෂේත්‍ර අංක 17 තේ වගාව ඉහල අස්වැන්නක් ලබා දෙන පළදායී තේ වගාවක් බැවින් එම ඉඩම වෙනුවට විකල්ප ඉඩමක් ලෙස එම වතුයායේ උෟව දිකරව කොටසේ ක්ෂේත්‍ර අංක 5A හා 5B අඩු අස්වැන්නක් ලබාදෙන ක්ෂේත්‍ර හා පත්තසහිත භූමිය නිදහස් කිරීමට අධ්‍යක්ෂ මණ්ඩල අනුමැතිය ලබා ගැනීමට කටයුතු කල හැකි බවය.

කරුණු මෙසේ හෙයින් වැවිලි සමාගම යෝජනා කරනු ලබන විකල්ප ඉඩම නාය යාමෙන් අවතැන් අය පදිංචිය සදහා අත්පත් කර ගැනීමට එකඟ වන්නේ නම් ඒ සදහා අදාල ඉඩමේ යෝග්‍යතාවය ජාතික ගොඩනැගිලි පරයේෂණ ආයතනයේ නිර්දේශයද සහිතව අප වෙත යොමු කරත්තේ නම් එම විකල්ප ඉඩම මස් ස්කෙලිය වැවිලි සමාගමෙන් කඩිනමින් නිදහස් කර ගැනීම සදහා කටයුතු සිදු කල හැකි බව කාරුණිකව දන්වා සිටිමි.

After having consulted the Plantation Ministry at the request of the relevant authorities, the Land Ministry decided to acquire the said portion of land with the concurrency of the Petitioner. Thus, acquisition is initiated with the concurrence of the Petitioner in 2016.

However, the 3rd Respondent has apparently issued the Section 38(a) notice in 2019, in respect of only about 12 acres of land, for the purpose of relocating the Town area affected by the Uma Oya project, as borne out by **P7**. Thus, only a 12-acre land was taken over in terms of Section 38(a), by the Government. Accordingly, **P7** has been issued pursuant to **P6** which reads thus;

02. ඒ අනුව උෟව පළාතේ, බදුල්ල දිස්ත්‍රික්කයේ, ඇල්ල ප්‍රාදේශීය ලේකම් කොට්ඨාශයේ අංක 69 බී, හිල්මය ග්‍රාමනිලධාරී කොට්ඨාශයේ, ගල් ගොඩහින්න ගමේ පිහිටි මස්කෙලිය වැවිලි සමාගමට අයත් ක්‍රේග් වතුයායේ දිඅරාව කොටසේ ක්ෂේත්‍ර අංක 05 ඒ සහ 5 බී යන අඩු ඵලදාව සහිත තේ වගා ඉඩමින් අක්කර 14ක ඉඩම් කොටසක් උමාඔය බහුකාර්ය යෝජනා ක්‍රමය හේතුවෙන් පූර්ණ හානියට පත් වූ නිවාස වල පදිංචි බණ්ඩාර වෙල හා ඇල්ල ප්‍රාදේශීය ලේකම් කොට්ඨාශ දෙකෙහි ජනතාව නැවත පදිංචි කරවීම සඳහා අත්කර ගැනීමට කටයුතු ආරම්භ කරනු ලැබීය.

03. පසුව අදාල ඉඩමින් අක්කර 12 ක් උමා ඔය බහුකාර්ය යෝජනා ක්‍රමය හේතුවෙන් පූර්ණ හානියට පත් වූ නිවාස වල පදිංචි බණ්ඩාරවෙල හා ඇල්ල ප්‍රාදේශීය ලේකම් කොට්ඨාශ දෙකෙහි ජනතාව නැවත පදිංචි කර වීම සඳහාත්, ඉතිරි අක්කර 02 නාය යාමෙන් අවතැන් වූ පවුල් නැවත පදිංචි කිරීම සඳහාත් අත්කර ගැනීමේ කටයුතු ආරම්භ කරනු ලැබීය.

04. එබැවින් මෙම ඉඩමින් අක්කර 02 ක ඉඩම් කොටස අත්කර ගැනීමට අදාලව ඉඩම් අත්කර ගැනීමේ පනතේ 2 වන වගන්තිය යටතේ දැන්වීම භාෂාත්‍රයෙන් පල කර අති අතර, දැන්වීම් කට්ටලයේ පිටපතක් මේ සමඟ ඔබ වෙත ඉදිරිපත් කරන බව කාරුණිකව දන්වා සිටිමි.

Thereafter, due to a landslide caused by the Uma Oya project, certain families were rendered homeless, causing the Government to require further lands to relocate the same. In those circumstances, the Government decided to re-acquire the balance 2-acre land that had been left out from the 14-acre land that was originally proposed to be acquired, and which the Petitioner had already renunciate its rights over the 14-acre land. As such, there is no second acquisition; it is only the continuation of the same initial acquisition process that has occurred in two stages. Thus, there is no violation of the Land Manual.

As such, in those circumstances, the Petitioner has not been affected by such an acquisition.

Urgency of acquisition

As reflected in the document marked as **1R6**, a landslide had been caused due to the ongoing Uma Oya project, rendering 117 families homeless; out of which, 115 families have been identified as 'seriously in danger' and therefore, they need to be relocated.

Thus, the Government decided to propose to allocate a ten-perch land to each affected family to relocate to the 2-acre land proposed to be acquired from the Petitioner. Consequently, the 3rd Respondent caused the 1st Respondent, as the Divisional Secretary, to take immediate possession of the 2-acre land proposed to be acquired by the Government.

Therefore, when the Section 38(a) notice was published in respect of the proposed 2-acre land, the Petitioner has protested against it on the basis that already 12 acres of land had been acquired, and thus, is unfair by the Petitioner to acquire further land since it violates the Land Manual.

Nevertheless, the Government had initially proposed 14 acres of land to be acquired, in respect of which the Petitioner was willing to relinquish its rights over. However, the Government had initially only acquired 12 acres instead of the proposed 14 acres of land, for the purpose of relocating the Town affected by the Uma Oya project. Thereafter, only did the Government need further land to relocate those affected by the landslide.

Now the question arises whether the Government has violated the Land Manual, as argued by the Counsel for the Petitioner.

Application of the Land Manual

It is provided in the Land Manual that persistent or recurrent acquisition of land from the one and the same person should not be pursued or followed as it may amount to oppression. This has been accepted by the Court as held in several judgements, as argued on behalf of the Petitioner, that acquisition on several occasions from and out of the same owner of private land is against the provisions of the Land Manual.

In fact, when there is no proper guideline in the Land Acquisition Act, the Land Manual has been accepted and adopted as the only subordinate legislation by the Land Ministry and admitted by the courts for the purpose of filling the vacuum created by the non-existence of statutory provisions. Thus, though the Land Manual was not passed or adopted by the Legislature as a piece of legislation, it remains as a subordinate legislation; therefore, the provisions thereof are accepted by the Court.

As such, it is the duty of the Executive or administration to follow the same in the process of acquisition of lands, as the Judiciary has also recognised the same.[4]

Accordingly, in this case, now the question arises whether the Respondents have violated the same.

It must be noted that initially the Government had decided to acquire 14 acres of land and the Petitioner willingly decided to relinquish its rights over the low yielding 14-acre land of tea plantations, as reflected in **1R1**. Nevertheless, the Government only took immediate possession under Section 38(a) in respect of 12 acres for the relevant authorities to relocate the Town, as reflected in **P6** and **P7**. Now, the balance 2-acre land is to be acquired.

Thus, it is apparent that no prejudice is caused to the Petitioner as the facts of this case as unfolded reveal. Therefore, it is my view that no prejudice is caused to the Petitioner.

Urgent necessity

In addition to that, it was argued on behalf of the Petitioner that though there was a decision to take immediate possession of the land in terms of the Section 38(a) notice published by the Minister, there is no urgent necessity for the Government to take such immediate possession.

However, on a perusal of the document marked as **1R6**, there is a report prepared by the National Building Research Organisation, by which it clearly indicates that there is an urgency in relocating the said 117 homeless families in a suitable land. Thus, these families are seriously affected, and their lives are under threat, it is the duty of the Government to relocate them, and therefore, there is an urgent necessity of the Government to acquire land and take the necessary actions. The names of the allottees are mentioned in the said report marked as **1R6**.

[4] *Ranawickrema v. Minister of Agriculture and Lands and Others* [2006] 1 Sri L.R. 42.

This urgency has been further revealed by the very documents marked by the Respondents as **1R6** and **1R7** along with the Statement of Objections. However, in the course of oral arguments as well as in the Written Submissions, the said two documents have not been properly explained by the parties. Nevertheless, what is reflected in the said two documents **1R6** and **1R7** is the urgency of the Government to relocate the families who have been rendered homeless by the landslide caused by the ongoing Uma Oya project

Therefore, it is my view that hindering by judicial process of such urgent need of the Government should not be condoned. Accordingly, it is my view that no writ lies in this case; although several questions raised by this Court have been answered in favour of the Petitioner, the said urgent need of the land by Government is of foremost and paramount importance, I refuse to interfere with the said decision of the Respondents to acquire the proposed 2-acre land.

Conclusion

For the reasons adumbrated above, I dismiss this Application, without costs.

JUDGE OF THE COURT OF APPEAL