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

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

**01.KUDAGE SOMA RAMYALATHA
JAYASEKARA,**

No. 97/17C, Jakotuwa,
Welewatte,
Wellampitiya.

**02.KUDAGE DILANI KUSUM
JAYASEKARA,**

No. 97/17B, Jakotuwa,
Welewatte,
Wellampitiya.

**Court of Appeal No.
CA/WRT/ 034/2024**

**03.KUDAGE WICKRAMA LAL
JAYASEKARA,**

No. 97/17, Jakotuwa,
Welewatte,
Wellampitiya.

**04.KUDAGE LILANI HEMALATHA
JAYASEKARA,**

No. 641/B, Thun anda hena,
Korathotda, Kaduwela.

05.VIDANALAGE PREMARATHNA,

No. 97/17B, Jakotuwa,
Welewatte,
Wellampitiya.

06.VIDANALAGE RUWANJAYA

MAYURA MIYURAJ,

No. 97/17B, Jakotuwa,
Welewatte,
Wellampitiya.

07.VIDANALAGE BUDDHINI

SAUBHAGYA,

No. 121, Isuru Vimana,
Horana.

PETITIONERS

-Vs-

01.LAND REFORM COMMISSION,

No. 475, Kaduwela Road,
Battaramulla.

02.HAPUTHANTHRIGE

SARATHCHANDRA,

No. 97//17/P, Jakotuwa,
Welewatte, Wellampitiya.

03.Hon. ATTORNEY GENERAL,

Attorney General's Department,
Colombo 12.

RESPONDENTS

JUDGEMENT

01. INTRODUCTION

Seven persons, allegedly from one family, named as The Petitioners, narrated certain facts in respect of allocation of land marked lot of 22 depicted in plan No.366 of 13/11/2001, called and known as **Induruwe Kubura** alias **Jakotuwewatta** situated at Kiththampathuwa- Veliwetta in extent of RI.P16.954, sought the following reliefs.

- a) To issue notice on the 1st, 2nd and 3rd Respondents above named,
- b) To issue a Writ of Mandamus directing the 1st Respondent to GRANT A DEED OF TRANSFER IN FAVOUR OF THE PETITIONERS in respect of the PORTION OF LAND RESERVED FOR THE SAID K. A. LUSIHAMY and to hand over the vacant possession of the same which is more fully described in the schedule below.
- c) To issue a Writ of Prohibition restraining the 1st Respondent from making ARRANGEMENTS TO DIVEST AND/OR ALIENATE THE LAND ALLOTTED TO THE SAID K. A. LUSIHAMY OR PORTIONS THERE FROM TO THE 2ND RESPONDENT OR ANY OTHER PERSON,

d) To issue a Writ of Certiorari to quash the decision taken up by the 1st Respondent TO GRANT A LEASE IN FAVOUR OF THE 2ND RESPONDENT IN RESPECT OF THE PROPERTY DESCRIBED IN THE SCHEDULE BELOW.

e) To grant cost and,

f) To grant such other and further relief as to your lordship's court shall seem meet.

02. ARGUMENT & JUDGEMENT

There were three Respondents named in. 1st and 3rd Respondents represented by a team of State Counsel, while 2nd Respondent was represented by a team of private lawyers. This matter has been argued before several benches and finally reargued on 01.06.2026 before us; and the judgement was reserved for the 6th August 2026.

03. PETITIONERS' ACTION

Thereafter, the petitioner submitted a motion dated 15.06.2026 together with an affidavit and several documents mentioned therein.

04. MOTION OF 15.06.2026

The motion is reproduced hereto, is as follows;

On this 15th day of June 2026

WHEREAS the argument in this matter was concluded on 01st June 2026;

AND WHEREAS in the process of the submissions made by the learned State Counsel for the 1st Respondent it was stated that the Petitioners have not pleaded and/or established that they are the lawful heirs of deceased K.A. Lusihamy;

I respectfully submit the following documents to establish that Petitioners are the lawful heirs of deceased K.A. Lusihamy.

1. Certified Copies of Birth Certificates of the 1st, 2nd, 3rd, 4th Petitioners and deceased Kudage Yasanthi Jayasekara to prove that they are the lawful children of deceased K.A. Lusihamy, (X7 - X11)
2. Certified Copy of Marriage Certificate of 5th Petitioner to prove the marriage of the 5th Respondent and deceased Kudage Yasanthi Jayasekara, (X12)
3. Certified Copy of Death Certificate of deceased Kudage Yasanthi Jayasekara, (X13)
4. Certified Copy of Birth Certificates of 6th and 7th Respondents to prove that they are the lawful children of the deceased Kudage Yasanthi Jayasekara and (X14, X15)
5. An affidavit by the 1st, 2nd, 3rd, 5th, 6th and 7th Petitioners verifying the contents of aforesaid documents mentioned in 1, 2, 3 and 4 above.

I humbly beg Your Lordship's Court to accept the said documents and consider them as parts and parcels of the pleadings of the Petitioners in making the final decision in this matter.

WIDYANANDAGE PASINDU PRABATH
Attorney at Law, Registered Company Secretary
and Commissioner for oaths
Office : No 02, Hunupitiya Cross Road, Colombo 02
Residence : No 98/10A, Mihindu Mawatha,
Cemetery Road, Thalapathpitiya, Nugegoda
Reg No A 19138
Mobile : 0775511928



Attorney-at-Law for the Petitioners

A copy of this motion and the true copies of the documents annexed thereto have been sent to the Attorney's General Department and the Attorney at Law for the 2nd Respondent by registered post and by hand and the proof of the same is attached herewith.

WIDYANANDAGE PASINDU PRABATH
Attorney at Law, Registered Company Secretary
and Commissioner for oaths
Office : No 02, Hunupitiya Cross Road, Colombo 02
Residence : No 98/10A, Mihindu Mawatha,
Cemetery Road, Thalapathpitiya, Nugegoda
Reg No A 19138
Mobile : 0775511928



Attorney-at-Law for the Petitioners

05. AFFIDAVIT OF 14.06.2026

The affidavit of The Petitioners is reproduced hereto, is as follows;

We, Kudage Soma Ramyalatha Jayasekera of No.97/17C, Jakotuwa, Welewatte, Wellampitiya, Kudage Dilani Kusum Jayasekera of No.97/17B, Jakotuwa, Welewatte, Wellampitiya, Kudage Wickrama Lal Jayasekera of No.97/17, Jakotuwa, Welewatte, Wellampitiya, Vidanalage Premarathna of No.97/17B, Jakotuwa, Welewatte, Wellampitiya, Vidanalage Ruwanjaya Mayura Miyuraj of No.97/17B, Jakotuwa, Welewatte, Wellampitiya and Vidanalage Buddhini Saubhagya No.121, Isuru Vimana, Horana being Buddhists do hereby sincerely and truly declare and affirm as follows:

1. We are the Declarants abovenamed and the 1st, 2nd, 3rd, 5th, 6th and 7th Petitioners in the abovenamed application.

2. We state that this Affidavit is tendered to Your Lordships Court to verify certain certified copies of Birth Certificates, Marriage Certificate and Death Certificate annexed herewith.

3. We state that the 1st, 2nd, 3rd, 4th Petitioners and the deceased Kudage Yasanthi Jayasekera are children of the deceased K.A. Lusihamy.

To prove the same, a certified copy of the Birth Certificate of the 1st Petitioner, Kudage Soma Ramyalatha Jayasekera bearing number 3254 is annexed hereto marked "X7", a certified copy of the Birth Certificate of the 2nd Petitioner, Kudage Dilani Kusum Jayasekera bearing number 4877 is annexed hereto marked "X8", a certified copy of the Birth Certificate of the 3rd Petitioner, Kudage Wickrama Lal Jayasekera bearing number 192 is annexed hereto marked "X9", a certified copy of the Birth Certificate of the 4th Petitioner, Kudage Lilani Hemalatha Jayasekera bearing number 6888 is annexed hereto marked "X10" and a certified copy of the Birth Certificate of the deceased Kudage Yasanthi Jayasekera bearing number 2181 is annexed hereto marked "X11" and are pleaded as parts and parcels hereof.

4. We state that the 5th Petitioner is the lawfully married husband of the deceased Kudage Yasanthi Jayasekera.

To prove the same, a certified copy of the Marriage Certificate of the 5th Petitioner, Vidanalage Premarathna and the deceased Kudage Yasanthi Jayasekera bearing number 887 is annexed hereto marked "X12" and is pleaded as part and parcel hereof.

5. We state that the said Kudage Yasanthi Jayasekera died on 02.09.2022 leaving as her lawful heirs, the 5th, 6th and 7th Petitioners.

To prove the same, a certified copy of the Death Certificate of the deceased Kudage Yasanthi Jayasekera bearing number 4367 is annexed hereto marked "X13" and is pleaded as part and parcel hereof.

6. We further state that the 6th and 7th Petitioners are the children of the deceased Kudage Yasanthi Jayasekera.

To prove the same, a certified copy of the Birth Certificate of the 6th Petitioner, Vidanalage Ruwanjaya Mayura Miyuraj bearing number 5328 is annexed hereto marked "X14" and a certified copy of the Birth Certificate of the 7th Petitioner Vidanalage Buddhini Saubhagya bearing number 6034 is annexed hereto marked "X15" and are pleaded as parts and parcels hereof.

7. In the circumstances, we respectfully state that we are the only legal heirs of deceased K.A. Lusihamy.

8. In these circumstances, we respectfully beg that Your Lordships Court be pleased to accept the documents annexed hereto and consider them as parts and parcels of the pleadings of the Petitioners in making the final decision in this matter.

The foregoing affidavit having been read over and explained by me to the within named affirmants in English and they having appeared to understand the contents hereof, signed and affirmed to at Nugegoda on this 14th day of June 2026.



.....
1. Power of Attorney Holder of Kudage
Soma Ramyalatha Jayasekera

.....
2. Kudage Dilani Kusum Jayasekera

.....
3. Kudage Wickrama Lal Jayasekera

.....
4. Vidanalage Premarathna

.....
5. Power of Attorney Holder of Vidanalage
Ruwanjaya Mayura Miyuraj

.....
6. Power of Attorney Holder of Vidanalage
Buddhini Saubhagya

Before me

.....

Commissioner for Oaths/Justice of Peace

Nirosha Lakmali Kulathunga

LL. B (Jaffna)

Attorney-at-Law, Notary Public,
Company Secretary & Commissioner for Oaths
No.416/2, Old Kottawa Road, Udahamulla, Nugegoda.
S.C. Enrollment No: A.28463

06. MOTION OF THE RESPONDENTS

The 1st and the 3rd Respondents submitted a motion dated 16.06.2026, objecting to the motion and documents of The Petitioner. The said motion is reproduced hereto, is as follows;

TO: HIS LORDSHIP THE HONOURABLE PRESIDENT AND THE OTHER HONORABLE JUDGES OF THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA.

This matter is fixed for Judgement on 06.08.2026.

WHEREAS, the 1st and 3rd Respondents respectfully inform Your Lordships' Court that the said Respondents are in receipt of a motion dated 15.06.2026 filed by the Petitioner and documents sought to be produced there with.

AND WHEREAS, it is respectfully submit Your Lordships' Court that this matter was fully argued on 01.06.2026 and stands reserved for Judgement. The Petitioner cannot, at this stage, introduce fresh evidence and material not previously place before Your Lordship's Court and therefore the Respondents object to the contents of the said Motion and the documents contained therein.

AND WHEREAS, the 1st and 3rd Respondents respectfully inform Your Lordships' Court that this matter ought to be determine on basis of the pleadings, Affidavits, submissions and Arguments already placed before Your Lordships' Court.

WHEREFORE, the 1st and 3rd Respondents object to the contents of the said motion filed by the Petitioner and respectfully move that the same be rejected.

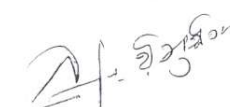
IN THE ABOVE CIRCUMSTANCES, the 1st and 3rd Respondents respectfully request Your Lordships' Court be pleased to mention this application on one of the following dates enabling the State Counsel to Support the contents of this motion

25.06.2026
26.06.2026
29.06.2026
30.06.2026

A copy of this motion was sent to the Attorney-at-Law for the Petitioners by registered post and the registered postal article receipt bearing No. 7898 dated 16.06.2026 is annexed hereto in proof of same.

A copy of this motion was sent to the Attorney-at-Law for the 2nd Respondent by registered post and the registered postal article receipt bearing No. 7897 dated is annexed hereto in proof of same.

Colombo on this 16th day of June 2026


Attorney-at-Law for the 1st and 3rd Respondents
(MIRJCA/CA/168/2024 (BYW))

07. DEALS

On the application of the parties, those motions were mentioned on 25.06.2026 and the Court decided to deal with the said motions in the judgment.

08. VIGILANT

The motions are self explanatory. A party must be vigilant of their steps in an action. One can't sleep over their rights and duties. The party has to face the consequences for their failure.

09. STEPS

Originally, the Petition was supported on 05.02.2024 and the Court has issued notices to the Respondents. Respondents entered appearances and obtained date for their objections. The objections finally filed on 05.02.2025. The Petitioners have filed counter affidavit on 07.05,2025. The matter has been taken up for argument-several times and finally the argument concluded on 01.06.2026 before the preset bench of Court No. 205. Judgement was reserved for 06.08.2026, and the parties were directed to submit synopsis within two weeks from 01.06.2026.

10. LATE STEPS

Surprisingly, The Petitioner, by their motion dated 15.06.2026, submitted an Affidavit together with X7, X8, X9, X10, X11, X12,

X13, X14, X15 and two special Power of Attorney without markings or pleading. The motion and the Documents of The Petitioners were vehemently objected to by the 1st and 3rd Respondents by their motion dated 16.06.2026, and an application was made to the reject the said Documents.

11. DECISION

As explained above, a party cannot introduce fresh evidence after the completion of the argument. The Petitioners have no explanation for their belated actions. The Courts cannot permit the said action for reasons such as Good Governance, Equity Principles and Natural Justice, and etc.

This Court having considered all the applications and submissions made by the parties, decides to reject the motion dated 15.06.2026 of The Petitioner and the Affidavit and the annexed Documents, and also decides not to consider the same as part of the records.

12. FACTUAL MATRIX 01

I shall consider now the merits of The Petitioner's Application. The Petitioners jointly made the application seeking writs of Mandamus directing the Respondents to issue Deed of Transfer in respect of certain plot of Land, and other reliefs. Originally the said Land in extend of 22 Acres belongs to J. L. D. Peiris Company. The caretaker was K. Teeman Jayasekera. The said Company gifted 4

Acres to K. Teeman Jayasekera as a token of gratitude. The said K. Teeman Jayasekera, his wife K. A. Lusihamy and their five children were in possession of the entire Land.

13. FACTUAL MATRIX 02

In 1975, the said property was vested with the Land Reform Commission. K. A. Lusihamy preferred a claim for divesting of a portion of the said Land. In respect of the claim, certain steps were taken, and parties deposited the purchase price with the 1st Respondent. But the Deed is not granted in the name of the Petitioners. K. A. Lusihamy also died. Now the Petitioner claims the Deed from the Respondent.

14. FAILURE

The Respondents took up position, *inter alia*, that The Petitioners have not proved that they are the heirs of K. A. Lusihamy. Specially, the 1st and 3rd Respondents averred that The Petitioners failed to prove the heirship and demanded the strict proof thereof. In the argument, 1st and 3rd Respondents documented their submissions on the heirship and argued that The Petitioners' failure to prove the same rendered their claim for the plot of land unsuccessful.

15. AVERMENTS

The Petitioners in their petition dated 28.10.2023 averred as follows;

Paragraph 4. The Petitioners above named are persons residing at Jakotuwa, Welewatte, Wellampitiya.

Paragraph 5. **The 1st, 2nd, 3rd, and 4th Petitioners and the deceased Kudage Yasantih Jayasekera are children of K. Teeman Jayasekera and K. A. Lusihamy.**

Paragraph 6. **The 5th Petitioner is the Husband of the deceased Kudage Yasanthi Jayasekera and the 6th and 7th Petitioners are the only children of the said deceased Kudage Yasanthi Jayasekera and therefore the 5th, 6th, and 7th Petitioners are the sole legal heirs of the said deceased Kudage Yasanthi Jayasekera.**

16. DENIAL

The 2nd Respondent in his Amended Statement of Objections dated 28.11.2024 averred as follows;

Paragraph 8. Answering paragraphs 1, 2, 3 and 4 of the Petition, the 2nd Respondent states that he admits the averments contained in paragraphs 1, 2, 3, and 4 of the Petition.

Paragraph 9. **Answering Paragraphs 5, 6, 7, 8, 9, and 11 of** the Petition, the 2nd Respondent states that **he is unaware of the averments contained in the Paragraphs 5, 6, 7, 8, 9,** and 11 of the Petition.

17. DENIAL & DEMAND

The 1st and 3rd Respondents in their Statement of Objections dated 20.01.2025 averred as follows;

Paragraph 6 (b). The Respondent is the owner of the subject Land as it was vested in the Respondent Commission.

Paragraph 6 (c). The said K. A. Lusihami had passed away a long time ago, and the Respondent had made no alienation to K. A. Lusihami in respect of the subject land.

Paragraph 7. The Respondent admits the averments contained in Paragraph 1, 2, and 3 of the Petition.

Paragraph 8. **The Respondent denies the averments contained in paragraph 4, 5, 6, 7, and 8** of the Petition, and states that **the burden of proof lies with the Petitioners as no documentary proof has been annexed to prove the same and the Respondent** further reiterates

the position contained in paragraph 6 of these Statement of Objections.

18. COUNTER STEPS

The Petitioners in their Counter Affidavit dated 10.04.2025 averred as follows;

Paragraph 7. In response to paragraph 6(a) and (b) of the Statement of Objection of the 1st Respondent, we state that we do not challenge such averments contained in the said paragraph.

Paragraph 8. While denying the averments contained in paragraph 6(c) of the Statement of Objections of the 1st Respondent, we state that K A. Lusihamy died on 30.12.2018 and prior to that the 1st Respondent having determined to grant a Deed in her Favour in respect of the aforesaid Lot No. 22, accepted the total consideration for the land together with Legal Charges and Stamp duty for such purpose.

Paragraph 12. **While denying the averments contained in paragraph 8 of the Statement of Objections of the 1st Respondent, we state that we have annexed all necessary documents to their Petition in order to support their application** to invoke the writ jurisdiction of Your Lordship's Court.

19. FAILURE

As per the above averments, The Petitioners have failed to take any steps to proof that they are the heirs of the K A. Lusihamy, despite the Respondents demanded it. The above failure goes to the root of this case, namely, the Petitioners' entitlement, and The Court accept that The Petitioners have failed in their tasks of claiming the Land reserved for K A. Lusihamy. As such, the other materials are not been considered.

20. CONCLUSION

FOR THE REASONS ADUMBRATED ABOVE, THIS COURT IS COMPELLED TO REJECT THE PETITIONERS' APPLICATION AND ACCORDINGLY THE WRIT APPLICATION IS DISMISSED BUT WITHOUT AN ORDER FOR COST.

On this 6th day of August 2026

JUDGE OF THE COURT OF APPEAL

R. GURUSINGHE, J.

I agree.

JUDGE OF THE COURT OF APPEAL