

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
Mandamus under and in terms of Article 140
of the Constitution of the Democratic Socialist
Republic of Sri Lanka.

M. A. Seetha *alias* M. A. Seetha Priyanthi

“Mallawa”, 2nd Mile post,

Hingurakgoda.

PETITIONER

CA (Writ) Application No.

CA-WRT-1119/25

Vs.

1. R. I. B. Sandya P. Rathnamalala
Divisional Secretary,
Divisional Secretariat,
Airport Road,
Hingurakgoda.
2. H. M. I. R. K. Senewirathna
Assistant Divisional Secretary,
Divisional Secretariat,
Airport Road,
Hingurakgoda.

3. Chandana Ranaweera Arachchi
Land Commissioner General,
Land Commissioner General's
Department,
"Mihikatha Medura"
Land Secretariat
No. 1200/6, Rajamalwatta Road,
Battaramulla.
4. I. B. Gunawardhana
Additional Land Commissioner General,
Land Commissioner General's
Department,
"Mihikatha Medura"
Land Secretariat
No. 1200/6, Rajamalwatta Road,
Battaramulla.
5. Land Commissioner (Land III)
Land Commissioner General's
Department,
"Mihikatha Medura"
Land Secretariat
No. 1200/6, Rajamalwatta Road,
Battaramulla.
6. Piumi Artigala,
Deputy Land Commissioner,
Deputy Land Commissioner's Office,
District Secretariat,
Polonnaruwa.
7. Y. G. T. Gunawardhana,
Grama Niladhari,
No. 71, Hinguraka,

Bandaragama.

8. M. A. Upali Samaranayaka,
“Mallawa”, 2nd Mile Post,
Hingurakgoda.

9. M. A. Sunanda Samaranayaka,
“Mallawa”, 2nd Mile Post,
Hingurakgoda.

10. M. Kumaranayaka,
No. 220, Hathamuna,
Hingurakgoda.

11. Hon. Attorney General,
Attorney General’s Department,
Colombo 12.

RESPONDENTS

Before : **Hon. Justice B. Sasi Mahendran. J**
 Hon. Justice Adithya Patabendige J

Counsel: Ishan Alawathurage with M. Rukshan Mendis for the Petitioner.
 Avanthi Weerakoon, SC for the 1st to 6th, and 11th Respondents.
 Nilantha Kumarage for the 10th Respondent.

Written

Submissions: 24.06.2026 (by the 10th Respondent)

On

Supported On: 10.06.2026

Order On: 28.07.2026

ORDER

B. Sasi Mahendran, J.

The Petitioner, *inter alia*, seeks Writs of *Certiorari* quashing the decisions embodied in the letters marked P21 and P22, whereby the 3rd Respondent, Land Commissioner General recommended and directed that a life interest in the subject land be registered in favour of M. Kumaranayaka (hereinafter referred to as the 10th Respondent). The Petitioner further seeks Writs of *Prohibition* restraining the Respondents from evicting her or acting upon the said decisions, and a Writ of *Mandamus* directing the Respondents to revoke the impugned decisions and recognize and register the Petitioner as the lawful successor to the subject land.

The following facts are relevant to this application.

The Petitioner states that the subject land was originally issued to her father, Mallawa Appuhamige Martin Sighe (hereinafter referred to as "the original grant holder"), under Permit No. PO/PRA/No. 11902 issued in terms of the Land Development Ordinance (hereinafter referred to as the Ordinance), and that a subsequent grant was later issued in respect of the said land. The Petitioner further states that, under the original permit, her sibling, M.A. Kularathne Bandara, had been nominated as the successor. However, according to the Petitioner, no valid nomination of a successor was made under the subsequent grant. The said M.A. Kularathne Bandara passed away on 16.11.2016, and his spouse, the 10th Respondent, failed to enter into possession of the subject land within the period prescribed by Section 68(2) of the said Ordinance.

Upon the death of the original grant holder on 08.05.2010, his spouse, Atapattu Arachchige Seelawathie Manike, the mother of the Petitioner, succeeded to the said land. Her succession was subsequently regularised by the 1st Respondent by letter dated 02.11.2020, whereby she was granted a life interest in terms of Section 48 (a) of the said Ordinance on the basis being the spouse of the original grant holder. The Petitioner states that, prior to Atapattu Arachchige Seelawathie Manike's demise on 23.11.2023, life interest holder had requested the Respondents to grant succession to the subject land in favour of the Petitioner and that, upon her mother's demise the Petitioner became the sole person in actual possession of the subject land.

The Petitioner further states that, since the nominated successor had predeceased the date of succession and the 10th Respondent failed to take possession within the period prescribed by Section 68(2) of the said Ordinance, the 10th Respondent has no lawful claim to succession and does not qualify as a successor under the amended Third Schedule to the Ordinance.

The Petitioner states that by letter dated 07.11.2024 she requested the 1st Respondent to grant succession to the subject land and upon receiving no response, she sought access to documents relating to the subject land under the Right to Information Act. According to the documents obtained, the 1st Respondent had, by letter dated 15.11.2022, informed the 3rd Respondent, that the 10th Respondent had been in possession and cultivation of a portion of the subject land until 2020. The Petitioner alleges that this information was incorrect and that, relying on the said communication, 6th Respondent, the Deputy Commissioner General subsequently informed the 3rd Respondent that the 10th Respondent was in possession of a portion of the subject land.

The Petitioner states that the 3rd Respondent called for information regarding the possession of the subject land, whereupon the 1st Respondent confirmed that the 10th Respondent had ceased to be in possession after the life interest was granted to the spouse of the original grant holder. Thereafter, the 3rd Respondent directed the 1st Respondent to act in accordance with the amended provisions of the said Ordinance.

The Petitioner further states that the 1st Respondent subsequently sought the 3rd Respondent's directions regarding succession, informing that the Petitioner was in possession of the entire subject land and that the 10th Respondent, despite having left possession, had later claimed succession. The Petitioner states that the 3rd Respondent thereafter initiated an inquiry into the matter and conducted the inquiry on 25.09.2025. However, the Petitioner alleges that she was not afforded an opportunity to be heard.

The Petitioner further states that, by letter dated 17.11.2025 marked “**P21**”, the 1st Respondent informed the Petitioner that the 3rd Respondent had recommended that the subject land be registered in favour of the 10th Respondent by conferring upon her a life interest. By a subsequent letter dated 18.11.2025, the 3rd Respondent directed the 1st Respondent to cancel the life interest previously granted to the spouse of the original grantee who demised on 23.11.2023 and to register a life interest in favour of the 10th Respondent, which is marked as “**P 22**”.

Being aggrieved by the aforesaid decision, the petitioner has filed this writ application before this Court.

In the present case, it is not in dispute that, during the subsistence of the permit, the original permit holder nominated M.A. Kularathne Bandara, the son of the original permit holder and the husband of the 10th Respondent, as the successor to the subject land, as evidenced by the permit marked P7. However, the subsequent Grant marked P1 issued in respect of the subject land does not contain any express nomination of M.A. Kularathne Bandara as the successor.

It is undisputed that the Petitioner's mother, as the wife of the original permit holder, was entitled to a life interest in the subject land until her death. The Petitioner contends that, prior to her demise, her mother recommended to the 1st Respondent that the Petitioner be recognised as the successor to the subject land.

The issue that arises is whether the Petitioner's mother who is the life interest holder was legally entitled to make such a recommendation.

At this juncture, I am mindful of Section 48A(2) of the said Ordinance, which provide as follows:

“(2) It, during the lifetime of the spouse of a deceased Permit-holder who has succeeded under subsection (1) to the land alienated on the permit, the terms and conditions of the permit are complied with by such spouse, such spouse shall be entitled to a grant of that land subject to the following

conditions-

(a) such spouse shall have no power to dispose of the land alienated by the grant;

(b) such spouse shall have no power to nominate a successor to that land;

(c) upon the death of such spouse, or upon his or her marriage, the person, who was nominated as successor by the deceased permit-holder or who would have been entitled to succeed as his successor, shall succeed to that land:

Provided that the aforesaid conditions shall not apply to a grant of any land to be made to a spouse who has been nominated by the deceased permit holder to succeed to the land alienated on the permit” [emphasis added]

According to the above provision, the life interest holder has no right to nominate any person to succeed to the said land. Therefore, nominating Petitioner as the successor is contrary to the law.

The next question is whether the nominated successor, M.A. Kularathne Bandara, made an application to succeed to the permit under Section 68 of the Ordinance. It should be noted that, upon the death of the original permit holder, his wife, Atapattu Arachchige Seelawathie Manike, succeeded to the land pursuant to Section 48 of the Ordinance. Thereafter, she became entitled to a life interest in the land under Section 48A of the Ordinance and remained the life interest holder until her demise on 23.11.2023.

Until the death of the life interest holder, Section 68(2) of the Ordinance precluded the nominated successor from succeeding to the land. It is undisputed that M.A. Kularathne Bandara died before the death of the life interest holder, Atapattu Arachchige Seelawathie Manike. Consequently, he never became entitled to succeed to the permit under the Ordinance, and no right to succession vested in him.

Under Section 49 of the Ordinance, the nominated successor, M.A. Kularathne Bandara, could only succeed to the land after the death of the original permit holder's spouse. Section 68(2) further requires that the nominated successor must succeed within six months of the death of the life interest holder. However, since he predeceased the life interest holder, he was unable to succeed to the said land. Accordingly, the court may conclude that the nominated successor failed to acquire rights to the property.

It is clear that the nominated successor never succeeds to the said land as his mother, who is the spouse of the original permit holder, Atapattu Arachchige Seelawathie Manike was still alive. The nominee not entitle to succeed until the death of the life interest holder. If the nominated successor has failed to succeed the land shall devolve in terms of Rule I of the Third Schedule of the said Ordinance.

In this context I am mindful of section 72 of the said Ordinance which reads as follows,

“72. Succession under the Third Schedule.

*If no successor has been nominated, or if the **nominated successor fails to succeed**, or if the nomination of a successor contravenes the provisions of this Ordinance, the title to the land alienated on a permit to a permit-holder who at the time of his*

or her death was paying an annual installment by virtue of the provisions of section 19 or to the holding of an owner shall, upon the death of such permit-holder or owner 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 that land or holding, or upon the death of such spouse, devolve as prescribed in Rule 1 of the Third Schedule.” [emphasis added]

According to the averments in the Petition, the Petitioner may also be regarded as the daughter of the original permit holder, Mallawa Appuhamige Martin Sighe. Where the nominated successor fails to succeed due to the death of the nominee prior to the death of the life interest holder, the provisions of Section 72 read with Rule 1 of the Third Schedule must be considered in determining the successor. The said provisions specifically set out the persons who may succeed, and the relationship of the claimant must be taken into consideration when determining the successor to the land. Accordingly, the Petitioner also claims entitlement to succeed to the said land.

In the circumstances, I take the view that the Petitioner has made a *prima facie* case that warrants this Court issuing formal notices to the Respondents.

Accordingly, I issue notices to the Respondents and notice returnable on 25th August 2026.

JUDGE OF THE COURT OF APPEAL

Adithya Patabendige, J.

I AGREE.

JUDGE OF THE COURT OF APPEAL