

**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.*

Lewpothdeniya Liyanage
Wimalawathie,
Grama 07, B/20, Muwangala,
Hingurana.

PETITIONER

Kalu Arachchige Dayawansha,
Grama 07, B/20, Muwangala,
Hingurana.

CA (Writ) App. No. 560/2023

SUBSTITUTED PETITIONER

Vs.

1. Mrs. A.M.A. Kumari,
Divisional Secretary,
Divisional Secretariat,
Damana.
2. Dr. Madhavi Jayasekera,
Government Medical Centre,
Uksiripura, Muwangala,
Hingurana.

RESPONDENTS

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

Counsel:

Gamini Hettiarachchi for the Petitioner.

Medhaka Fernando, S.C. for the Respondents.

Argued on: 25.02.2026

Delivered on: 19.06.2026

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

Judgement

Introduction

The Petitioner, in this Application, seeks to obtain a *Writ of Certiorari* on the speculation that the 1st Respondent, who is the Divisional Secretary, may have issued a permit under the Land Development Ordinance to the 2nd Respondent, whom the Petitioner alleges came by force to occupy a portion of the parcel of land that the Petitioner claims to have been in occupation of since 1960.

After initially supporting this application and obtaining the issuance of notice, the Respondents filed their objections and, together with the Objections, marked and annexed certain documents and moved for the dismissal of this Application.

This was argued before me on 25.02.2026; hence, this judgement.

The Petitioner's position

The Petitioner claims that she is the owner of the land in suit, and she further claims that she and her late husband had been in possession of the said land in extent of 1.2144 Hectare belonging to the Sri Lanka Sugar Corporation.

It is also her position that though the said land was initially vested in the Sugar Corporation, since certain parcels of land were not arable for sugar cane cultivation, the Sugar Corporation did not utilise such parcels of the land, and the parcel of land that has been occupied by the Petitioner from 1960 is one such land. Therefore, with the permission of the Sugar Corporation, the Petitioner and her husband had developed the land by having a coconut plantation.

It is also the Petitioner's position that at one point of time during the 1990s, the Pradeshiya Sabha of the area had encroached upon the land, and thereafter, the Petitioner had instituted a vindicatory action against the same and obtained damages in the sum of Rs. 20,000/- (Twenty Thousand Rupees) from the District Court. Thereafter, though the Pradeshiya Sabha had appealed to this Court, the said appeal had been dismissed; therefore, the Petitioner claims that her rights have been established.

In the meantime, the 2nd Respondent, acting in collusion with the 1st Respondent, has carved out a certain portion of the land occupied and possessed by the Petitioner, and made attempts to erect a building. The Petitioner explains that there may have been permit issued by the 1st Respondent in respect of the said parcel of land now forcibly occupied by the 2nd Respondent.

In addition to that, the Sugar Corporation has given its consent to issue a permit only to the Petitioner since the Petitioner along with her husband has developed the land from 1960, having occupied the same; the said letter has been addressed to the Divisional Secretary of the area.

Therefore, the Petitioner has moved for *inter alia* the following relief;

“d. Issue a mandate in the nature of Writ of Certiorari quashing any permit issued by the 1st Respondent to the 2nd Respondent to the land more fully described in the plan marked as 'P1' if already such a permit is issued.”

The Respondents' Objections

The 1st and 2nd Respondents have filed they Objections, and according to them, the land had been released to the Sugar Corporation in terms of the Section 25 of the State Industrial Corporations Act, No. 49 of 1957, by the State. Since it is exclusively released to the Sri Lanka Sugar Corporation, such land should only be used for sugar cane cultivation and nothing else. This has been further confirmed and established by the Supreme Court, by its judgement which is marked and annexed to the Statement of Objections as **1R1**. Accordingly, no other person

should be allowed to utilise or possess such land vested under the Sugar Corporation since it does not have any title to such land other than possessing the land for the purpose of sugar cane cultivation.

Therefore, it is the position of the 1st Respondent that the Petitioner does not have any right to possess, occupy, or effect any improvements in the land in question; as such, the Petitioner cannot maintain this Application as it is formulated and constituted.

Further, it is also the position of the 1st Respondent that the Land Commissioner has given instructions under State Lands (Recovery of Possession) Act, No. 7 of 1979 that the lands released to the Sugar Corporation should not be utilised for any other purpose nor should it be allowed to be occupied by any other person.

Therefore, it is the position of the 1st Respondent that no right has been accrued to the Petitioner to obtain a writ against the Respondents, since the land belongs to the State and such land is released to the Sugar Corporation only for it to be utilised for the purpose of sugar cane cultivation.

As such, the Respondents have moved for the dismissal of this Application.

The Petitioner's Application is speculative

The original Petitioner has come before this Court on the basis that she is in possession of the property in suit from 1960 under the Sugar Corporation which is in possession of the larger parcel of land which includes thousands of acres which was vested in it for the purpose of planting and cultivating sugar cane for the production of sugar.

It is the Petitioner's position that since the parcel of land that she came to possess since 1960 and continues to possess to date, is not an arable land for sugar cane cultivation, with the

permission and consent of the Sugar Corporation, she and her husband had developed the land by planting coconut and other crops; thereby, they have developed the property.

It is also the Petitioner's position that since the property belongs to the State, the Sugar Corporation has recommended her application to the Divisional Secretary of the area to issue a permit in her favour since she has been possessing and developing the land in suit from 1960.

However, pending the said application for a permit, the 1st Respondent, who is in-charge of Government land, at the instigation of the 2nd Respondent, allowed her to carve out a portion of the entire land and thus, allowed her effect certain developments; the said portion has now been fenced off from the rest of the larger portion of land where the Petitioner is in possession, and it is the Petitioner's complaint that there may have been a permit issued to the said 2nd Respondent by the 1st Respondent, without her knowledge and giving her a hearing, and without considering the fact that she has been in possession of the land in suit.

Thus, if there is any permit issued, the decision to issue the same is irrational and against the evidence, and without hearing her, such issuance is in violation of the rules of natural justice. Additionally, since the land now belongs to the Hingurana Sugar Corporation, the Divisional Secretary cannot issue such permit without permission of the Sugar Corporation. Therefore, it is the position of the Petitioner that if there is any permit issued, it should be quashed.

However, the Petitioner does not exactly know whether such permit has been issued or whether there is any action taken by the 1st Respondent to issue such permit. In such scenario, what the Petitioner should have done was to write to the Respondents to ascertain whether such permit has been issued under the Right to Information Act, which the Petitioner has failed to do.

Therefore, at a glance of the Petition, what can be discerned is that what the Petitioner's very Application and relief prayed for are based on mere surmises or speculation. As such, the relief so sought in this Application cannot be granted.

Judgements are unwritten laws

The next matter that is asserted is that the 1st Respondent cannot issue a permit in favour of anybody because the land in suit had been released to the Hingurana Sugar Corporation. However, the Respondents' objections are that the said land is State land. At some point of time, the said land had been vested in the Sugar Corporation for the purpose of sugar cane cultivation under the State Industrial Corporations Act; in addition to that, it is their position that there is a Supreme Court judgement marked as **1R1**, by which the guidelines are given to the Sugar Corporation and the relevant authorities not to permit or allocate any land vested in the Sugar Corporation under the said Act since such land released and vested in the Sugar Corporation is only meant for sugar cane cultivation and nothing else. Therefore, it is the position of the Respondents that the Petitioner's position is futile, and the Petitioner cannot ask for any writ in view of the said judgement.

Now I will consider this aspect.

It must be borne in mind that an interpretation or judgement given by a court, particularly the Supreme Court of this country, is part of the unwritten law.¹ This is well-recognised principle, and the other branches of the Government are bound by that and are expected to follow the same principles.

The Supreme Court, having interpreted the State Industrial Corporations Act, under which the State has released certain lands in favour of the Sugar Corporation; thus, it is the view of the Supreme Court, that the Sugar Corporation cannot allow or permit another to possess or cultivate the said land other than for sugar cane cultivation. In addition to that, it also must be appreciated that a violation thereof may amount to contempt of the Supreme Court. As such,

¹ *Walker Sons and Co. (U.K.) Ltd v. Gunatilake and Others* [1978-79-80] 1 Sri L.R. 231.

the Sugar Corporation granting the Petitioner to possess the land from 1960 is in violation of the said Supreme Court judgement. Thus, the relief sought by the Petitioner cannot be granted.

Further, whether the land is arable or not, is not a matter to be considered since such land cannot be given or permitted to be possessed by another since such land belongs to the State; the Sugar Corporation is only holding the said land temporarily for the purpose of sugar cane cultivation. As such, unless the authorities who are entrusted with the subject of land take a decision to allocate or alienate such land under the relevant laws, namely the State Lands Ordinance or the Land Development Ordinance, the Sugar Corporation cannot permit anybody to possess the same. Therefore, the Petitioner has not shown any right accrued to her under statutory or common law to obtain the relief as prayed for.

Thus, it is my view that the Petitioner's relief is baseless and cannot be granted.

Vindictory action (*in personam*)

In addition to that, I must also hold that though the Petitioner claims that there had been a case between the Petitioner and the Pradeshiya Sabha, and obtained a judgement in her favour, it is only a vindictory action, which is an action between the parties and not an action in *rem* but *in personam*. Therefore, the rights and duties decided by the final judgement of the District Court only operate between the parties and not against the true owner who holds absolute ownership of the property. Thus, the Petitioner, without any right or title, is now trying to obtain relief to obtain a title from the Court, which the Court is not empowered to grant.

As such, it is my view that this Application is liable to be dismissed.

Conclusion

Accordingly, for the reasons adumbrated above I dismiss this Application, without cost.

JUDGE OF THE COURT OF APPEAL