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

In the matter of an Application under Article 140 of the Constitution for a mandate in the nature of Writs of *Certiorari* and Prohibition.

Court of Appeal Case No:
CA/WRIT/188/2022

Sabharatna Ananda Kulasooriya,
No. 45/6, University Square,
Dangolla,
Kandy 20000.

PETITIONER

Vs.

1. Dananasooriya Arachchilage Prageeth Dananasooriya,
   Divisional Secretary,
   Divisional Secretariat,
   6QJ5+HQ7, Kalpitiya,

1A. Jayasinghe Mudiyanselage Chamila Indika Jayasinghe,
Divisional Secretary,
Divisional Secretariat,
Kalpitiya.

1B. Divisional Secretary,
Divisional Secretariat,
Kalpitiya.

2. Survey Department,
   District Survey Office,
   Puttalam.

3. Kalpitiya Pradeshiya Sabha,
   Kalpitya.

4. Registrar General's Department Land Registry – Puttalam,
   District Secretariat Complex,
   Puttalam.

5. Survey General,
   Survey Department of Sri Lanka,
   No. 150, Kirula Road, Narahenpita,
   Colombo 05.

6. Roy Fernando,
   Grama Niladari,
   Alankuda 622A,
   Kalpitiya.

6A. Grama Niladari,
   Alankuda 622A,
   Kalpitiya.

7. Hon. Harin Fernando,
   Minister of Lands and Tourism,
   Ministry of Lands,
   "Mihikatha Medura",
   Land Secretariat,
   No. 1200/6, Rajamalwatta Road,
   Battaramulla.

7A. Hon. Ranil Wickramasinghe,
   His Excellency the President,
   Minister of Tourims and Lands,
   Ministry of Lands,
   "Mihikatha Medura",
   Land Secretariat,
   No. 1200/6, Rajamalwatta Road,
   Battaramulla.

7B. Hon. Minister of Tourism and Lands,
Ministry of Lands,
"Mihikatha Medura",
Land Secretariat,
No. 1200/6, Rajamalwatta Road,
Battaramulla.

8. Romesh Malcom Angunawala,
No. 532, Seibel Place,
Kandy.

9. Weeranarayana Mudalige Joseph Rowen Fonseka,
No. 33, Keels Housing Scheme,
Pothuarawa Road,
Malabe.

10. Hon. Attorney General,
Attorney General's Department,
Hulftsdorp Street,
Colombo 12.

RESPONDENTS

Before: Mayadunne Corea, J
Mahen Gopallawa, J

Counsel: Mangala Niyarepola with K. Lanerolle instructed by Consilium Attorneys for the Petitioner.
A.S.M. Perera with Janani de Silva for the 9th Respondent.
Sehan Zoyza, S.S.C. for the State.

Argued on: 27.01.2026.

Written Submissions: For the Petitioner on 07.02.2025.
For the 1st, 2nd, 4th to 7th and 10th Respondents on 11.02.2026.

Decided on: 30.04.2026.

Mayadunne Corea J

The Petitioner in this application sought, *inter alia*, the following reliefs:

> "*c) Grant and issue a mandate in the nature of a Writ of Certiorari quashing the purported Quit Notice issued by the 1st Respondent to the Petitioner to vacate the said property on or before 27/05/2022 (P9)*
>
> *d) Grant and issue a mandate in the nature of a Writ of Certiorari quashing any determination and/or any acts or steps taken, if any, by the 1st and/or 2nd and/or 3rd and/or 5th and/or 6th and/or 7th Respondents and/or their servants and/or employees and/or agents and/or any and all persons acting under their decisions and instructions, in pursuance of the said purported Notice marked 'P9' herein above*
>
> *e) Grant and issue a mandate in the nature of a Writ of Prohibition, prohibiting the 1st and/or 2nd and/or 3rd and/or 5th and/or 6th and/or 7th Respondents and/or theirs servants and/or employees and/or agents and/or any and all persons acting under their decisions and instructions from acting and/or taking any further steps and/or making any determination to obtain possession of the said property in pursuance of the said purported Notice to Quit marked 'P9' herein above*
>
> *f) Grant and issue a mandate in the nature of a Writ of Prohibition prohibiting the institution of any action in any Court or legal institution including Magistrates Court of respective jurisdiction and/or continuation of any action already instituted in any Court or legal institution including Magistrates Court of respective jurisdiction in pursuance of the purported Notice dated 31/03/2022 ('P9').*"

The facts of the case briefly are as follows. The Petitioner alleges that the land called "Mel Paththu Thotem", initially a 9-acre plot of land, was resurveyed and subdivided into separate allotments, whereby the 9th Respondent came into possession of 6 acres by virtue of deeds of transfer. Subsequently, the land owned by the 9th Respondent was resurveyed and subdivided into 2 lots, wherein it was agreed that the Petitioner would purchase 4 acres and the 8th Respondent would purchase the balance of 2 acres. The Petitioner was informed by the 9th Respondent that the land had been mortgaged to Sarvodaya Development Finance Limited and it was agreed that the Petitioner would settle the said mortgage and such settlement would be deducted from the purchase price payable to the 9th Respondent.

In order to ascertain whether the 9th Respondent had clear title to the land, the Petitioner alleges that he conducted a title search at the land registry. Further, the Petitioner took steps to inquire from the 7th Respondent Ministry and the Land Settlement Department of the Ministry to ascertain whether the land falls within the ambit of state land. It is alleged that the 7th Respondent Ministry and the Land Settlement Department thereof assured the Petitioner that there were no records indicating that the land was state land, and that there was no need to entertain any doubts regarding the title of the 9th Respondent in the absence of any entry in the Land Registry identifying the land as state land. However, no material has been tendered to Court to substantiate this position of the Petitioner.

The Petitioner states that being satisfied with the title to the said property, he proceeded to obtain title thereto by way of a deed of transfer. Thereafter, the Petitioner sought approval from the respective institutions to undertake construction activities on the said property. However, the 6th Respondent informed the Petitioner that the land fell within the scope of state land and that the said land had already been vested in the 3rd Respondent for development purposes. The Petitioner states that upon inquiry, the 3rd Respondent maintained that the said land had not been acquired. Subsequently, the Petitioner received a quit notice dated 31.03.2022 (P9) issued under the State Lands (Recovery of Possession) Act, No. 7 of 1979. Hence, this Writ application.

The Petitioner's contention

The Petitioner challenges the acts of the Respondents on the following grounds;

- The quit notice is illegal and is of no force in law.
- Upon an application made by Sarvodaya Development Finance Limited, the 3rd Respondent had inspected the title to the land, had issued non-vesting/street line certificates.
- The 1st, 2nd, 3rd and/or 6th Respondents are acting in collusion to unlawfully transfer privately owned land to the State.
- The acts of the Respondents are ultra vires, arbitrary, capricious, unreasonable, and tainted with mala fides.

The Respondents' contention

The 1st, 2nd, 4th to 7th and 10th Respondents raised the following objections:

- The Petitioner relies on disputed facts.
- The Petitioner has alternative statutory remedies.
- The Petitioner has failed to add necessary parties.
- The Respondents have acted fairly, reasonably and according to the law.

Analysis

In summarising the arguments for the Petitioner, it is his contention that he had purchased the land after diligently doing a land registry search which showed that the 9th Respondent had title. The 3rd Respondent had issued a non-vesting certificate upon the plan being submitted to develop the land. The Petitioner's inquiries as to whether the land is state land had been not replied to and even the replies the Petitioner obtained is alleged to state that the said land is not state land. Therefore, it is the contention of the Petitioner that subsequently the 1st Respondent forming an opinion under State Lands (Recovery of Possession) Act and issuing a quit notice is bad in law. I will examine each of these allegations in due course.

The Petitioner purchasing the property

It is common ground that the land had been purchased by the Petitioner from the 9th Respondent. To demonstrate that the 9th Respondent had title the Petitioner has marked and tendered the land registry extracts as P1(a) to (d) and the Petitioner has also tendered a plan marked as P2 depicting the disputed land which will be hereinafter called the corpus. It is also alleged that the 9th Respondent had mortgaged the property to Sarvodaya bank and to demonstrate the same the Petitioner had marked and tendered the extracts as P3(c) and P3(e). The Petitioner subsequently had entered in to an agreement with the 9th Respondent to purchase the corpus and to settle the mortgage which was marked and tendered as P5 and the deed of transfer has been marked as P6. It is pertinent to note that the P5 agreement is dated 23.9.2021 and the deed of transfer is also dated the same date. Though the deed marked as P5 refers to a sales agreement dated 19.09.2021, the said deed was not tendered

to this Court. The said marked deeds have been registered in the land registry and the extracts are marked as P7(b).

Registration of the corpus

It is pertinent to note that the Petitioner's land had been registered in a new volume and folio and the said folio starts with the first entry dated in the year 2008 which is the Petitioner's deed. Upon inquiry, the Petitioner was not in a position to answer whether he had done a search to ascertain the title to the land prior to 2008. In any event no such material has been tendered to Court. It is the Petitioner's contention that he had a plan made and tendered the same for registration to the 3rd Respondent and had obtained a non-vesting certificate (P13(a) – (b)). It is observed the said certificate dated 2021 and 2020 had been issued to the Sarvodaya Development Bank and is not issued to the Petitioner as alleged by him. It is also pertinent to note that the said certificates state that "*it appears to be belonging to W.M.J. Ruwan Fonseka*" and does not bear the folio number it is registered. Also under clause 2, the location of the property reads as "*the property lies at no--- ward ---*" is kept blank. Hence, the certificates do not shed any light on the village or the gramasevaka division the corpus is situated.

The Petitioner's inquiries pertaining to the land and whether it was acquired by the state after purchase by the Petitioner

The Petitioner had made inquiries from the 1st Respondent's information officer under the Right to Information Act by letter dated 10.09.2021 marked and tendered as P4(a-b). It is pertinent to note that these two letters are dated about 13 days prior to the Petitioner executing the deed. In the said letters the Petitioner had specifically mentioned the village as "Alankuda" and the name of the land. It is the contention of the Petitioner that he had not received any reply to these letters. However, a reply had been sent to this request by letter dated 10.11.2021 stating that as the number of the cadastral map is missing the reply to the queries raised cannot be answered. Further, the author of the reply marked as P7(c) has given the correct office from which the Petitioner could obtain the said information. It appears that without waiting for a reply, the Petitioner had proceeded to purchase the corpus**.**

Even though the Petitioner submitted that upon further inquiry he had been informed that the corpus is not state land and that he can proceed to purchase the said land (paragraph 3(h) of the Petition), no such material to substantiate the said claim has been tendered to this Court. The Counsel for the Respondent strenuously objected to this position and in the circumstances the said version of the Petitioner becomes a disputed fact.

However, it appears to this Court that subsequent to the purchase of the corpus by the Petitioner, there is no material to demonstrate that the land has been acquired by the state.

Has the corpus been acquired or vested with the state prior to Petitioner obtaining title?

The learned State Counsel strenuously contended that the corpus is state land and it had never been a private. It is his contention that the corpus has been settled in favour of the state pursuant to the Land Settlement Ordinance and not with a private individual. It is also his contention that the corpus is state land and the said state land is not situated in the village or the gramasevaka division the Petitioner alleges it is situated. The State Counsel further contends that the corpus is situated in the village of "Sambukulam" within the gramasevaka division of "Andankanni". It is also contended that the said land is depicted in the final village plan no. 3320 and falls within the lots 26, 27 and 28. Further, in support of his contention, the attention of the Court is drawn to the documents marked as X2(a) – (b). X2(a) being the final village plan no. 3320 and the tenement list and X2(b) being the land settlement notes. It is also argued that the corpus has been settled in favour of the State by Gazette notification no. 8054 dated 01.06.1934 X3(a)(1) and the section 4 notice published in the Gazette no. 7904 dated 05.02.1932 is marked and tendered as X3(a)(11) and the preliminary plan no. 7314 is marked as X3(b). Therefore, it is argued by the State Counsel that the land thus is settled in favour of the State and has been state land since 1934. In the circumstances, it is argued that the subsequent deeds that have been executed after 1934, which includes the Petitioner's deed are invalid in law. Upon inquiry by Court, the Counsel for the Petitioner conceded that they had not received the Petitioner's plan no. 2335A superimposed on the final village plan or the preliminary plan referred by the State Counsel.

It was also contended that since there had been several forged deeds executed over state land and with the increasing number of the state lands being encroached, to properly identify the state lands encroached, the Surveyor General had prepared an Advance Tracing

bearing no. PU/KAL/2011/068 which has been marked and tendered as X1. It is the contention of the State Counsel that the lots *inter alia* 26, 27 and 28 of final village plan no. 3320 are encompassed and are within the lots depicted in the Advance Tracing. It appears the corpus falls within the above-mentioned lots of the final village plan no. 3320. This Court observes that the Advance Tracing depicts a land called "Sambukulama" in the gramasevaka division of "Andakani". It is the contention of the State Counsel that the Petitioner's land is depicted *inter alia* in the lot "ඇ" of the tracing.

Accordingly, it is contended that as the Petitioner had been unlawfully clearing an extent of 4 acres of state land depicted in the said Advance Tracing, the gramasevaka of the area had lodged a complaint (X4). Further, to substantiate the gramasevaka division the Petitioner's land is situated, the attention of the Court was drawn to the document marked as X7 which demonstrates the gramasevaka divisions and the jurisdictions that the said divisions falls. It is the contention of the learned State Counsel that upon receiving the report by the gramasevaka, the quit notice impugned in this application (marked as P9) had been issued after taking in to consideration all this material.

Material facts are in dispute

The learned Counsel for the Petitioner, while denying this assertion, contends that the corpus is not in "Andankani" but is within the gramasevaka division of "Alankuda" and hence, argues the land the state refers to is different to the land the Petitioner claims. Thus, in my view, this creates a dispute of a major material fact namely, the placement and the name of the corpus itself. It is trite law that when facts are in dispute the writ Court is reluctant to act.

In the case of ***Francis Kulasooriya v. OIC-Police Station-Kirindiwela SC Appeal No. 52/2021, SC Minutes 14.07.2023***, the Supreme Court observed that,

> "*Courts are reluctant to grant orders in the nature of writs when the matters on which the relief is claimed are in dispute or in other words when the facts are in dispute*."

Further, in ***Thajudeen v. Sri Lanka Tea Board and another*** **1981 (2) SLR 471**, the Court held that,

"*That the remedy by way of an application for a Writ is not a proper substitute for a remedy by way of a suit, especially where facts are in dispute and in order to get at the truth, it is necessary that the questions should be canvassed in a suit where the parties would have ample opportunity examining their witnesses and the Court would be better able to judge which version is correct, has been laid down in the Indian cases of Ghosh v. Damodar Valley Corporation, Porraju v. General Manager B. N. Rly*."

It is observed by this Court as per the submissions, the title to the corpus from which the Petitioner is to be evicted is in dispute. This issue is exacerbated by the fact the even the name of the corpus and the village in which the corpus is allegedly situated is in dispute.

In my view, the above issue has to be resolved not by tendering affidavits, but by producing evidence in an appropriate Court. I come to this conclusion specially after the learned Counsel for the Petitioner submitted that they had not done a superimposition of the corpus on the final village plan no. 3320. It is also observed that the impugned quit notice P9 clearly gives the boundaries based mainly on final village plan no. 3320. Hence, in my view, it is incumbent on the Petitioner if he is to assert that the land he claims is not state land but private land to establish the said fact in a proper forum which is not the Writ Court through evidence.

I also observe that in the quit notice P9 the Southern and the Eastern boundaries refer to the Advance Tracing PU/KAL/2011/068 which depicts the encroached state lands. It is also observed that subsequent to this application being filed, on the request of Court the parties had agreed the corpus to be surveyed by the Surveyor General and to superimpose the corpus on the above-mentioned tracing to ascertain whether the corpus falls within the lands depicted in the tracing which would demonstrate that it is state land but encroached by illegal occupants. It has been done with agreement of the Petitioner and the state. The survey has been carried out in the presence of the Petitioner and the State being represented by the gramsevaka of Andakani. After the conclusion of the joint survey, the report was tendered by the State Counsel with a motion dated 26.10.2022. Upon examining the survey report, I observe the boundaries of the corpus and the state land had been shown by the respective parties. The attention of the Court was drawn to the said tracing no. PU/DSO/2022/614 and the tenement list by the State Counsel in his submissions and also the learned Counsel for the Petitioner in the written submissions filed. In the said surveyor report the Surveyor General *inter alia* has come to the conclusion upon the superimposition that except for lots Q and R, all the other lots which contains the corpus falls within the

state land. Though this survey has been done subsequent to the filing of the instant Writ application, I observe it has been done with the consent and the participation of all the parties. The boundaries have been shown by the Petitioner and the gramsevaka of the division on behalf of the state.

In considering all the above and the findings of the Surveyor General where he has come to the conclusion that the corpus falls within the state land, it becomes imperative for the Petitioner to demonstrate that he is in occupation of state land with state authority. In the absence of such the Petitioner becomes an encroacher upon state land and is liable to be evicted under the provisions of the State Lands (Recovery of Possession) Act which the 1st Respondent has decided to act upon by sending the impugned quit notice. In the circumstances in my view, the Petitioner has failed to establish any illegality in the impugned quit notice P9.

However, for completeness of this judgement let me consider the objections raised by the Petitioner pertaining to the late filing of the objections by the State Counsel. While this Court cannot condone the act of late filing of the objections it is observed there had been no final date given for filing of the objections and the said objection had been filed and the Petitioner has been given an opportunity to file his counter objections to the objections thus no prejudice caused to the Petitioner. The Petitioner also has taken up a position that the objections filed do not contain a date other than the date contained in the motion along with the objections. It was contended that the affidavit has been tendered dated 30.04.2024. Hence it is argued that an affidavit has been tendered before the objections are filed which is bad in law. This Court has considered the averments of the affidavit and the objections and find the averments are of similar nature and has considered the submission of the Respondent, that the date reflected in the affidavit is a typographical error.

The importance of filing objections was observed by the Court in the case of ***Gita Fonseka v. The Monetary Board of the Central Bank of Sri Lanka*** **(2004) 1 SLR149**, the Court held that:

> "*Rule 3 (4) (b) (i) read with rule 3 (7) however leaves no discretion to the court in the case of filing of statement of objections to dispense with either the statement of objections or the affidavit in support of averments of fact.*
>
> *Accordingly this court has no discretion to dispense with the requirement of a statement of objection to be filed by a respondent in terms of the rules of the court.*

There is no cursus curiae or the practice of the court to permit non-compliance by a respondent of rules requiring him to file statement of objection…"

Further, in the case of ***M.A. Samaradasa v. the Director General Combined Services and 7 others*** **CA Writ 17692001, CA Minutes 29.05.2020**, the Court held as follows:

"*The shift in approach by this Court is reflected in* Senanayake v. Commisioner of National Housing and Others *[(2005) 1 Sri.L.R. 182] where a divisional bench of this Court considered the validity of an affidavit affirmed outside the jurisdiction of the Justice of the Peace who attested to its execution. Marsoof J. (with Wijayaratne J. and Sripavan J. agreeing) held (at page 184):*

> *"I am of the view that the Court of Appeal (Appellate Procedure) Rules 1990 have been formulated to facilitate the judicial process and with a view of achieving justice rather than injustice. It appears from Rule 3(14) that is contemplated that where there is some non-compliance with the Rules, the Registrar should put it up the application for an order of Court. "*

In Gita Fonseka v. The Monetary Baard af Central Bank of Sri Lanka *(supra) Wijayaratne J. did consider the application of Rule 3(14) of the 1990 Rules but held that even where the registry has failed to comply with this rule, it cannot rectify the fault that occurred when the respondent failed to comply with the rules. It appears to me that Wijayaratne J. appears to have softened this approach in* Senanayake v. Commissioner of National Housing and Others *(supra) when he agreed with Marsoof J. and Sripavan J. more than one year after* Gita Fonseka v. The Monetary Board of Central Bank of Sri Lanka *(supra).*

In my view, the approach taken in Ranaweera v. Mahaweli Authority of Sri Lanka *(supra) reflects the correct approach to the failure to fi le a statement of objections. The Petitioner who complains of the failure to comply with the 1990 Rules must in the first place comply with them. By filing counter objections, he has waived the right to take objection to the noncompliance of the rules by the Respondents. The preliminary objection is overruled*."

In the instant case before this Court too the Petitioner has filed counter objections to the objections filed. Hence, in my view the said objection purely based on technicalities should be rejected especially in view of the disputed factual matters that are elaborated in this judgement. Further, the objections filed substantiate the contents with enough material attached which is not denied by the Petitioners and cannot be overlook by this Court.

Does the Petitioner have an alternative remedy?

It is the contention of the learned State Counsel that the Petitioner has an alternative remedy provided by the statute itself. It is observed that section 12 of the State Lands (Recovery of Possession) Act provides a relief to the Petitioner if he can establish that the corpus is not state land but is private land. The said section provides the Petitioner the right to file a vindicatory action to vindicate his title. As I have held elsewhere in this judgement the Petitioner himself has contested the corpus and in view of the Petitioner's deeds it is his contention that his title commenced from 2008 as opposed to the Land Settlement Gazette dated 1934. Further, the Petitioner attempts to distinguish the corpus from the land described in the quite notice. Thus, if the Petitioner is to succeed it is up to him to establish his title by witnesses and documents. The legislature in its wisdom has provided for such eventualities through section 12 of the Act. However, the Petitioner has failed to give any reason as to why he did not recourse to this most effective and efficacious alternative remedy provided by the statute itself.

In the case of ***Obeysekera v. Albert and others*** **1978-79 (2) SLR 220**, the Court held that:

> "*Certiorari is a discretionary remedy and therefore it will not normally be granted unless and until the plaintiff has exhausted other remedies reasonably available and equally appropriate*."

Further, in the case of ***Ishak v. Laxman Perera, Director General of Customs and others*** **2003 (3) SLT 18**, the Court held that:

> "*Where there is an alternative procedure which will provide the applicant with a satisfactory remedy the Courts will usually insist on an applicant exhausting that remedy before seeking judicial review. In doing so the Court is coming to a discretionary decision*."

In view of the above and in the absence of any explanation for not utilising the remedy provided by the statute the State Counsel's objection based on the alternative remedy has to succeed**.**

It is also observed that the Petitioner has purchased this property from the 9th Respondent. In the transfer deed, the 9th Respondent has undertaken to defend the title of the Petitioner

and also the deed has a covenant to state that the land is not state land. However, in view of the quit notice received by the Petitioner and this application the 9th Respondent marked an appearance through an Attorney-at-Law but decided to maintain silence. The 9th Respondent has not filed any objection nor has he tendered any document in support of the title of the Petitioner. This is especially in view of the serious allegation of the land being identified as state land and especially in the background where by a covenant in the deed the 9th Respondent has agreed to defend the title and also has stated the corpus is not state land.

It is also observed that the Petitioner contended that he relied on the land registry extracts and the information provided by the authorities to satisfy himself that the corpus is not state land. However, I have observed from the land registry extracts, the tendered folio commences with this land being registered as the first entry. That too commences from the year 2008. The Petitioner has proceeded to conclude the purchase before he got an accurate reply from the relevant authorities pursuant to his right to information request.

It is also pertinent to state that in any event if the corpus is identified in the deed under a different name and described as in a different gramasevaka division, could the authorities have given the correct answers? The authorities in giving the necessary information have to rely on the information the Petitioner himself submits. If the information the Petitioner submits is erroneous especially the name of the corpus, the gramasevaka division and the village, can the authorities give a correct answer? These questions have not been addressed by the Petitioner before this Court. Nor has the Petitioner addressed the Court as to whether he has done a search on the cross references of the previous volumes and folios which would have been carried forward to entries in the present volume/folio.

Prayers of the Petitioner

The Petitioner has invoked the jurisdiction of this Court to quash the quit notice and the determination marked P9, and for a prohibition from taking any steps pursuant to P9. In support of his claim the Petitioner heavily relied on his title deeds. However, this Court in ***Udagedara Waththe Anusha Kumari v. Jayasingha Mudiyanselage Chamila Indika Jayasingha*** **CA Writ 293/2017 decided on 18.11.2019** discussed the scope of a Writ application where the opinion of the Divisional Secretary was challenged on the basis of it being bad in law, and the Court held:

"*This Court is therefore of the view that when considering the legality and/or the reasonableness of the opinion of the Competent Authority in the course of an application filed under Article 140, this Court can ask the Competent Authority to justify the basis on which the opinion was formed. This Court must state that in doing so, it is not the function of this Court to consider the title of the State, or for that matter the title of the person sought to be ejected, to the said land. That is the function of the District Court under Section 12 of the Act or in an Actio Res Vindicatio. This Court will only require the Competent Authority to present the material on which he formed the opinion that the State is lawfully entitled to the said land, so that this Court can consider whether the Competent Authority has acted legally and/or reasonably.*"

Hence, the Court in the instant application also has to consider the reasonableness and the legality of the competent authority in forming the opinion that is impugned. In the instant case in forming the impugned decision the competent authority had the benefit of the Land Settlement notes, Surveyor General's Final Village Plan and the tracing showing the illegal encroachments. Thus, in the circumstances, the question before this Court is whether the above-mentioned material was sufficient for the competent authority to be satisfied and to form the impugned opinion. This question was addressed in the above-mentioned judgement where the Court considered section 83 of the Evidence Ordinance and held:

"*The Competent Authority's opinion must thus be formed on a rational basis. What constitutes a rational basis must be ascertained case by case. In the present application, this Court is of the view that a Surveyor General's Plan confirming that the land acquisition process had been completed, would amply satisfy the test for rationality*."

The Court explained the rationality in coming to such conclusions by referring to the Evidence Ordinance. In the explanatory foot note 13, the Court elaborated as follows:

"*See Section 83 of the Evidence Ordinance reads as follows: 'The court shall presume that maps, plans, or surveys purporting to be signed by the Surveyor General or officer acting on his behalf were duly made by his authority and are accurate; but maps, plans, or surveys not so signed must be proved to be accurate.'; Section 21 of the Survey Act No. 17 of 2002 provides as follows: "Any cadastral map, plan, or any other plan or map prepared in accordance with the provisions of this Act or any written law, purported to be signed by the Surveyor General or officer acting on his behalf and offered in evidence in any suit shall be received in evidence, and shall be taken to be prima facie proof of the facts stated therein."*

Similar provision was found in Section 6 of the Land Surveys Ordinance, which has since been repealed by the Survey Act."

Hence, in my view in the instant case before me, the competent authority having the benefit of the settlement notes, the Final Village Plan and the tracing depicting the encroachment on the state land made by the surveyor general had sufficient grounds to come to a rational decision, which is depicted in P9. Therefore, in my view prayers (c), (d) and (e) have to fail. In any event for the reasons I have discussed above, the Petitioner has failed to establish any illegality in the competent authority coming to the decision impugned in P9. Hence, in the absence of any illegality the prayer (f) has to fail.

Conclusion

I have considered the lengthy submissions made by the parties, the material tendered to this Court and the respective written submissions. In my view, for the reasons stated above, the Petitioner has failed to establish any ground that deserves the intervention of this Court. Accordingly, I proceed to dismiss this application. The parties are to bear their own costs.

This judgement would not be a bar for the Petitioner to avail himself of the remedies provided under the State Lands (Recovery of Possession) Act to vindicate title if he so desires.

Judge of the Court of Appeal

ahen Gopallawa, J

I agree

Judge of the Court of Appeal