

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

Case No : CA/WRT/0467/2026

Hambantota International Port Group
(Private) Limited,
Hambantota Maritime Center,
Mirijjawela,
Hambantota.

PETITIONER

Vs.

1. The Hambantota Municipal Council,
Administrative Complex,
Siribopura, Hambantota
2. D.A. Gamini
Mayor,
The Hambantota Municipal Council,
Administrative Complex,
Siribopura, Hambantota
3. M. G. G. G. Randhika
Municipal Commissioner,
The Hambantota Municipal Council,
Administrative Complex,
Siribopura, Hambantota

4. Geethanjali Samarajeewa
Provincial Valuer,
602/6, Colombo Road,
New Town,
Rathnapura.

RESPONDENTS

Before : **Hon. Rohantha Abeysuriya PC, J.(P/CA)**
: **Hon. K. Priyantha Fernando, J.(CA)**

Counsel : Avindra Rodrigo, PC with Michael Mendis instructed
By F.J. & G de Saram for the Petitioner.

Thisath Wijegunawardane, PC with Gihan Liyanage
instructed by Malliwarachchi Associates for the 1st, 2nd
and 3rd Respondents.

Nayomi Kahawita, SSC for the 4th Respondent.

Written Submissions on : 04.09.2026 for the Petitioner.

04.09.2026 for the 1st – 3rd Respondents.

Supported on : 20.08.2026

Decided on : 15.09.2026

K. Priyantha Fernando, J.(CA)

1. The Petitioner has invoked the jurisdiction of this Court seeking Writs of *Certiorari* and *Mandamus*, along with interim orders preventing the 1st Respondent from

acting on the Notice of Seizure dated 05.05.2026 or the Notices of Assessment dated 25.04.2025 and 27th October 2025.

2. The Petitioner is a Sri Lanka-China joint venture Public-Private Partnership (PPP) and is engaged in the operation and management of the Hambantota International Port. The majority shareholder company of the Petitioner is China Merchants Port Holdings Company Ltd. Whilst the Sri Lanka Ports Authority holds 15% strategic shareholding in the Petitioner Partnership.
3. The Petitioner, by letter dated 25.04.2025 received a Statutory Notice of Assessment under Section 225 of the Ordinance detailing the annual assessment for the 2nd, 3rd and 4th quarters of the year 2025. However, it is common ground that the Petitioner objected to this Assessment by a letter dated 16.07.2025, almost 3 months after the Notice was sent. The ground on which the Petitioner had objected was on the basis that the assessment amount, value claimed and rates were ‘exorbitant, excessive and sudden’.
4. In response, the Respondent refused to entertain or consider the objection tendered by the Petitioner as it was out of time, and cited Section 235(4) of the Municipal Councils Ordinance No. 29 of 1947 which reads as follows:

“Such notice shall further intimate that written objections to the assessment will be received at the Municipal Council’s Office within one month from the date of service of the notice.”

5. It is the Petitioner’s contention that the wording of the statute suggests that the time limit is a suggestion as opposed to a limit.
6. Furthermore, the Petitioner argued that despite continuously requesting for a breakdown of the valuation, the Respondent merely provided a list of the buildings and the lands which were valued as opposed to a breakdown of the values. Thus, the Petitioner argued that the Respondent has failed to prove that its conduct is not illegal or *ultra vires*.

HAS THE PETITIONER MADE A PRIMA FACIE CASE?

7. The Petitioner's primary contention is that the Assessment rate is exorbitant and grossly exaggerated. The Petitioner has furnished to this Court the Statutory Notices of Assessment for the years 2025 and 2026 only.
8. L.T.B. Dehideniya, J. in the case of CA/WRT/304/2015 decided on 17.10.2017 cited and referred to a portion of Wade and Forsyth's treatise on Administrative Law in relation to the burden of proof of a *prima facie* case of administrative defect or irregularity. The relevant portion of the Order reads as follows:

"In the book of Administrative Law Ninth Edition by Wade and Forsyth at page 292 it says about the burden of proof as follows.

The burden of proof

Where the validity of an administrative act or order is attacked, the incidence of the burden of proof may vary with the circumstances. The burden of proof naturally lies in the first instance upon the plaintiff or complainant.

...

*Where, on the other hand, the administrative act is some decision or order which in itself inflicts no legal wrong, the complainant's task will be to raise prima facie case of irregularity, and the burden of proof lies upon him. This is equally so where there is an invasion of his liberty or property but he alleges not that the statutory conditions are not satisfied but that there is some ulterior defect, for example bad faith. It has often been laid down that the **onus of proof rests upon the party alleging invalidity.**" (the emphasis was added)*

9. It is the view of this Court that the Petitioner in failing to furnish any documentary proof or any other basis on which they wished to challenge the value of the Assessments has failed to satisfy the burden of proof placed on them. The Court has not shown any inherent illegality or issue with the validity of the Assessments or the procedure followed. In fact, the 4th Respondent by way of her affidavit has shown the opposite.

10. The Provincial Valuer (4th Respondent, Ms. Geethanjali Samarajeewa) has placed the following facts before this Court by way of the affidavit dated 07.08.2026:

4. **2014.03.10**දිනැති ඉල්ලීම් ලිපිවලට අනුව**2017**වර්ෂයේ හම්බන්තොට මහ නගර සභා සීමාව සඳහා වරිපනම් ප්‍රතිශෝධන කටයුතු ආරම්භ කරන ලද බව මා ප්‍රකාශ කර සිටිමි.
5. ඒ අනුව, නිසි අවසරය ලැබීමෙන් පසු හම්බන්තොට වරාය පරිශ්‍රයෙහි දේපල මැනීම් කටයුතු සිදු කර ඒ සඳහා වරිපනම් අංකයක් ලබා දුන් බව මා ප්‍රකාශ කර සිටිමි. , හම්බන්තොට මහ නගර සභාවක් ලෙස ගැසට් කළ පසු වරිපනම් ප්‍රතිශෝධන කටයුතු කරන ලද පළමුවන අවස්ථාව මෙය වන බවත් හම්බන්තොට වරාය ද වරිපනම් සඳහා තක්සේරු කරන ලද පළමු අවස්ථාව බව ද මා ප්‍රකාශ කර සිටිමි.
6. තවද, වරිපනම් අංක **165**, වරාය පාරයනුවෙන් එම දේපලට වරිපනම් අංකයක් ලබා දී එහි දේපල විස්තරය ලෙසහම්බන්තොට ජාත්‍යන්තර වරායලෙස අදාල දේපළ හඳුනා ගෙන ඇත . මෙම ජාත්‍යන්තර වරාය දේපළ, විශේෂ දේපළක් වන අතර මෙහි වාර්ෂික වටිනාකම ගණනය කිරීම් සඳහා තක්සේරු ක්‍රමවේදයක් වනආදායම් ක්‍රමය)**Income basis - Sri Lankan Valuation Stranded 2015, Institution of Valuer Sri Lanka) (R 2)**භාවිතා කළ යුතු අතර මෙ සඳහා පසුගිය වර්ෂ තුනක ගිණුම් වාර්තා වෙනත් ආදායම් වියදම් පිළිබඳ විමසීම් කර**2020.07.13 (R 2 a)**දින හම්බන්තොට මහ නගර සභාව මගින් ඉල්ලා ඇති බව මා ප්‍රකාශ කර සිටිමි.
7. මහ නගර සභාව වරාය සමඟ විමසීම් කිරීමෙන් පසු**2021.08.05 (R 3)**දින ලිපියක් මගින් තොරතුරු ලබා දී නොමැති බව දැනුම් දී ඇති බව මා ප්‍රකාශ කර සිටිමි.
8. ඉන්පසුව ඉහත තක්සේරු ක්‍රමය හැර වෙනත් තක්සේරු ක්‍රමවේදයක්(**Cost basis) (R 4)**මගින් තක්සේරු කටයුතු සිදු කර වාර්ෂික වටිනාකම ගණනය කර ගන්නා ලදීඒ සඳහා ඉඩම් ., ගොඩනැගිලි, අනෙකුත් යන්ත්‍ර උපකරණ වටිනාකම් මත වාර්ෂික වටිනාකම ගණනය කර ප්‍රධාන තක්සේරුකරුගේ අනුමැතියෙන් පසු මගේ සමාංක හා**2025.04.08 (R5)**දිනැති වාර්තාව මහ නගර සභාව හම්බන්තොට වෙත ලබා දී ඇති බව මා ප්‍රකාශ කර සිටිමි.
9. ඉහත තක්සේරු වාර්තාවෙහි වාර්ෂික වටිනාකමට විරෝධය හා තක්සේරු විරෝධතාවයක් නගර සභාව වෙත**2025.10.31 (R6)**ඉදිරිපත් කර ඇති බව මා ප්‍රකාශ කර සිටිමි.

10. ඉහත තක්සේරු විරෝධතා සඳහා සාකච්ඡාවක් නගර සභාව මැදිහත් වීමෙන් හම්බන්තොට මහ නගර සභාව, තක්සේරු දෙපාර්තමේන්තුව, හම්බන්තොට ජාත්‍යන්තර වරාය, ඒ සඳහා සහභාගි වියළුම සාකච්ඡාවෙන් පසු තක්සේරුව සඳහා පදනම් කර ගන්නා ලද ඉඩම ., ගොඩනැගිලි, අනෙකුත් යන්ත්‍ර උපකරණ ලේඛනය ඉල්ලා සිටින ලදී ඒ අනුව .**2025.12.22 (R7)**දින දරණ ලේඛනය ලබා දෙන ලද බව මා ප්‍රකාශ කර සිටිමි.

11. **2026.01.14 (R8)**දිනැති නාගරික කොමසාරිස්ගේ ලිපියක් මගින් වරිපනම් තක්සේරුව සංශෝධනය වීමක් සිදු වෙනවා ද යන්න විමසා ඇති බව මා ප්‍රකාශ කර සිටිමි.

12. ඊට පිළිතුරු වශයෙන්**2026.02.02 (R9)**දින තක්සේරු වාර්තාවේ වාර්ෂික වටිනාකමේ සංශෝධනය සිදු නොවන බව හම්බන්තොට මහ නගර සභාවට දන්වා ඇති බව මා ප්‍රකාශ කර සිටිමි.”

11. The document marked R3 is a letter sent by the 1st Respondent to the 4th Respondent dated 05.08.2021 wherein the 4th Respondent was informed that she should use the information at her disposal to carry out the valuation. The letter reads as follows:

1. ඒ අනුව ඔබගේ අංක HT/101/RV/2017/13/05 හා 2020.07.13 දිනැති ලිපිය මගින් කොට්ඨාශ අංක 13, වරාය පාර වරිපනම් අංක (වම)165 දරණ දේපලේ පසුගිය කාල පරිච්ඡේදයේ ආනයන හා අපනයන නැව්ගත කිරීම් මගින් හා වෙනත් ආදායම් මාර්ගයන් ගෙන් ලද ආදායම් හා වියදම් පිළිබඳ විස්තර හා ඊට අමතරව ගොඩනැගිලි කුලියට දී ඇත්නම් එම කුලී විස්තර ද අදාල ආයතනය හරහා ලබා දෙන ලෙස ඉල්ලී කර ඇත.
2. එම ඉල්ලීම මත අදාල තොරතුරු ලබා දෙන ලෙස දන්වා මගේ සමාංක හා 2020.07.16 හා 2020.09.07 දිනැති ලිපි මගින් හම්බන්තොට ජාත්‍යන්තර වරාය වෙත ඉල්ලීම් කර ඇත නමුත් අදාල තොරතුරු අප වෙත ලබා නොදුන් අතර ඒ පිළිබඳ තක්සේරු . දෙපාර්තමේන්තුව සමඟ සාකච්ඡා කල යුතු බව දුරකථනයෙන් දැනුම් දුන් බැවින්, තක්සේරු දෙපාර්තමේන්තු නිලධාරීන් හා වරාය නිලධාරීන් අතර සාකච්ඡාවක් පැවැත්වීම සඳහා 2021.10.02 දින යොදාගත් අතර එදින වරාය නිලධාරීන්ට පැමිණිය නොහැකි වන බව දැනුම් දුන් අතර තක්සේරු දෙපාර්තමේන්තු හා වරාය නිලධාරීන්ගේ එකඟතාව මත ඉදිරියේදී දිනයක් යොදාගන්නා බව 2020.09.29 දින දුරකථනයෙන් දැනුම් දී ඇත.

3. නමුත් එම සාකච්ඡාව සිදු නොවූ බැවින් හා ඉල්ලීම් කල තොරතුරු මෙතෙක් නොලැබීම මත ගොඩනැගිලි සැලැස්ම හා ඔබ සතුව පවතින අනෙකුත් තොරතුරු මත මෙම දේපලෙහි වරිපනම් තක්සේරු කටයුතු කඩිනමින් සිදු කර දෙන ලෙස කාරුණිකව ඉල්ලා සිටිමි.

13. Thus, on the basis of the material before this Court the 4th Respondent has shown that she had taken suitable steps in line with the procedure required to be followed to conduct the valuation in line with Sri Lanka Valuation Standards of 2015. The 1st Respondent had requested from the Petitioner the Statements of Accounts and any documents detailing any other income earned and expenditure incurred (වර්ෂ තුනක ගිණුම් වාර්තා වෙනත් ආදායම් වියදම්) by the Hambantota International Port Group (Pvt.) Ltd. for a period of three years by letter dated 13.07.2020 in order to calculate the rates payable. It was only upon not receiving the requested documents, that the 4th Respondent was left with no other choice but to calculate the Assessment rates on the **Cost basis as opposed to the Income Approach**.

14. Therefore, on a *prima facie* basis it is the Petitioner who has failed to satisfy the burden of proof placed on it as the Complainant as to why the Assessment amount determined by the Provincial Valuer is exorbitant and hence *ultra vires*. The Respondent has acted based on the compliance shown by the Petitioner, and in the absence of its compliance, replaced instead by its avoidance of the requests made (both in paying the rates and providing details in furtherance of the calculation of future rates), the Respondents were left with no option but the one chosen by them.

IS THE PETITIONER GUILTY OF *LACHES* OR WAS THE PETITIONER'S DELAY SUFFICIENTLY EXPLAINED?

12. The only justification for the purported delay in objecting to the Assessment was that “the Petitioner being a large company with reporting responsibilities to two Governments, and consisting of several different companies, each with their own responsibilities, the Petitioner had difficulties objecting to the assessment within one month” (vide P8)

13. It is my view that the legal maxim, *Vigilantibus non dormientibus jura subveniunt* (the law assists those who are vigilant, not those who sleep over their rights) is applicable in this case. The Petitioner could have in the least requested further time by way of a letter, instead it

waited for a period of almost 3 months after receiving the notice to object to it. I am of the view that the Petitioner has slept on his rights, is guilty of *laches* and even then, has not satisfied the Municipal Council of Hambantota or this Court that the delay in filing objections was reasonable. Thus, in this regard, the Municipal Council of Hambantota has followed stipulated procedure.

14. Thus, there has been a failure on the part of the Petitioner to exhaust the proper remedy available to it within the stipulated time period. This issue is further considered below.

DID THE PETITIONER EXHAUST THE ADEQUATE ALTERNATIVE REMEDY?

15. The Respondents argued that the Petitioner had an adequate alternative remedy available to it and directed the attention of this Court to Section 236(1) of the Municipal Councils Ordinance wherein it is stated as follows:

“(1) Every person who is aggrieved by the decision under section 235 with regard to the assessment of any house, building, land, or tenement, may, within thirty days of receiving the notification of the decision, institute an action objecting to such decision in the Primary Court having jurisdiction in the place where such house, building, land, or tenement, is situated, if the amount of the rate or rates on the annual value of such house, building, land or tenement, or in the case of a consolidation, on the annual value of the houses, buildings, lands, or tenements, so consolidated, does not exceed one thousand five hundred rupees, and in the District Court having such jurisdiction where such amount exceeds the sum of one thousand five hundred rupees.

(2) Upon the trial of any action under this section, the plaintiff shall not be allowed to adduce evidence of any ground of objection which is not stated in his written objection to the assessment.”

16. In the event that the Petitioner had objected to the Valuation within the one-month period as required by Section 235(4) of the Municipal Councils Ordinance wherein it is stated that the notice sent to the owner, occupier or proprietor should intimate that the written objections should be received at the Municipal Office within one month.

17. Thus, the issue goes back to the delay on the part of the Petitioner in objecting to the assessment. Section 235(8) is clear in that it states that “(8) *Every assessment against which no objection is taken shall be final for the year.*” Thus, the issue then becomes whether or not the delay has been reasonably explained by the Petitioner Public-Private-Partnership, which in this instance, it was not.

IS THE PETITIONER (A PUBLIC-PRIVATE-PARTNERSHIP [PPP]) A STATE ENTITY?

18. As a second line of argumentation, the Petitioner contended that seeing as the SLPA owns 15% of the shares of the Petitioner Partnership, it ought to be regarded as a State entity as per the case of *Leo Samson v Sri Lankan Airlines and others* [2001] 1 Sri L. R. 94 and Section 232 of the Municipal Councils Ordinance **which states that movable or immovable property of the State may not be seized.**

19. I find it necessary to note that at this moment there is no piece of legislation which governs Public-Private-Partnerships in Sri Lanka. However, it is worth noting that there currently is a Draft Bill of the Public-Private-Partnership Act through which the legislature seeks to provide a framework for the governance of PPPs.

20. Regardless, I will now address the Petitioner’s contention that the 15% shares owned by the SLPA of the PPP, renders it a State entity. The Petitioner has referred this Court to the judgment delivered in the case of *Leo Samson v Sri Lankan Airlines Limited and Others*[2001] 1 Sri L. R. 94. The judgment is a result of the Fundamental Rights application filed by the Petitioner regarding the termination of his services. It can be said that the facts of the case are in no way relevant to the instant case, nor is the application or jurisdiction exercised the same. However, one might be able to draw from the legal analysis made in terms of government control and what can be considered “executive or administrative action”. I find it important, however to distinguish that such a test is not an indication of whether or not an entity is a state entity or not, but merely if the action carried out is a public or private one.

21. However, in determining whether or not the actions of the Respondent, Sri Lankan Airlines fell under the definition of “executive or administrative action” the Supreme Court considered the dicta delivered in the case of *Rajaratne v Air Lanka Limited* [1987] 2 Sri L. R. 128 wherein Atukorale, J., having reviewed Indian authorities on the subject adopted the use

of the test of governmental agency or instrumentality. In doing so, the shareholding of the Respondent was taken into account, amongst other factors. Atukorale, J. concluded that “the cumulative effect of all the above factors and features would, in my view, render Air Lanka an agent”. This conclusion can partially be attributed to the fact that more than 90% of the share capital of the company was held directly by the Government.

22. In the *Leo Samson* case, it was held that since around 40% of the Government shares in the Respondent Company had been sold to Emirates, it no longer possessed the same “deep and pervasive” control it exercised over the company earlier.

23. As such, even upon applying the dicta of the case above to the instant case it can be seen that a mere 15% of share capital owned by the SLPA alone does not warrant the determination that the Petitioner itself is a State entity. Thus, the contention that the Petitioner has attempted to formulate on this basis that the land of the Petitioner cannot be seized is untenable.

ARE THE MAJOR FACTS IN DISPUTE?

24. The Respondent submitted that in the instant matter major facts are disputed. A case wherein major facts are disputed cannot be adjudicated by this Court. The fact in dispute is the very value of the assessment valuation which is sought to be tried. The Respondents argued that in such instances, the extra ordinary jurisdiction of this Court is not the most suitable forum, relying on the case of *Ceylon Oxygen Limited v Biyagama Pradeshiya Sabhawa and others*[2008] 2 Sri L. R. 245. It is settled law that when the major facts are in dispute this Court will not exercise its Writ jurisdiction as those facts are to be well established with adequate evidence before a trial Court. In fact, as discussed above, it is clear that the legislation provides for the same through Section 236(1) of the Municipal Councils Ordinance in which it is clearly stated that the District Court has jurisdiction to hear matters such as these.

25. **A.S. CHOUDRI in his book on the law of Writs and Fundamental Rights (2nd Edition) Vol-2. At page 449)** states that,

“where facts are in dispute and in order to get at the truth, it is necessary that the question should be canvassed in a suit where parties would have ample opportunity of

examining their witnesses and the Court would be better able to judge which version is correct, a Writ will not issue.”

26. The Supreme Court in the case of **Francis Kulasooriya Vs. OIC- Police Station Kirindiwela** SC/Appeal/0052/2021 decided on 14.07.2023 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.”

27. In **Dr. Puvanendran Vs. Premasiri** [2009] 2 Sri L. R. 107 the Supreme Court held that:

“The writ of mandamus is principally a discretionary remedy - a legal tool for the dispensation of justice when no other remedy is available. Given the power of such a remedy, the Common Law surrounding this remedy requires multiple conditions that must be met prior to the issuance of a writ by Court. The Court will issue a writ only if (1) the major facts are not in dispute and the legal result of the facts are not subject to controversy and (2) the function that is to be compelled is a public duty with the power to perform such duty.”

28. The valuation issued by the Respondents is disputed by the Petitioner. The proper forum for disputing such valuation is the District Court. The evidence has to be led and the assessors should be cross examined. The Petitioner also has to call witnesses and show the proper valuation. The impugned valuation is the major fact that is disputed. This writ court cannot go into proper valuation and it is also not the function of this Court. This Court is concerned only of whether the due process has been followed and not whether the exact valuation is right or wrong.

IS THE PAYING OF RATES STAYED BY THE INSTITUTION OF AN ACTION?

29. The Respondents referred to Section 236(5) of the Ordinance which states that although one has objected to an assessment, the institution of an action or an appeal does not entail that the

levying of rates is stayed. The section reads as follows:

*(5) Neither the institution of such action nor any appeal therein shall stay the levying of the whole or any part of such rate or rates, and the excess, if any, collected shall be returned according to the decision of such Primary Court or District Court if there be no appeal, or according to the final decision of the Court of Appeal in case of appeal.[*Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.-See section 76 thereof]*

30. Thus, the Respondents pointed out that although the Petitioner has filed the instant application on the 15.06.2026, such an action does not stay the Petitioner's duty to pay the Assessment rates due from April 2025. Furthermore, the interim injunctions (b) and (c) granted in the CA/INJ/0006/2026 have now been vacated and the case dismissed by way of the Order dated 18.06.2026.

31. For the foregoing reasons, I am not inclined to issue formal notice on the Respondents. The Petitioner has not established by way of proof that it has a *prima facie* case on the basis that there has been some *ultra vires*, invalid or illegal conduct on the part of the Respondents or specifically that the Assessment valuation was exorbitant or incorrect.

32. Accordingly, the application is dismissed without costs.

Judge of the Court of Appeal

Hon. Rohantha Abeysuriya PC, J.(P/CA)

I agree.

President of the Court of Appeal