

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

In the matter of an application for  
Mandates in the nature of Writs of  
Certiorari and Prohibition under and in  
terms of Article 140 of the Constitution.

**Attapattu Mudiyanseelage Gunaratna  
Bandara,**  
No.1/B/58 Namal Oya,  
Ampara.

**PETITIONER**

**CA WRIT/1048/2025**

**Vs.**

1. **Land Commissioner General,**  
Land Commissioner General's  
Department,  
"Mihikatha Medura",  
Land Secretariat,  
1200/6, Rajamalwatta Road,  
Battaramulla.
2. **Thilina Wickramarathne**  
Divisional Secretary,  
Divisional Secretariat.  
Ampara.
3. **A.P. Indika P. Rathnayaka,**  
Grama Sevaka,  
W/86/C, Dambethalawa Wasama,  
Namal Oya,  
Ampara.
4. **R.D.B.Gamage,**  
Colonization Officer,  
W/86/C,  
Dambethalawa,  
Ampara.

5. A.M. Nalin Ariyadasa
6. A.M. Wasantha Kumara
7. A.M. Uthpala Ariyadasa
8. A.M. Hansika Ariyadasa.

5<sup>th</sup> to 8<sup>th</sup> Respondents all of:  
No.1B/58 A,  
Namal Oya,  
Ampara.

9. **National Housing Development Authority,**  
Sir Chittampalam A. Gardiner  
Mawatha,  
P.O. Box 1826,  
Colombo 02.

**RESPONDENTS**

**Before:** **R. Gurusinghe J.**

**&**

**Dr. Sumudu Premachandra J.**

**Counsel:** P. B. Herath instructed by N. Liyanage for the  
Petitioner.

N. Pathirage, SC for the 1<sup>st</sup> , 2<sup>nd</sup> and 9<sup>th</sup> Respondents.

**Written Submissions:** By the Petitioner filed on 29/04/2026.

By the Respondents not filed.

**Supported On** : 12/03/2026.

**Order On** : 21/05/2026.

**Dr. Sumudu Premachandra J.**

1] The Petitioner, representing the “Association of Low-Income Land and Housing Applicants,” is seeking legal redress regarding a 6-acre land allotment in Dambethalawa, Ampara, originally settled by his parents in 1957 under a government scheme. Although the land was cultivated peacefully until 2012, the government failed to issue a formal license. Following the death of the Petitioner’s mother in 2012, the Petitioner (as the sole heir) requested the Divisional Secretary of Ampara (2nd Respondent) to distribute the land among 30 indigent local inhabitants, as documented in the communication marked P1.

2] The dispute centers on unlawful encroachments that have stalled a proposed housing project for the needy. A portion of the land was allegedly encroached upon by an individual named Ariyadasa (Plan P2), and subsequently, his children and other individuals (5th to 8th Respondents) have reportedly trespassed and constructed unauthorized buildings on the remaining lots (Photographs P5). Despite the 2nd Respondent issuing a "Notice to Quit" under the Recovery of Possession of State Lands Act in October 2019 (P6a and P6b), the Petitioner claims that no actual evictions have taken place and that the National Housing Development Authority (9th Respondent) is now erecting further unauthorized dwellings on the site.

3] The Petitioner alleges that the relevant authorities including the Land Commissioner (1st Respondent), the Divisional Secretary, the Grama Niladhari (3rd Respondent), and the Colonization Officer (4th Respondent) have willfully neglected their public duties. This inaction is characterized as a violation of the "Public Trust" and the Principle of Natural Justice. The Petitioner highlights the urgency of the matter by citing recent police complaints filed in January 2025 (P8) and provides evidence of the hardship faced by the intended needy beneficiaries through photographs and details marked P9(a) to P9(g).

4] In the above circumstances, the Petitioner prays that this Court be pleased to;

- a) Issue Notice of this Application to the Respondents above-named;
- b) A direction by Your Lordships’ Court under and in terms of Article 140 to the 1<sup>st</sup> to 4<sup>th</sup> Respondents to present all records and documents upon which they have proceeded to deal with the Petitioners’ aforementioned land and property situated in Namal Oya, Ampara District, described and depicted on P1;
- c) A mandate in the nature of Writs of Mandamus compelling the 2<sup>nd</sup> Respondent to take steps under and in terms of the Recovery of Possession (State) Land Act against the 5<sup>th</sup> to 9<sup>th</sup> Respondents to eject from the Lots 9 to 35 of the Plan No.AM/AMP/2019/189;

- d) An Interim Order restraining the 5<sup>th</sup> to 8<sup>th</sup> Respondents and/or those acting under their warrant and/or authority from dealing in any manner whatsoever, constructing Housing on the land portions depicted as Lots of 9 to 35 of the Plan No. AM/AMP/2019/189 until the hearing and final determination of this application;
- e) Grant costs; and
- f) For such other and further relief that Your Lordship's Court shall seem meet.

5] The matter was supported for Formal Notices on 12/03/2026, and learned State Counsel for the Respondents vehemently objected to the issuance of Formal Notices on the basis that the Petitioner has no Locus Standi as there is no enforceable right to seek a Writ of Mandamus. He further averred that the Petitioner cannot invoke public interest litigation, and this is a sheer abuse of process.

6] I now consider whether to issue Formal Notices or not. The Petitioner, acting both in a personal capacity and as President of an association representing 30+ indigent families, seeks Mandates in the nature of Writs of Certiorari and Prohibition under Article 140 of the Constitution. The core of the grievance involves the failure of state officials, including the Land Commissioner General (R1) and the Divisional Secretary (R2), to protect state lands in Ampara intended for housing schemes from illegal encroachment by third parties (R5–R9). The Petitioner asserts strong Locus Standi based on public interest jurisprudence, citing ***Environmental Foundation Ltd v Urban Development Authority*** [2009] 1 SLR 123. This is the Galle Face Green case, that the UDA entered into an agreement with a private company, E.A.P. Network (Pvt) Ltd, to lease a portion of the public Galle Face Green, raising concerns about the privatization of a public space and the lack of transparency. His Lordship Sarath Silva CJ held that the purported lease agreement was Ultra Vires (beyond the powers) of the UDA and thus had no legal force since the said Galle Face Green was devoted to the public by the Governor's proclamation. Thus, this cannot be applied to the case in hand.

7] Further, in ***Bulankulama v Secretary, Ministry of Industrial Development*** (Eppawala, case) [2000] 3 SLR 243, establishes that public-spirited litigants can protect community resources even if personal injury is absent. However, in this case it was considered that the proposed agreement for exploration and mining of phosphate and environmental impact and sustainable development policies is applicable for the exploitation of natural resources in a

broader sense. This application is for distributing plots of land to the needy that does not directly address to the dicta of the Bulankulama Case.

8] The Petitioner relies on ***Sugathapala Mendis v Kumaratunga*** (Waters Edge, 2008) 2 SLR 339. This case emphasis that acquisition must be the general interest of the country. In the case in hand, the land extent is 6 acres and it is a state land. The Divisional Secretary is the authority to decide to whom lands be given. It is not the Petitioner who decides who is needy and distribute his whims and fancies. The key qualifications and requirements to bring public interest litigations are; public importance, inability of the affected parties to bring a personal action and non -vexatious intent. The Petitioners application does not qualify above requirements as he failed to prove none of above factors.

9] Notably, the Petitioner prays for a Writ of Mandamus to compel the execution of the State Lands Recovery Act against the encroachers for 35 "voiceless families" from bureaucratic paralysis and an "encroachment mafia."

10] It is to be noted that in Sri Lanka, a Writ of Mandamus cannot be granted if there is no enforceable right. Even when framed as Public Interest Litigation (PIL), Sri Lankan administrative law strictly dictates that Mandamus cannot exist in a vacuum. It requires a reciprocal relationship: the Petitioner must have a legal right, and the public authority must have a corresponding, mandatory statutory duty to perform what is being asked for. The Petitioner, as a rescuer, has come forward; however, he does not have an enforceable right.

11] In ***Dilan Perera v Rajitha Senarathna*** [2002] 2 SLR 79, the court held that "*in mandamus the petitioner must show that he is a person aggrieved of*". In the case in hand, the Petitioner has failed to show that he is aggrieved by the inaction of the Respondents.

12] In ***Perera v National Housing Development Authority*** [2001] 3 SLR 50, held that "*Mandamus is not intended to create a right, but to restore a party who has been denied his right to the enjoyment of said right.*"

13] In ***Rajeswari Nadaraja vs Hon. M. Najeeb Abdul Majeed and others***, SC Appeal No. 177/2015, Decided on: 31. 08.2018, Aluwihare PC, J. held;

*"Having considered Petitioner's locus standi, the Court must examine whether the circumstances alleged by the Petitioner fall within the jurisdiction of a Writ of Mandamus."*

14] In the above circumstances, the Petitioner's contention that the matter be decided as a public interest litigation has no merit and cannot be sustained. Thus, we refuse to issue Formal Notices. No costs.

JUDGE OF THE COURT OF APPEAL

R. GURUSINGHE J.

I agree

JUDGE OF THE COURT OF APPEAL