

**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.*

Jayawardena Mudiyanselage Indika
Pathmasiri Jayawardena,
No. 224, Yaya 04, Dakunu Iwura,
Pemaduwa.

CA (Writ) App. No. 651/2024

PETITIONER

Vs.

1. K.D. Bandula Jayasinghe
Land Commissioner General,
Land Commissioner General's
Department,
" Mihikatha Mawatha"
Land Secretariat,
1200/6, Rajamalwatta Road,
Battaramulla.

- 1A. R.A. Chandana Saman Ranaweera
Arachchi,
Land Commissioner General,
Land Commissioner General's
Department,
" Mihikatha Mawatha"
Land Secretariat,
1200/6, Rajamalwatta Road,
Battaramulla.

2. G.A. Kithsiri
Provincial Land Commissioner
-North Central Province,
Provincial Land
Commissioner's Department -
North Central Province,
Provincial Council Complex,
Dharmapala Mawatha, Anuradhapura.
3. E.P.G.C.K. Madugalla,
Divisional Secretary,
Divisional Secretariat,
Rambewa.
4. Navaratne Rajapakse
Mudiyanselage Saman Sujeewa,
A3 Ward, Welikada Prison,
Baseline Road, Colombo 09.
5. Registrar,
Land Registry,
District Secretariat Office Complex,
Anuradhapura.

RESPONDENTS

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

Counsel:

Rasika Dissanayake with Cherag Nilgiriya for the Petitioner.

Sachitha Fernando, S.C., for 1st to 3rd Respondents.

Nisala Seniya Fernando for the 4th Respondent.

Argued on: 18.02.2026

Delivered on: 29.04.2026

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

Judgement

Introduction

The Petitioner claims that he has been transferred with the rights of the successor to a grant. The transferor is said to be the second son of the original grantee who transferred his right of succession by the document marked as **P11**.

The 1st Respondent to this Application is the Land Commissioner, the 2nd Respondent is the Commissioner General of Lands, the 3rd Respondent is the Divisional Secretary, the 4th Respondent is the brother of the Petitioner, and the 5th Respondent is the Registrar General. One Nandasena happened to be the original grantee of the parcel of land in suit; it was granted in terms of S. 19(4) of the Land Development Ordinance, and he died without nominating any successor. After his death, his wife is said to have succeeded to the original grantee's rights.

However, the Land Commissioner has decided that it was done by the 3rd Respondent, the Divisional Secretary, and his predecessor-in-office erroneously. With the advice of the Honourable Attorney General, the 1st Respondent (the Commissioner General of Lands) has taken the stand that the 4th Respondent, who is eldest son of the original grantee, should succeed to the rights of the land in suit. As such, the 3rd Respondent has been advised to take steps accordingly, by **P18**. Accordingly, the Petitioner has challenged the same by this Application.

After issuance of formal notice, the 1st Respondent has filed his Objections. According to the 1st Respondent's Objections, initially, after the death of the original grantee, his spouse had succeeded to the rights; however, she had married the second time, and therefore, her rights had been

renounced by reason of the second marriage. Accordingly, the succession by the said spouse of the original grantee had to be cancelled, and therefore, the Land Commissioner had advised the 3rd Respondent to do so. In the meantime, the 4th Respondent, who is the eldest son, had made an application to succeed to the said rights, which was initially not granted since he was serving a sentence; however, later on the advice of the Attorney General, the Land Commissioner had decided to grant it, and accordingly, the 1st Respondent has moved for a dismissal of this Application.

This was argued before me on 18.12.2025, and other than for the oral submissions, Written Submissions were filed by the parties; hence, this judgement.

Arguments

The thrust of the main argument advanced by the Counsel for and on behalf of the Petitioner, Mr. Rasika Dissanayake, is that the document marked as **P18** is irrational, unreasonable, and illegal in view of the fact that the 4th Respondent has now lost his civil rights and therefore, since the 3rd Respondent had initially decided by **P8(a)** and **P8(b)** to accept the next of kin as the predecessor of the Petitioner, who is a transferor to the document marked as **P10**, to be entitled to the rights to succeed. Therefore, **P18** is irrational and illegal.

On the other hand, Mr. Sachitha Fernando, S.C. argued that certain Respondents had taken some of the decisions without even perusing the Land Development Ordinance, and had based their decision on the assumption of the fact that a person (the 4th Respondent) loses their civil rights just because there is a capital punishment hanging over the heads. However, on the advice of the Honourable Attorney General, the 1st Respondent has taken the decision reflected in **P18**. As such, **P18** is justified, and therefore, it should stand and the 4th Respondent's rights should not be affected.

Factual matrix

The Petitioner claims that he has purchased rights from the brother of the 4th Respondent who is the next in line of succession to the rights of the original grantee, Nandasena. The original grantee, Nandasena, had been issued with a grant in terms of Section 19(4) of the Land Development Ordinance (hereinafter referred to as the “Ordinance”); the said document is marked as **P1**.

However, after his death, his spouse has been accepted as the successor as reflected in **P3**. Thereafter, the said spouse of the original grantee transferred the rights and title to the property to a third party, which is reflected in the document marked as **P4**. Thereafter, the transferee under **P4** has re-transferred the property to another person by the document marked as **P5**.

In the meantime, the 4th Respondent, Saman Sujeewa (the eldest child of the original grantee), had been convicted by the High Court for triple murder and sentenced to death, as evidenced by the document marked as **P6(a)**. The said conviction and sentence were further affirmed by the Court of Appeal by **P6(b)**, and subsequently by the Supreme Court, the said conviction was also affirmed by **P6(c)**.

Further, it is reflected in the document marked as **P7**, that the two documents marked as **P4** and **P5** (the two transfers) have been duly registered in the Land Registry in the correct folio. In the meantime, a dispute has arisen with regard to succession.

However, by **P8(a)**, the Deputy Commissioner of Lands decided that, since Saman Sujeewa had been convicted for triple murder and sentenced to death; therefore, he had lost his civil rights and was therefore not entitled to succeed. Accordingly, by **P8(b)**, the Commissioner of Lands decided to grant the rights to the next in line of succession. The Commissioner General of Lands, by **P9**,

confirmed the same and recommended to the 3rd Respondent that the rights be granted to the next in line.

Thereafter, by **P10**, the next in line (Pradeep Sampath) was accepted as the successor; accordingly, the Deputy Registrar General, by letter dated 06.02.2023, informed the District Registrar of Anuradhapura to re-register the succession in the Petitioner's name instead of the 4th Respondent's name, on the basis that it had been erroneously registered in the 4th Respondent's name as the successor; the said letter is marked as **P10**.

Thereafter, the said Pradeep Sampath transferred his rights to the Petitioner on the basis that rights had accrued to him. The said transfer had taken place by the document marked as **P11**, to the Petitioner to this Application (a third party). The 3rd Respondent, the Divisional Secretary, had approved the same, and it has been duly registered as per the extracts of the folios, which are reflected in **P11(a)**.

Thereafter, a letter dated 07.02.2024 has been sent on behalf of the Commissioner General to the Divisional Secretary of Rambewa (3rd Respondent), informing that the real successor to the rights of the original grantee should be the 4th Respondent, Saman Sujeewa.

However, by **P13**, the 3rd Respondent informed the Petitioner that the 4th Respondent had lost his civil rights due to the conviction for triple murder. Accordingly, the 3rd Respondent sought advice on transferring the rights to the brother of the 4th Respondent, Pradeep Sampath Kumara. Thereafter, by **P14**, further advice was sought from the Commissioner General of Lands by the 3rd Respondent, since Sunjeewa Sampath had executed a transfer in favour of the Petitioner in this application, on the basis that the 4th Respondent had lost his civil rights.

However, in the meantime, it appears that the 4th Respondent had made an application to succeed, even though he was serving a jail term on death row. In response thereto, the Commissioner of Lands, by **P12** dated 07.02.2024, informed the 3rd Respondent to accept the 4th Respondent, Saman Sujeewa, as the correct successor and, in terms of the Third Schedule of the Ordinance, to recognise him as the successor. For further clarity, the said letter is reproduced below;

“උකේත කරුණ සම්බන්ධයෙන් වැලිකඩ බන්ධනාගාරය, ඒ 3 වැට්ටුව, ම.ද.නි යන ලිපින දරණ එන්. ආර්. එම්. සමන් සුජීව මහතා විසින් මා වෙත යොමු කරන ලද ඉල්ලීම් ලිපිය හා බැඳේ (පිටපත අමුණා ඇත).

02. ඒ අනුව ලබා දී ඇති මුල් උරුමය 2015/08 වකුලේකය මගින් අවලංගු කර, III වන උපලේඛනගත උරුමකරු වෙත මුල් උරුමය සහතික කරන ලෙස කාරුණිකව දන්වා සිටිමි.”

In response to that, by **P13** dated 12.02.2024, the 3rd Respondent sought the advice of the Commissioner General of Lands, since Saman Sujeewa was serving on death row and it was necessary to determine whether his succession should be accepted or not. Further, in addition thereto, the 3rd Respondent, by letter dated 27.02.2024 marked as **P14**, also informed the Commissioner General that the next in line to Saman Sujeewa, namely his brother Pradeep Sampath Kumara, had been accepted as the successor to the original grantee by document dated 06.02.2023. Thereafter, at his request, his rights had been transferred to the Petitioner to this Application, Pathmasiri Jayawardena (the Petitioner to this Application), since a deed of transfer had been executed in favour of the present Petitioner by the said Pradeep Sampath Kumara on 26.06.2023. The 3rd Respondent had permitted the said transfer; however, it is further stated that the transferee (the Petitioner to the present Application) has not effected any improvement or development on the land.

Thereafter, the Commissioner of Lands, by **P15**, wrote to the 3rd Respondent seeking certain clarifications with regard to the succession. This included whether the spouse of the original grantee had succeeded to the rights within six months of the death of the original grantee, or whether she had entered into another marriage. It is further stated that the said clarification was sought from the 3rd Respondent based on the request made by the Petitioner to this application to the Commissioner of Land.

Further, a circular issued by the Commissioner General of Lands instructing all Divisional Secretaries is marked as **P17**, and the relevant instructions pertaining to the issue in this Application are also contained therein. Accordingly, the Provincial Commissioner of Lands has forwarded **P17** to the Petitioner in response to an application made by him, which is also marked as **P17**.

Thereafter, by **P18**, the Commissioner General of Lands has informed the 3rd Respondent that, in the event the original grantee's spouse has not succeeded to the rights within six months from the death of the original grantee, Saman Sujeewa should be accepted as the successor to the rights of the original grantee, and appropriate steps should be taken to register the same, as advised by the Attorney General, as reflected in **P18**.

Accordingly, the only question for me to decide in this case is whether the 4th Respondent has lost his right to succeed in view of the pending death penalty, which may be carried out at any moment as the Head of State decides.

Now I will consider the events that unfolded in chronology for the purpose of clarity, to decide the main issue on whether the Petitioner is entitled to quash the decision of the Commissioner General

of Lands contained in **P18**, and in addition to that, as an ancillary matter, whether the 4th Respondent has lost his rights.

The 4th Respondent's mother, who is the spouse of the original grantee, without succeeding to the rights of the original grantee has apparently sold her rights by **P4**, and later, the transferee to **P4** has also transferred it to another person by P5. However, the wife of the original grantee appears not to have succeeded to the rights of the original grantee within the period of six months as stipulated in Section 49 of the Ordinance. In such a scenario, the person who should succeed is the next of kin since there is no nomination made by the original grantee as in terms of Section 49, read with Section 73 of the Ordinance. For the purpose of clarity, I will reproduce them below;

*“49. Upon the death of a permit-holder who at the time of his or her death was paying an annual instalment by virtue of the provisions of section 19, or **of an owner of a holding, without leaving behind his or her spouse, or, where such permit-holder or owner died leaving behind his or her spouse, upon the failure of such spouse to succeed to the land alienated to that permit-holder on the permit or holding or upon the death of such spouse, a person nominated as successor by such permit- holder or owner shall succeed to that land or holding.**” [Emphasis is mine]*

*“73. **Title to a land alienated on a permit or to a holding shall be deemed to have devolved on any person entitled to succeed to the land or holding under the provisions of section 72 as from the date of the death of the permit-holder or owner of the holding if such permit-holder or owner died without leaving behind his or her spouse, or, if such permit-holder or owner died leaving behind his or her spouse, upon the failure of such spouse to***

succeed or from the date of the death of such spouse, as the case may be.” [Emphasis is mine]

As Section 73 stipulates, the eldest son should have been the successor because Act No. 11 of 2022 had not come into force. Therefore, it is very clear that the 4th Respondent should have been the successor to the rights of the original grantee, which is clearly stated by the Commissioner General of Lands by **P12** as well as **P18**. These two documents (**P12** and **P18**) have been written in accordance with the Circular marked as **P16**.

The 3rd Respondent erred

However, in this case, the transfer effected by the wife of the original grantee has been approved by the predecessor of the 3rd Respondent, and right throughout, the successors of the 3rd Respondent as well as the 3rd Respondent himself have messed up the whole thing by granting permission to various people, including the Petitioner, to succeed to the rights of the original grantee when there is in fact a claim made by the 4th Respondent, who even at the time he made a claim, was apparently serving in the death row pending his serving of the capital punishment. However, his civil rights have not been extinguished by reason of that; therefore, as correctly stated by the learned State Counsel, Mr. Sachitha Fernando, it is my view that the Commissioner General, on the advice of the Attorney General, has taken the correct position of law, although inconsistent with the 3rd Respondent and his predecessors-in-title, who should have consulted the Commissioner General of Lands, or Attorney General in that case, which was not done.

Therefore, it is my view that the Petitioner’s Application does not have any merit and is liable to be dismissed.

Correct interpretation of statute

Interpretation to a statute first must be given according to the ordinary meaning, which is given in this case by the Honourable Attorney General, based on his advice **P18** was issued. In support of this view, I reproduce the following passage found in N.S. Bindra's "Interpretation of Statutes";

"6.2.1 Literal Rule of Interpretation

*The first and primary rule of construction is that the intention of the legislature must be found in the words used by the legislature itself. If the words used are capable of one construction only, then it would not be open to the courts to adopt any other hypothetical construction on the ground that such hypothetical construction is more consistent with the alleged object and policy of the Act. The legislature must be deemed to have intended what it has said. It is no part of the duty of the court to presume that the legislature meant something other than what it said. If the words of the section are plain and unambiguous, then there is no question of interpretation or construction."*¹

However, the administrative officers may have their own interpretations; therefore, in this case, they have written several letters taking up different stands accepting different successors to the original grantee's rights at different times, which should not have happened and should not be condoned. Accordingly, the correct interpretation is given according to the plain reading of the statute by the Hon Attorney General, which is quite correct and reflected in **P18**. Therefore, **P18** is the only document that should be sustained.

¹ N.S. Bindra (13th Edition, LexisNexis 2023) *Interpretation of Statutes*, Chapter 6, p. 328.

Conclusion

Accordingly, I dismiss this Application, subject to the cost of Rs. 10,500/- (Ten Thousand Five Hundred Rupees) payable to the 4th Respondent.

JUDGE OF THE COURT OF APPEAL