

**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.*

CA (Writ) App. No. 222/2024

1. S. Srihar,
No. 153 B, Suvisuddharama Road,
Colombo 6.
2. T.D. Premaratne,
No. 153, Suvisuddharana Road,
Colombo 6.
3. N. Adamally,
No. 149/9, Suvisuddharama Road,
Colombo 6.
4. M. Amalean,
No. 149/3B, Suvisuddharama Road,
Colombo 6.
5. A. Gnanamoney,
No. 149/6, Suvisuddharama Road,
Colombo 6.
6. M. Dhason,
No. 149/5A, Suvisuddharama
Road, Colombo 6.

PETITIONERS

Vs.

1. Urban Development Authority,
6th, 7th and 9th Floors, Sethsiripaya,
Battaramulla.
2. Meezan Property Holding (Pvt) Ltd,
No. 28, Daya Road, Colombo 6.
3. Hon. Prasanna Ranathunga,
Minister of Urban Development and
Housing,
Ministry of Urban Development and
Housing,
2nd Floor, Sethsiripaya, Battaramulla.
- 3a. Hon. Anura Karunathilake,
Minister of Urban Development,
Constructions and Housing,
Ministry of Urban Development,
Constructions and Housing,
12th Floor, Sethsiripaya, Stage-II,
Battaramulla.
- 3b. Hon. Bimal Rathnayaka,
Minister of Transport and Highways
and Urban Development,
Ministry of Transport and Highways
and Urban Development,
12th Floor, Sethsiripaya, Stage-II,
Battaramulla.

RESPONDENTS

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

Counsel:

Dr. Romesh De Silva with Sugath Caldera and Niran Ankitell instructed by Sanath Wijewardhena for the Petitioners.

Navodi Soysa, S.C. for the 1st to 3rd Respondents.

Ikram Mohamed, P.C. with Roshan Hettiarachchi and Harish Balakrishnan instructed by Ms. Jelil for the 2nd Respondent.

Argued on: 01.10.2025

Written Submissions filed on:

17.12.2025 by the Petitioners.

16.12.2025 by the 1st Respondent.

17.12.2025 by the 2nd Respondent.

Delivered on: 18.09.2026

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

Judgement

Introduction

The six Petitioners, residing at Sri Suvisuddharma Road, Colombo 06, challenge the approved building plan **2R1** and development permit **P7**, issued to the 2nd Respondent by the 1st Respondent on the basis that it is violative of the Rules marked as **P6(a)**, being the Rules and Regulations published under the Urban Development Authority Act, titled the “Colombo City Development Plan 2021” and Regulations thereunder contained in **P6(a)**.

The 1st Respondent is the Urban Development Authority (hereinafter referred to as the "UDA"), and the 2nd Respondent is a body corporate incorporated under the laws of Sri Lanka, which is capable of suing and being sued in its corporate name.

The Petitioners' grievance

According to the Petitioners, the 4th Petitioner once owned the premises on which the 2nd Respondent commenced building an apartment housing complex comprising thirteen floors and thirty apartment units. The ground to second floors are designed as car parks, whilst the third to twelfth floors are designed as stories where the apartment units are located, and on the thirteenth floor there is a swimming pool designed.

The six Petitioners are residents of Sri Suvisuddharma Road, where the land designated for the proposed housing complex is also situated.

The Petitioners claim that they reside in the lots depicted as "Z1" to "Z6" in the sketch marked as **P1** annexed to the Petition, whilst the proposed high-rise building is to be constructed in Lot X, as

depicted in **P1**. The Petitioners further annex the documents marked **P2(a)** and **P2(b)** to the Petition, together with several photographs compendiously depicting the houses, access roads surrounding it, the terrain, vicinity, and the area in which the said apartment housing complex is coming up.

In addition to that, the Petitioners state that they have protested against the construction of the high-rise building; by correspondence, one letter is marked as **P3(a)**, and several other letters sent to the Municipal Council are marked as **P3(b)** to **P3(e)**.

In addition to that, the Viharadhipathi of the nearby temple of Sri Suvisuddharma Road has protested by letters marked as **P4** and **P4(a)**.

However, it is asserted by the Petitioners in the Petition that the 2nd Respondent has obtained a development certificate marked as **P7**, which is alleged to be violative of the said Rules and Regulations contained in **P6(a)**, annexed to the Petition, which is the existing Development Plan for the Colombo City and the Regulations thereto.

The Petitioners' main ground of challenging the said development certificate is that the land on which the said apartment housing complex is situated is a land of 25 perches, which is also situated in a low-density 'Residential Prominent Mixed Development Zone', where such high-rise buildings cannot be erected.

According to the Petitioners, the 2nd Respondent is now going to erect the building with one ground floor, two floors reserved for parking, and third to twelve floors, being ten floors for the apartments, together with the rooftop with the swimming pool.

Further, it is their position that the UDA has issued the said permit, violating the said Rules and Regulations in **P6(a)**.

Further, it is averred in the Petition that the 2nd Respondent, having obtained the said development permit, is proposed to be built on a land of 25.38 perches (642 square metres) in extent. However, according to the building plan, it is only going to utilize 12 perches, namely, less than fifty per cent of the ground area, to cover the building. Therefore, the Floor Area Ratio (FAR) is going to be achieved only with the height of the building and the number of floors. Therefore, it is unreasonable and violative of the rules.

In fact, it is also alleged that the issuing of such permit by the 1st Respondent is unreasonable and violative of the rules and regulations.

Therefore, the Petitioners seek *inter alia* a *Writ of Certiorari*, quashing the development permit, along with the other writs as set out below;

c. For a mandate in the nature of a Writ of Certiorari quashing P7 and/or the decisions contained therein;

d. For a mandate in the nature of a Writ of Certiorari quashing the Regulations P6 to the extent it permits the development of building up to 50 metres in a Low Dense Residential Prominent Mixed Development Zone;

e. For a mandate in the nature of a Writ of Prohibition preventing the 1st Respondent from permitting the 2nd Respondent to continue with the construction.

The Respondents' Objections

The 1st Respondent, the UDA, has filed its objections and moved for the dismissal of this Application. It is its position that it has followed the Rules and Regulations marked as **P6(a)** annexed to the Petition in the issuance of **P7**. Therefore, the development permit issued is well

within the said rules and regulations; and therefore, the Petitioners have not made out a case. As such, this case should be dismissed.

The 2nd Respondent, by its Statement of Objections, has taken up the position that the area within which it is having the building erected comes within the 'Residential Prominent Mixed Development Zone', where the 1st Respondent has issued a permit well within the Regulations. The 2nd Respondent is also entitled to erect the said building as per the said permit marked as **P7**, annexed to the Petition.

In addition to that, the 2nd Respondent has conceded the fact that it has purchased the said land from the 4th Petitioner. Further, it has been pleaded that the Petitioners have no right or any interest in the matter, except for raising some objections on flimsy grounds. The 2nd Respondent has marked documents **2R1** to **2R14**, along with its Limited Objections, and the annexed document marked as **2R1** is the building plan which has been approved by the 1st Respondent along with the development permit **P7**, while **2R2** is the certificate of registration of ownership.

The said land is depicted as Lot 1 of the said plan, and **2R3** is the clearance letter issued by the Central Environmental Authority, and **2R4** is a preliminary planning clearance issued by the 1st Respondent. Further, **2R5** is the waste management clearance certificate issued by the Colombo Municipal Council, and **2R6** is the clearance issued by the Civil Aviation Authority in respect of the height of the building.

In addition to that, **2R6(a)** is the clearance certificate issued by the National Water Supply and Drainage Board, and **2R9** is the clearance certificate issued by the Electricity Board; in addition, **2R10** is a clearance certificate issued by the Condominium Management Authority.

Further, **2R11** is the clearance letter issued by the Fire Service Department, and **2R12** is the drainage clearance certificate provided by the Colombo Municipal Council. The document marked as **2R14** is the deed by which the 2nd Respondent has purchased the said land from the 4th Petitioner.

This was argued before me on 01.10.2025, and the following submissions were made by the counsel; hence, this judgement.

By way of Written Submissions, the same arguments have been elaborated by the respective Counsel.

Arguments

It was argued for and on behalf of the Petitioners that **2R1**, which is the building plan approved by the 1st Respondent, is violative of the relevant rules and regulations; in particular, **2R1** is inconsistent with the development permit **P7**. The Petitioners rely upon the wording of the development permit, according to which the building of thirteen floors has been approved, subject to the total floor area of 4312 square meters at premises No. 149/10, Sri Suvisuddharma Road, Colombo 06.

However, the Petitioners contend that each floor area covers 320.9 square meters; thus altogether, the thirteen floors including the rooftop, amounts to 4493 square meters, which itself is violative as it exceeds the permitted area in the development permit **P7**. The building plan is therefore not in conformity with development permit **P7**.

Furthermore, it is also argued that the 2nd Respondent has minimised the usage of the buildable area and restricted the ground coverage area to fifty percent (50%) covered by the building, whilst the regulations permit the construction of a such a high-rise can go up to sixty-five percent (65%).

Thus, the 2nd Respondent is trying to achieve the Floor Area Ratio (FAR) by going upwards, namely, by having more floors, and thereby violating the rules.

However, on the other hand, it is argued by Mr. Mohamed, P.C., for the 2nd Respondent that when the Floor Area is to be considered, the ground floor and the 1st and 2nd floors, which are reserved for car parks, should be excluded. Therefore, only the third to twelfth floors have to be taken into consideration, wherein on the thirteenth floor, being the rooftop, there is no residence, but a swimming pool and recreational or ancillary services are proposed.

As such, as argued for and on behalf of the Respondents, the plot coverage or footprint of the building is 321.055 square metres, and when it is multiplied by the number of usable floors on which residential apartment units are situated, it is limited to ten floors. Therefore, it is well within the permissible area under the permit. As such, the argument advanced for and on behalf of the Petitioners is not tenable.

In these circumstances, the following questions arise for my consideration;

- (i) Legality of the approved building plan **2R1** and the development permit **P7**;
- (ii) Rights of the Petitioners to obtain redress;
- (iii) The Respondents' duty to follow the Rules and Regulations.

Consequently, I will first examine whether the building plan exceeds the ground area restrictions.

Legality of the approved Building Plan '2R1'

It is argued for and on behalf of the Petitioners that the area in square metres of the design is not shown or properly indicated in the architectural plans. It was also submitted in the Written Submissions that the permitted area in square metres is limited to Four Thousand Three Hundred

and Twelve square metres (4312 sq m), as depicted in **P7**, the development permit; however, it is argued for and on behalf of the Petitioners that the total square metres as shown in the proposed approved building plan marked as **2R1** is Four Thousand Four Hundred and Ninety-Three square metres (4493 sq m), which is more than the permitted area. According to the Petitioners, there is a total of thirteen floors proposed to be constructed and used, and therefore, all thirteen floors have to be counted, including the ground floor and rooftop; this exceeds the permitted floor area.

However, on the other hand, it is argued on behalf of the Respondents that the footprint of the building should be half (50%) of the entire square area of the land on which the building is proposed to be built. Accordingly, it is argued that the footprint will be limited to only 321.055 sq m. Thus, they argue that the total footprint of the building should be 3210.55 sq m, after calculating it to ten usable floors ($321.055 \text{ sq m} \times 10 = 3210.55 \text{ sq m}$).

Nevertheless, even if this is accepted as the footprint or coverage of the building, it needs to be multiplied by thirteen, and not by ten, because the other areas reserved for parking are also allocated for various other human activities, particularly the Ground Floor and Rooftop.

On a perusal of the Plan **2R1**, it is very clear that the architectural design of the entire proposed building is as follows;

Ground Floor - reserved for *inter alia* management committee area, transformer area, and security room.

1st Floor to 2nd Floor - reserved for car parking.

3rd Floor to 12th Floor – reserved for proposed apartment units.

Rooftop – reserved for proposed swimming pool and other recreation activity area.

The design of the rooftop depicted in **2R1** at page 3, is also fully utilised as a recreation area used as a swimming pool, as well as a swimming pool pump room, and water metre room. Therefore, this floor cannot be excluded from the permit as an area not reserved for any usage; in addition to that, there is an area reserved on the Ground Floor for the maintenance office and security room, management committee area, transformer area, and standby generator area which itself shows that even the Ground Floor is used for various activities occupied by humans, although they are for the building's officials. As such, all thirteen floors proposed to be used will be occupied.

In those circumstances, as argued by the Petitioners, all thirteen floors are usable floors, and accordingly, each floor (from the Ground Floor to the Thirteenth Floor) is used and the usage area for the building as indicated by the design plan is 4493 sq m; this is in excess of what is permitted in **P7**, which is limited to 4312 sq m. As such, it is my view that the proposed design plan **2R1** has taken excess area and is therefore violative of **P7**, which in turn violates **P6(a)**.

Thus, the actual floor area exceeds the permissible floor area as well.

In addition to that, the exclusion of the Ground Floor to Second Floor as the parking area and the Rooftop as the recreational swimming area, have to be taken into account since they are also going to be occupied by inhabitants, other than for just parking. Therefore, when the proposed design plan is concerned, the utility in the said floors (Ground Floor, First Floor, Second Floor, and Rooftop) cannot be excluded as not been utilised for human activity. As such, **2R1** is violative of **P7**.

In addition to that, it is argued that without utilising the land up to its maximum permissible use, namely sixty-five percent (65%), the 2nd Respondent has proposed to utilise the land for less than 50%. Therefore, to achieve the Floor Area Ratio (FAR), the 2nd Respondent has proposed to

construct vertically, which is also violative of the Regulations in **P6(a)**. Thus, this is also another ground to issue a writ.

For further clarity, the relevant Regulations contained in **P6(a)** and the necessary calculations are reproduced below;

According to the Gazette Extraordinary Notification No. 2235/54 on the Urban Development Authority Law, No. 41 of 1978, the relevant Regulation on calculating the height of the building reads as thus;

66. (1) The height of a building and the number of floors thereof shall be in accordance with the provisions of these regulations, unless otherwise specified in the Gazetted Development Plan or Draft Development Plan or Development Guide Plan or by a Relevant Institute.

In the Regulations of the City of Colombo Development Plan marked as **P6(a)**, the following diagram indicates as to how the height of the building or the permissible number of floors should be calculated;

8.3. Schedule

Schedule I — Permissible floor ratio published in the gazette notification No. 54/2235 dated 08.07.2021 by the Urban Development Authority

Form A - Permissible Floor Area Ratio																				
Lane Extent (Sq.m)	Zone factor= 1.50-1.74				Zone factor = 1.75-1.99				Zone factor = 2.00-2.24				Zone factor = 2.25-2.49				Zone factor = 2.50-2.74			
	Minimum Road Width				Minimum Road Width				Minimum Road Width				Minimum Road Width				Minimum Road Width			
	**6m	9m	12m	15m or above	**6m	9m	12m	15m or above	**6m	9m	12m	15m or above	**6m	9m	12m	15m or above	**6m	9m	12m	15m or above
150 less than 250	2.4	2.6	2.7	2.8	2.8	3.0	3.2	3.3	3.0	3.4	3.6	3.8	3.0	3.4	3.6	4.0	3.0	3.4	3.6	4.0
250 less than 375	2.6	3.2	3.6	4.0	3.0	3.4	4.3	4.7	3.2	3.6	4.5	4.5	3.5	3.8	4.5	5.0	3.5	4.0	5.0	5.5
375 less than 500	2.7	3.3	3.8	4.2	3.2	3.5	4.5	5.0	3.4	3.7	4.8	5.2	3.6	4.5	4.7	5.5	3.6	4.6	5.2	6.0
500 less than 750	2.8	3.4	4.0	4.5	3.4	3.6	4.7	5.5	3.5	4.0	5.0	6.0	3.7	5.0	5.0	6.0	3.7	5.1	5.5	6.5
750 less than 1000	3.1	3.6	4.3	5.0	3.5	3.8	5.1	6.0	3.6	4.5	5.7	6.5	3.8	5.1	6.0	6.5	3.8	5.2	6.5	7.0

The above diagram¹ illustrates the relevant permissible FAR for the building in suit located in a land of 642 square metres in extent, situated in the Low Dense Residential Prominent Mixed Development Zone, with a road width of 9 metres and site frontage of 20 metres.

Thus, the permissible number of floors can be calculated as follows;

Permissible Total Floor Area = Land Extent x Permissible FAR

$$= 642 \times 5$$

$$= 3210 \text{ sq m}$$

Footprint of Proposed Building = 320.9 sq m

Therefore, Number of Usable Floors = Total Permissible Floor Area / Total Plot Coverage

$$= 3210 / 320.9$$

$$\approx \mathbf{10 \text{ Floors}}$$

However, according to the approved building plan **2R1**, the total number of usable floors is at least thirteen, which is therefore in violation of the Regulations contained in **P6(a)**.

Rights of the Petitioners

The 2nd Respondent has raised objections as to how and on what basis the Petitioners have come before this Court to obtain several writs against the 2nd Respondent, who claims to have obtained a valid permit within the law, without violating any rules or regulations contained in **P6(a)**.

However, as mentioned above, the 1st Respondent has approved the development plan **2R1** violating the Rules contained in **P6(a)**. In addition to that, the development permit marked as **P7**

¹ Form A in Schedule I of the City of Colombo Development Plan 2022 – 2031, p. 333.

has approved the said plan to construct the high-rise as approved by the 1st Respondent, as designed and depicted in the document marked and annexed to the Statement of Objections as **2R1**.

It appears that this might not directly affect the Petitioners; nevertheless, when such high-rise is constructed in the close vicinity of the residents of the area, several of their rights will be violated since the future owners or occupants of the high-rise (at least thirty in numbers, which may vary depending on the number of members of the families) will use the same road which is also used by the residents (the Petitioners). At least thirty cars will be using the road at a given time.

Further, the high-rise itself, though various Government agencies have given approval, will itself cause environmental problems, which might affect the "garden-city" concept of Colombo as a theme that has been developed for several years. Therefore, such high-rises must be limited only depending on the needs, without affecting the rights of people already living in the area for several decades.

Although the 4th Petitioner has sold the property without knowing that a high-rise would come up, the 2nd Respondent, having purchased it, is now trying to erect a high-rise which affects not only the rights of the 4th Petitioner, but also the rights of all the other Petitioners as I mentioned above.

Furthermore, **2R1** and **P7** cannot be treated separately, but as complimentary to each other because the development permit **P7** is issued based on the approved building plan **2R1**. However, without considering the facts that I have discussed above, the Respondents have not treated said two documents as one set of documents that are complimentary to each other.

Therefore, they have a valid grievance that should be redressed.

Duty upon the 1st Respondent

Public authorities created by statute must see to it that such public authorities are empowered to carry out certain statutory duties subject to the statutory framework within which it was created. In addition to that, it must also see whether any other rules promulgated under the same statutory provisions are adhered to by the officers of such statutory public authority.

Furthermore, when such statutory authority is empowered to issue licenses or permits (as seen in the present scenario) to carry out various projects by individuals or public or private corporations like the 2nd Respondent, where others' rights such as the Petitioners' rights to peaceful living environment, use of the access road without any impediment, and vision of their gardens which are part of "garden-city life" concept of Colombo, could be adversely affected by the actions or inactions of such statutory body and the individuals or corporations to whom they have issued permits to carry on such projects, then such statutory authority should strictly adhere to the rules, regulations, statutory laws, and even common law concepts in issuing permits; which in this case the 1st and 2nd Respondents have failed to do. Therefore, writs lie in this case.

It must also be remembered at all times, that the statutory authorities acting under the provisions of the statute must take decisions affecting other's rights with caution, while not only considering the right of the developer like the 2nd Respondent, who so far has not accrued any right except for a propriety right based on the purchase of the land as reflected in **2R14**, but also must be considerate of other people's rights who may be seriously affected. After taking such a decision that is violative of someone's rights, only then will the Courts will interfere in the form of a writ

matter, as mentioned by Wade and Forsyth in the authoritative textbook "Administrative Law",² which reads thus;

Remedies of public law:

... It is true that almost any kind of wrong can be brought before the court by an action for a declaration, in which the court can declare the claimant's rights. But this remedy has only recently come to the fore. Long before it did so, the courts had developed the nucleus of a system of public law out of the special 'prerogative' remedies of certiorari, prohibition and mandamus, together also with habeas corpus. These remedies are still of the greatest importance for the purpose of compelling ministers, tribunals and other governmental bodies to act lawfully and to perform their duties. They cover the area where the remedies of private law are weak or ineffective. This in no way alters the fact that legality is enforced through the ordinary courts, applying principles of ordinary law.

These prerogative remedies are so called because they were originally used by the Crown and by the royal courts for the purpose of preventing inferior tribunals and other bodies from meddling in matters that did not concern them. They were designed to enforce order in the complex network of jurisdictions, both central and local, which was a feature of the legal system. Certiorari would issue from the Court of King's Bench to quash a decision, for example of justices of the peace, which was outside their jurisdiction or patently contrary to law. Prohibition would prevent them from proceeding in any matter outside their jurisdiction. Mandamus would command them to carry out their legal duties, if they were in default. Habeas corpus would release any person wrongfully detained. But it was

² Wade, W., & Forsyth, C. (8th Edition, Oxford University Press 2000). *Administrative Law*, Part 1 Chapter 02.

private individuals who usually called the attention of the court to these wrongs, and in time the prerogative remedies ceased to be a royal monopoly and became available to any subject. Nevertheless, the Crown remained the nominal plaintiff and the remedies retained their character of remedies devised for upholding public order rather than private right. This character, as will be seen later, makes them especially valuable for correcting administrative illegalities which do not directly injure any particular person, for example a failure by a cinema licensing authority to prevent the exhibition of indecent films.

Although there is no distinct system of public law, therefore, there are elements of such a system in this group of remedies. The courts draw upon a mixed collection of remedies, some belonging to private and some to public law, in order to cover all contingencies. Recent reforms have removed the procedural obstacles which formerly prevented the two groups of remedies from combining smoothly. They are now more freely interchangeable, but on the debit side the courts have established an awkward dichotomy between public and private law which did not exist before (at page 32 - 33).

It is also expected of the 1st Respondent, whose officers have been appointed because of their competency and expertise knowledge in the post that they hold in the 1st Respondent authority, must not only act under the statutory provisions mechanically, but also in certain cases they should consider each and every application subjectively; which in this case, they have failed to do when failing to address the Petitioners' grievances. Therefore, writs lie in this Application.

Additionally, although writs are issued, it does not prevent the 2nd Respondent from obtaining a development certificate afresh, if necessary, provided it falls within the parameters of the relevant Rules and Regulations.

Though the Petitioners have sought to quash a certain Regulation contained in **P6(a)** in prayer (d) of the Petition, I cannot do so in this particular instance, because the very reasons that I have relied upon to issue writs to quash **2R1** and **P7** are in terms of **P6(a)**.

Conclusion

In light of the reasons mentioned above, I grant relief as prayed for in prayer (c) of the Petition, quashing the development permit **P7**. Further, I wish to modify the said prayer, and issue a *Writ of Certiorari* to quash the approved building plan **2R1** as well.

JUDGE OF THE COURT OF APPEAL