

**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.*

Pathirannehelage Seetha Pathirana,
Rajanganaya Yaya 9, Gemunupura.

CA (Writ) App. No. 526/2023

PETITIONER

Vs.

1. G.D. Keerthi Gamage,
Commissioner General of Lands,
Department of Lands,
"Mihikatha Madura",
No. 1200/6,
Rajamalwaththa Road,
Battaramulla.
- 1A. Bandula Jayasinghe
Commissioner General of Lands,
Department of Lands,
"Mihikatha Madura",
No. 1200/6,
Rajamalwaththa Road,
Battaramulla.
2. The Provincial Land
Commissioner,
North Central Province,
Anuradhapura.

3. Divisional Secretary – Nuwaragama Palatha,
East- Anuradhapura,
Divisional Secretariat,
Nuwaragama Palatha – East
Anuradhapura.
4. Harin Fernando,
Minister of Tourism and Lands
Ministry of Tourism and Lands,
"Mihikatha Madura",
No. 1200/6,
Rajamalwaththa Road,
Battaramulla.
- 4A. K.D. Lal Kantha
Minister of Agriculture, Livestock,
Land and Irrigation
"Mihikatha Madura",
No. 1200/6,
Rajamalwaththa Road,
Battaramulla.
5. Secretary to the Ministry of
Tourism and Lands,
Ministry of Tourism and Lands,
"Mihikatha Madura", No. 1200/6,
Rajamalwaththa Road,
Battaramulla.
- 5A. Secretary to the Ministry of
Tourism and Lands,
Ministry of Tourism and Lands,
"Mihikatha Madura", No. 1200/6,
Rajamalwaththa Road,
Battaramulla.
6. S.M.S.K. Seneviratne,
Near Agrarian Services Centre,
Punawa, Medawachchiya.

RESPONDENTS

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

Counsel:

Shantha Jayawardana with Sajana de Zoysa instructed by R.M. Chamali S. Ranathunga
for the Petitioner.

Sapumal Bandara with Ms. Thavisa Hettiarachchi instructed by Praveen Premathilaka
for the 6th Respondent.

Argued on: 17.03.2026

Delivered on: 01.09.2026

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

Judgement

Introduction

The Petitioner claims that her late husband was selected as a prospective lessee to be issued with a permit in terms of the State Lands Ordinance. Consequently, the Petitioner's husband had developed the allotment of land by erecting a residential house and effecting certain plantations, in respect of which the said late husband of the Petitioner was to be issued a permit.

However, upon the death of her husband, a dispute arose. Thereafter, the 6th Respondent, who is the husband's nephew (brother's son), forcibly entered the premises in suit, including the house, and is presently occupying the same, claiming rights thereto. The said dispute was thereafter referred to the relevant authorities.

Accordingly, the predecessor of the 2nd Respondent, after an inquiry, recommended that the Petitioner should be issued with a permit for the land in suit, since her husband, after being selected, had developed the same together with the Petitioner. The said recommendation is marked as **P22**.

In the meantime, the 6th Respondent challenged the said document marked **P22**. Although the 3rd Respondent was instructed by the 1st Respondent to issue a permit in accordance with the said report marked **P22**, pending the cases, the 3rd Respondent delayed taking steps to issue a permit in favour of the Petitioner.

Thereafter, at the instigation of the 6th Respondent, the 3rd Respondent and the present 2nd Respondent prepared reports against the Petitioner, contrary to **P22**, and recommended that a

permit be issued to the 6th Respondent; the conflicting stance undertaken is reflected in the documents marked as **R2, R3, R4, and R5**.

Accordingly, the Petitioner seeks the intervention of this Court. Upon the issuance of formal notice, the 1st to 5th Respondents filed separate Statements of Objections, whilst the 6th Respondent filed a separate Statement of Objection.

Consequently, this matter was argued before me on 17.03.2026; hence this judgement.

The following arguments were advanced at the hearing of the case.

Arguments

It was argued on behalf of the Petitioner by learned Counsel Mr. Shantha Jayawardena that the Petitioner's late husband, Sarath Gunathilaka, had been selected as a prospective lessee to be issued with a permit. Consequently, he was granted permission to develop the land in question. Therefore, in the circumstances, the Petitioner is entitled to the grant of the writs as sought in the Petition.

On the other hand, Mr. Sapumal Bandara argued that the 6th Respondent's father had been issued with an original permit and that the Petitioner's late husband, Sarath Gunathilake, who was the uncle of the 6th Respondent, had fraudulently participated at the Kachcheri, claiming the same land after the death of the father of the 6th Respondent. Therefore, it was contended that the 6th Respondent is entitled to the permit.

However, upon the conclusion of the arguments, the following questions were raised by me, as there are two reports made by the same officer, namely, the 2nd Respondent, which appear to be contradictory to each other;

- (i) Whether the Land Commissioner of any province is empowered to take a decision to alienate lands under the State Lands Ordinance
- (ii) Or otherwise, who is empowered to take such a decision.

The Petitioner's Position

The Petitioner asserts that her late husband was selected in a land kachcheri as the prospective lessee to be issued with a permit in terms of the State Lands Ordinance, and in view of that, the Petitioner claims that her husband and she developed the land jointly, built the house thereon and resided therein. After the death of her husband, the Petitioner continued to reside there.

It is the position of the Petitioner that initially, the Petitioner's husband had been selected for the issuance of a permit under the State Lands Ordinance scheme of alienation of State land to public servants and/or middle-class persons. However, by the time the Petitioner's husband was selected, he was employed in the clerical service attached to the Examination Department. However, he had nominated his brother, S. Senevirathna, to obtain a temporary permit in his name until it was regularised in S. Sarath Gunathilaka's name (the Petitioner's husband). The said temporary permit issued to S. Senevirathna is marked as **P2**.

However, in the meantime, after the Petitioner's husband participated in the relevant Kachcheri, the 3rd Respondent's predecessor decided to issue a permit in favour of the Petitioner's husband, "S.Sarath Gunathilaka", and accordingly, a letter had been issued in that behalf; the said letter is marked as **P17**.

By the time the Petitioner married her husband, she had become a government teacher and thereafter, she was also transferred to Colombo, "Rahula Mahavidyalaya, Angoda". Whilst she was serving as a teacher, she sat for the A-Level Examination for the 3rd time and obtained

admission to the Medical Faculty, where she completed her medical studies and qualified as an MBBS doctor.

The Petitioner claims that her husband and she jointly built the house on the land so allotted to the Petitioner's husband and, pending the legalisation thereof, they both resided in the house built by them; she has marked the bills issued by the merchants to establish that they purchased building material marked as **P3**.

However, in the meantime, one "H.Wimalawardhana", a nephew of the Petitioner's husband, had secured a government teaching appointment at a nearby school to their residence. Accordingly, at his request, he was allowed to stay in a room of the said residence as an inmate, with the leave and licence of the Petitioner and her husband.

However, in the meantime, the Petitioner's husband suffered a heart ailment and consequently passed away, which is reflected in the document **P9** (death certificate).

Thereafter, the said Wimalawardhana disputed the title of the Petitioner; thus, he later locked up the doors and the gate of the land in question, and later gave possession thereof to the 6th Respondent, who is the Petitioner's husband's brother's son, in whose name (S. Senevirathna) the Petitioner's husband had initially made arrangements to obtain the temporary permit in the absence of the Petitioner's husband, since he was residing in Colombo while being employed.

Thereafter, upon complaints made by the Petitioner to the 1st and 3rd Respondents, the 1st Respondent called for a report from the 2nd Respondent. Accordingly, the 2nd Respondent, having given several notices to the Petitioner, the 6th Respondent and his siblings, as well as his mother, who claimed that they were claiming under Seneviratne, held an inquiry and thereafter made a report marked as **P22** annexed to the Petition.

According to the said report, the Petitioner has established that her husband had built the house standing on the land with the money derived from their income, neither the 6th Respondent nor the so-called predecessor-in-title, Seneviratne, had ever built the house. In addition to that, other improvements had been made by the Petitioner and her husband. Therefore, the Petitioner is entitled to have a permanent and long-term permit under the State Lands Ordinance.

Accordingly, the 2nd Respondent made a recommendation to the 1st Respondent to issue a permit to the Petitioner. Thereupon, the 1st Respondent referred the matter to the 3rd Respondent to take the necessary action. However, the said report was challenged by the 6th Respondent in the Provincial High Court of Anuradhapura in the case bearing No. WRT/28/2004, where, finally after hearing the matter, judgement was given against the 6th Respondent, dismissing the application.

Thereafter, the 6th Respondent appealed to this Court in the Appeal bearing No.CA/PHC/163/2006 and the appeal has also now been dismissed. However, in the meantime, the Petitioner insisted that the 3rd Respondent should take action according to the report.

However, the 3rd Respondent delayed taking action in that behalf on the basis that there were pending cases or pending appeals in the Court of Appeal.

However, even after the judgement, the Petitioner insisted that the 3rd Respondent, at least, should take action to implement the recommendations made by the 2nd Respondent or as confirmed by the judgement.

However, in the meantime, the 1st Respondent called for a further report from the 3rd Respondent, who, after a purported inquiry, made a report that the 6th Respondent should be given the permit. Accordingly, the 2nd Respondent also made a report to that effect.

Accordingly, without implementing the report of the 2nd Respondent, which was made on 18.10.2004 and marked as **P22**, the 3rd Respondent has taken steps to issue a permit to the 6th Respondent. Therefore, the Petitioner challenges the same by this Application. In addition to that, the Petitioner seeks a *Writ of Mandamus* against the 1st to 5th Respondents, compelling them to take necessary actions to issue a permit in her favour.

Objections

The 1st to 5th Respondents have filed their respective objections separately, while the 6th Respondent has filed separate objections.

Accordingly, the position of the 1st to 5th Respondents, as set out in their Statement of Objections, is that there is an opinion given by the Attorney General after perusing the record, according to which the 6th Respondent should be entitled to a permit on the facts of the case, since the Petitioner has lost her possession. The said opinion is marked as **1R3**.

In addition to that, according to the 6th Respondent's objections, it is his position that his father, who had initially been issued with a permit, had thereafter developed the land by erecting a residential house and also by making other improvements, including plantations around the house. Therefore, the 6th Respondent's father and his successors are entitled to the benefit accrued to the father of the 6th Respondent, namely, late Seneviratne. Therefore, the Petitioner's Application should be dismissed. The 6th Respondent has relied upon the documents marked as **R1** to **R5** to establish his position.

Furthermore, the 6th Respondent has taken up the position that the Petitioner has not come before this Court with clean hands, there is suppression of material facts, including the fact that there is an opinion given against the Petitioner by the Attorney General in alienating the land.

Accordingly, the Respondents move for the dismissal of the Application.

According to the matters pleaded in the Petition and in the Objections of the 1st to 5th Respondents and the 6th Respondent separately, as well as the arguments advanced before me and the additional arguments made by way of Written Submissions, it is my view that the following questions arise for my consideration;

- (i) Whether there was a report made by the 2nd Respondent in favour of the Petitioner, recommending the issuance of the permit in her favour after evaluating the evidence and the claims of the parties, which is marked as **P22**.
- (ii) Whether the writ application made by the 6th Respondent to quash the said document **P22** of the 2nd Respondent, recommending that the permit should be issued to the Petitioner, was unsuccessful and was followed by the dismissal of the appeal against the said decision arising from the unsuccessful application made before the Provincial High Court.
- (iii) In those circumstances, by delaying the implementation of the recommendations made by the 2nd Respondent in the document marked as **P22**, was there a dereliction of duty in delaying the taking of steps by the 3rd Respondent to implement the recommendations made in the report **P22** in favour of the Petitioner?
- (iv) Whether there were any contradictory reports to **P22**.
- (v) If the answer to the above question is in the affirmative, did the Petitioner entertain a legitimate expectation in her favour to obtain a valid permit from the Government?
- (vi) Whether the Attorney General's opinion is binding on the parties

Cancellation of Original Permit Issued to Seneviratne

On a perusal of the record, I found that initially a permit had been issued to S. Seneviratne, the father of the 6th Respondent and the brother-in-law of the Petitioner; the said permit is dated 10.06.1981, and it does not indicate that it was issued in terms of the Land Development

Ordinance or the State Lands Ordinance. However, it has been issued by the Government Agent of the Anuradhapura District.

Further, it must be borne in mind that the said permit issued to Seneviratne has been cancelled, and a notice of cancellation has been issued to the said Seneviratne, which is reflected in the document marked as **P23** and dated 31.07.1990. The Petitioner has asserted that no appeal or response was made in response to **P23** by the said Seneviratne, the father of the 6th Respondent, who had been issued with the permit reflected in **P2**.

Therefore, it appears that **P2** was properly terminated. However, there is a letter filed as **P41** for and on behalf of the Petitioner. Further, according to **P41**, which was sent by the Divisional Secretary of Nuwaragama Palatha East, Anuradhapura, addressed to the Commissioner General of Lands, the said **P2**, being the original permit issued to Seneviratne, had not been properly cancelled. According to that report, it is observed that the said **P2** had not been cancelled in terms of Section 109 of the Land Development Ordinance.

Nevertheless, having perused all the documents, it is the opinion of the Honourable Attorney General that **P2**, originally issued to the said late Seneviratne, has been terminated and is no more valid and, thereafter, no more permit is issued to the said late Seneviratne. The said opinion of the Attorney general is marked as **1R3**; accordingly, it is very clear the Attorney General has also taken the position that permit issued to Seneviratne marked as **P2** annexed to the Petition is cancelled.

In any event, **P2** has been issued not under the Land Development Ordinance but under the State Lands Ordinance; therefore, the cancellation of the permit under Section 109 does not arise. Thus, what is stated in **P41** is irrelevant or does not represent what is stated therein.

New Allottee and Development of the Land

However, in the meantime, after the death of Seneviratne, it appears that Gunathilake, the late husband of the Petitioner, had been selected after a Kachcheri to be the allottee and the prospective lessee. Nevertheless, no permit had been issued to late Gunathilake, which is clearly reflected in **P17**. However, **P17** had been issued only after the dispute arose between the Petitioner and the 6th Respondent.

Therefore, it is a well-established fact that the permit originally issued to S. Seneviratne, the father of the 6th Respondent, had come to an end. Nevertheless, S. Gunathilake, the younger brother of the said Seneviratne, had been selected after a Kachcheri as the new allottee of the same land, and thereafter, he had started the construction of a residential house. By that time, he had the means to construct the residential house since he was employed as a clerk attached to the Education Department.

In addition to that, the Petitioner asserts that she was practising as a medical practitioner attached to a Government hospital, and therefore, they had the means to erect the said residential house; the plan of the said house is marked as **P4** annexed to the Petition. In addition to that, the bills and memos that the Petitioner's husband had obtained from various merchants when purchasing materials from various sales outlets, several of which are marked as **P3** annexed to the Petition. The Petitioner's averments to that effect were never contradicted; therefore, the facts stated therein stand as proven facts; vide *Edrick De Silva v. Chandradasa De Silva*.¹

Moreover, the same documents have been adduced in the District Court case which the Petitioner herself has filed against the 6th Respondent.

¹ (1968) 70 NLR 169.

Therefore, it is apparent that the late Gunathilake and the Petitioner, both having got together, had erected the house standing on the land in suit; the same fact has been accepted and proven before the Provincial Land Commissioner and accepted by the Provincial Land Commissioner and he has referred to it in **P22**.

No improvement by the 6th Respondent

Nevertheless, on the other hand, the 6th Respondent, the son of the original permit holder, claimed that he erected the house. However, he has not established any proof, based on any documentary or oral evidence, of the fact that he spent money on building the house. The said fact has been mentioned by 2nd Respondent in **P22**.

In any case, by the time 6th Respondent's father died, he himself had admitted that he was a minor and that his uncle, Gunathilake, the Petitioner's husband, by fraudulent means, tried to obtain the permit in his name. Therefore, he being a minor, there was no means for the 6th Respondent to erect such a residential house as reflected in the document marked **P4**.

Therefore, it is my view that the late Gunathilake and his wife, the Petitioner, had erected the house and developed the land as required by law.

The 6th Respondent forcibly ejected the Petitioner

Now, the next question which has arisen for consideration of this Court is whether the 6th Respondent had come to occupy the house forcibly or by any fraudulent means, thereby ejecting the Petitioner, or whether the 6th Respondent had right throughout been occupying the house, as asserted by the 6th Respondent.

After erecting the house, the said late Gunathilake and his wife, the Petitioner, had been living in the house. However, at that time also, the said Gunathilake had been attached to the

Examination Department in Colombo as a clerk and was therefore residing in Colombo during the weekdays.

Nevertheless, with his permission and consent (according to the Petitioner), one Wimaladharma, who is another nephew, a sister's son of Gunathilake was residing there. He had been permitted by the said Gunathilake to occupy only a room of the house, he being a teacher attached to a Government school close by. Therefore, as he was a relative, and in order to grant such leave and licence to the said Wimaladharma, the Petitioner had also given her consent, according to the Petition.

However, when the dispute arose between Seneviratne (6th Respondent) and the Petitioner after the death of her husband in 2003, as reflected in the document marked **P9**, Wimaladharma, having made a statement to the Grama Sevaka as reflected by the document marked **P10**, had handed over the entire house to S. Seneviratne, who was his first cousin. This appears to have happened as he had taken the side of his first cousin against his uncle's wife, the Petitioner. Thereafter, the Petitioner had made a complaint to the Police by **P11**.

The said Seneviratne had apparently taken the house by fraudulent means and without the knowledge of the Petitioner, since it appears that, at the time, the Petitioner was living elsewhere, according to the document **P11**, which is a contemporaneous Police statement made by the Petitioner. However, the dispute continued thereafter. Furthermore, the 6th Respondent, all his siblings, and the mother had taken the side of the 6th Respondent, and they had given affidavits marked as **P12**, **P13**, and **P14** against the Petitioner, to be submitted at the inquiry held by the 2nd Respondent.

In fact, it also appears that even the Grama Niladhari certificates had been issued in favour of the 6th Respondent, since he was a villager there. However, it is clearly stated that a dispute had arisen between the late Mr. Gunathilake's wife, the Petitioner, and her nephew-in-law, the

6th Respondent, as reflected by **P17**, though the Petitioner's husband, Gunathilake, had been selected as the allottee of the land in suit.

Thereafter, several notices had been issued by the 2nd Respondent regarding the inquiry, and he had prepared a comprehensive report of two pages, as reflected in **P22**.

Therefore, it is very clear from **P22** that he (the Provincial Land Commissioner) had clearly accepted the position taken by the Petitioner and, accordingly, recommended that the Petitioner should be issued with the permit in place of her late husband, since her late husband had developed the land along with her and they both were in possession of the land at the time she was fraudulently and forcibly ejected by the 6th Respondent. Further, he also recommended that the 6th Respondent, who was unlawfully staying on the land in question, should be evicted.

Therefore, it is very clear from **P22** that, by the year 2004, the Petitioner had established a right before the 2nd Respondent, and he had accepted the same, being the Provincial Land Commissioner.

Further Litigations Between the Parties

After **P22** was issued, the 6th Respondent made an attempt to challenge the same in the Provincial High Court, and the Provincial High Court dismissed it. Even then, the appeal to the Court of Appeal was unsuccessful. Therefore, **P22** stands as an unchallenged document. However, long thereafter, the Petitioner could not obtain the redress as recommended by **P22**, and she has been insisting that her rights be given effect to, or that the recommendations referred to in **P22** should be implemented. Accordingly, even the 1st Respondent has recommended the same by several documents, as reflected in **P45** and **P48**. Nevertheless, during the time the two court cases were pending, namely, before the High Court of Anuradhapura and before the Court of Appeal, both filed by the 6th Respondent, the 3rd

Respondent delayed the matter by giving various excuses, as reflected in the documents marked **P39** and **P40**.

In addition to that, since the Petitioner could not obtain the relief that she desired to obtain against the 6th Respondent, she instituted an action in the District Court for a vindicatory action. However, she does not have title on paper. The said action was dismissed, and though she made an attempt to challenge the same, the two appeals were also unsuccessful.

In the meantime, the 6th Respondent has also appealed to various authorities. Further, the 6th Respondent, being a person living in the area, was more instrumental in moving the 3rd Respondent and also later the 2nd Respondent. However, the 2nd Respondent has later taken a different stand, as reflected in **R2** and **R3**, which is a document dated 06.08.2014, based on the document **R1**, which is a document prepared by the 3rd Respondent. Therefore, it appears that the decision taken by the 2nd Respondent, as reflected in **R3**, is capricious and totally contradictory to **P22**. Therefore, there is a conflict between the two documents and the two stands taken by the same Respondent, namely, the 2nd Respondent, during the ten-year time period between **P22** and **R2**, **R3**, **R4**, and **R5**.

In fact, even in **R5**, the 2nd Respondent has stated that Seneviratne, the 6th Respondent, is living in the house which he had erected, which is totally erroneous and contradictory to the finding reflected in **P22** by the very same 2nd Respondent, but by a different person.

Further, **R5** has been issued by the successor to the Provincial Land Commissioner who issued **P22**; therefore, that document is contradictory.

Accordingly, it is very clear that the stands taken by the 2nd and 3rd Respondents are capricious, and from time-to-time they have changed the stand taken, although by different officers. Nevertheless, the 1st Respondent has throughout taken the correct stand by issuing instructions

to the 3rd Respondent and 4th Respondent to take steps to issue permits in favour of the Petitioner, as reflected in **P26** and **P27**.

However, in the meantime, as reflected in the documents which are annexed to the Petition and marked as **1R3** dated 18.06.2019, the Attorney General has also given an opinion.

According to him, both parties, namely, the Petitioner and the 6th Respondent, have no status or title derived from the Government, and the Government has title and can take steps to divide it among the two parties. However, it appears that the Petitioner's claim is that she and her husband erected the house, though they were living there physically, while she was attached to a hospital and her husband was living in Colombo due to his employment in the Education Department. Even when he died, he died in Colombo, as reflected in **P9**.

Therefore, the house was temporarily occupied by Wimalawardhana with the consent and leave and licence of the Petitioner and her husband. Therefore, Wimalawardhana had taken the side of his first cousin against the Petitioner, who is only related to them by marriage to S. Gunathilake, who was their late uncle.

It is apparent that, no dispute had arisen during Gunathilaka's lifetime; only after his death did the disputes arise. Therefore, it is very clear that a writ lies in favour of the Petitioner to compel the relevant authorities, namely, the 5th and 6th Respondents, to take necessary steps to give effect to the original finding that the Provincial Land Commissioner had arrived at, on the instructions of the 1st Respondent, after an inquiry.

However, as proposed by the Honourable Attorney General, it is rather feasible if the land can be divided between the 6th Respondent and the Petitioner in the process of issuing a permit. In respect of the area where the house is situated, the Petitioner can be issued with the permit for the area where the house is situated, which she and her husband erected with their own money. Seneviratne, the 6th Respondent, being a minor at that time, had no means of erecting such a

house. Nevertheless, the authorities can consider the issuance of the permit in his favour for the balance portion. However, this Court cannot compel that part. Nevertheless, the Court still can compel the 1st Respondent to take steps to issue a permit in favour of the Petitioner.

In the course of the argument, I raised the following question of law, and I directed the counsel to address me on that.

However, though initially all the parties argued that the initial permit was issued under the State Lands Ordinance, in the reports filed by different authorities, they have taken the view that the permit had been issued in terms of the Land Development Ordinance. If that is the case, the Petitioner is in any case entitled to succeed to the rights of her husband, who had been occupying the land and developing the same as a prospective lessee or permit holder of the land, who had been selected in that behalf. By the time he started development, his brother, namely, late Gunathilake's brother, who is late Seneviratne, had already died in 1991 due to an accident caused by an elephant attack, as reflected in **P5**. Thus, before Seneviratne's death, by **P23**, the permit issued to Seneviratne, marked as **P2**, had already been cancelled, and the notice thereof had been issued, and no appeal had been made.

Therefore, the question addressed by both parties is whether the Provincial Land Commissioner can take any decision in respect of the land, which was extensively addressed by the counsel for the 6th Respondent. However, the Petitioner has proceeded on the basis of only the Land Development Ordinance and has not addressed the issue.

Collapse of State Machinery and Politicisation

It is my view that the 1st Respondent has taken a view in this case to expedite the matter. Nevertheless, the subordinate officers who are the 2nd to 5th Respondents have not taken steps

as directed by the 1st Respondent, though there has been a consistent appeal made by the Petitioner from time to time for the last 22 years, from 2004.

As such, this indicates the lack of due diligence and the collapse of the State machinery, and the audacity of junior officers, such as the 3rd Respondent, in not carrying out the instructions given by the 1st Respondent, who is the authority on State lands. Therefore, this is clearly a case of politicization of the entire system. Hence, unless a Court intervenes, the authorities do not take actions or steps to carry out their statutory duties which have been imposed upon them by the very statutes under which they are empowered to act. Therefore, it is sad to note that the 2nd and 3rd Respondents have taken two different stands from time-to-time; therefore, their decisions are capricious.

The Petitioner seeks *inter alia* the following reliefs from this Court;

(c) For the grant and issuance of an order in the nature of Writ of Mandamus directing the 1st to 5th Respondents or any one or more of them to act according to the initial inquiry report/recommendations/observations as reflected in P22;

(d) For the grant and issuance of an order in the nature of Writ of Mandamus directing the 1st to 5th Respondents or any one or more of them to act in terms of Section 2 of the State Lands Ordinance No.08 of 1947(as amended) and grant a long-term lease/permit in the name of the Petitioner;

(e) For the grant and issuance of an order in the nature of Writ of Certiorari quashing any decision (if any) of the 1st, 2nd, 3rd, 4th or 5th Respondents or any one or more of them to divide the land between the Petitioner and the 6th Respondent;

(f) For the grant and issuance of an order in the nature of Writ of Prohibition, prohibiting the 1st to 5th Respondents from granting/issuing a grant/permit/rights to the 6th Respondent, in respect of the land, referred to in P2 or a portion/share thereof;

Conclusion

For the reasons adumbrated above, it is my view that the Petitioner is entitled to relief as prayed for in prayers (c) and (d) of the Petition. However, I refrain from issuing any writ in terms of prayers (e) and (f), for the reason that if there is any bare land in excess of the land covered by the residential house and the reasonable appurtenant land, the Respondents may take a decision to issue a permit in respect of such excess land to the 6th Respondent, if reasonable. Otherwise, such excess land should also be allotted to the Petitioner. No costs.

Accordingly, I issue a *Writ of Mandamus* in favour of the Petitioner.

JUDGE OF THE COURT OF APPEAL