

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.

Madduma Gamage Gunapala
No.198, Lolupathana
Ambalanthota.

PETITIONER

CA WRIT Application Case
No.CA/writ/494/2026

Vs

1. Hon K.D. Lalkanatha
Minister of Agriculture, Livestock,
Land and Irrigation and Lands
Mihikatha Madura, 'Land Secretariat'
No.1200/6, Rajamalwatha Road,
Battaramulla

2. H.M.B.P. Herath
Secretary
Minister of Agriculture, Livestock,
Land and Irrigation and Lands
Mihikatha Madura, 'Land Secretariat'
No.1200/6, Rajamalwatha Road,
Battaramulla

3. Chintha P.W. Wanniarachchi
Divisional Secretariat
Distract Secretariat
Ambalanthota

4. Bimal Indrajith De Silva
Secretary
District S Secretary-Hambanthota
1st Floor, Magam Ruhunupura
Administrative Complex, Siribopura
Hambanthota

5. P. P. Janitha Kumuduni
Southern Provincial Land
Commissioner
No.211, Wackwella Road, Galle

6. Chandana Ranaweera Arachchi
The Land Commissioner
Land Commissioner General's
Department
No.1200/6, Rajamalwatta Road,
Battaramulla

7. W.T.M.B.S. Tennakoon
Survey General
Survey General Department
150 Bernard Soysa Mawatha
Colombo 05

8. Pallathara Vidhana Gamage
Somawathie
205/1, Ganga Para, Wallawaththa,
Ambalanthota

9. Hon. Attorney General
Attorney General's Department,
Colombo 12

RESPONDENTS

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

Counsel: Wijithsing with S.Z. Nazeer for the petitioner

Supported On: 17.07.2026

Order On: 07.08.2026

ORDER

B. Sasi Mahendran, J.

The Petitioner, inter alia, seeks Writs of *Mandamus* directing the Survey General to survey and depict the portion of the land in the Petitioner's possession, and make a report and or plan and direction 1st to 6th recognize and register the Petitioner as the lawful owner/successor thereto, make the necessary recommendations, issue the requisite permit or grant in the Petitioner's favour, and refrain from removing or altering the relevant land registry entries. The Petitioner further seeks a Writ of Certiorari quashing the decision contained in document X10.

The following facts are relevant to this application.

According to the Petitioner, his grandfather, Kodithuwakku Arachchige Nicolas, was the original permit holder of two allotments of State land, namely a highland and a paddy land, together comprising approximately 4 acres and 2 roods. Upon his demise, the Land Ledger reflected Nihaluwe Gamage Babihamy as the successor to the said lands. It is further averred that, on or about 18 November 1986, Nihaluwe Gamage Babihamy received the Grant in respect of the agricultural land comprising 3 acres and 20 perches, marked "X3", which was thereafter registered in the Land Registry on or about 25 July 1989.

According to the Petitioner, Nihaluwe Gamage Babihamy nominated Kodithuwakku Arachchige Wijedasa and the Petitioner, Madduma Gamage Gunapala, as the successors to the said lands. It is further averred that, by an affidavit dated 6 April 1987, Nihaluwe Gamage Babihamy declared that, of the agricultural land, 2 acres were to be allotted to Kodithuwakku Arachchige Wijedasa and the remaining 1 acre to the Petitioner, while one-half acre of the highland was also intended to be transferred to the Petitioner.

The Petitioner states that Nihaluwe Gamage Babihamy was given the permit for highland in the extent of 1 Rood 2 rood and 15 acres and that she passed away in or about the year 1989. The Petitioner further states that, following her demise, the ownership of the agricultural land devolved upon Kodithuwakku Arachchige Wijedasa. By letter dated 20 December 1990, Kodithuwakku Arachchige Wijedasa requested the relevant authorities to allocate the Petitioner's share of the paddy land in accordance with the wishes expressed by the deceased.

The Petitioner further states that, by letter dated 27 March 1991, Kodithuwakku Arachchige Wijedasa requested the Divisional Secretary to nominate the Petitioner as the successor to the agreed 1-acre portion of the agricultural land and by letter dated 30 June 1993, the Secretary of the Ambalantota Divisional Secretariat informed Kodithuwakku Arachchige Wijedasa that the said allotment could be transferred to the Petitioner upon the execution of a specimen deed.

According to the petitioner Kodithuwakku Arachchige Wijedasa transferred the highland to the Petitioner by a deed on 17 September 1998 which is marked as X9. Thereafter, Kodithuwakku Arachchige Wijedasa passed away on 17 January 2017. Following the death of Kodithuwakku Arachchige Wijedasa, his wife, Palathara Vidanagamage Somawathie, together with their two children, commenced cultivating the 2-acre portion of the agricultural land, while the Petitioner continued to cultivate the remaining 1-acre portion which he claims had been allotted to him.

According to the Petitioner, following the death of Kodithuwakku Arachchige Wijedasa, his wife, Palathara Vidanagamage Somawathie, was granted a life interest over the entire agricultural land under section 48 of the Land Development Ordinance, as evidenced by document "X10". The Petitioner further claims that he has remained in possession of and cultivated over one (01) acre of the said paddy land.

The Petitioner states that, as the dispute could not be amicably resolved, inquiries were conducted by the Divisional Secretary, Ambalanthota, 3rd Respondent, who informed the parties that the dispute should be resolved before a competent Court. The Petitioner further states that the Southern Provincial Land Commissioner, 5th Respondent having considered the Petitioner's grievance, informed that although the said *Kodithuwakku Arachchige Wijedasa* had consented to the transfer of the land, one (01) acre could not be transferred under the provisions of the Land Development Ordinance, and advised that the dispute be resolved before a competent Court by letter dated 18.09.2025 marked as "X20".

The Petitioner further states that by letter dated 30.10.2025, marked "X21", the Secretary to the Deputy Minister of Lands called for observations from the Land Commissioner regarding the issuance of the permit solely in one person's name notwithstanding that the Petitioner was a nominated successor. According to the Petitioner, the 8th Respondent instituted action in the District Court of Hambantota bearing Case No. L/23/25 seeking, inter alia, declarations relating to possession of the land and the ejectment of the Petitioner.

According to the Petitioner, Nihaluwe Gamage Babihamy nominated Kodithuwakku Arachchige Wijedasa and the Petitioner, Madduma Gamage Gunapala, as the successors to the said lands. However, upon perusal of the Grant issued in favour of Nihaluwe Gamage Babihamy in respect of the agricultural land comprising 3 acres and 20 perches marked "X3", it appears that, by the subsequent endorsement dated 20.12.1990, only the name of Kodithuwakku Arachchige Wijedasa had been included as the successor therein.

It is pertinent to refer to the relevant portion of the said Grant marked "X3", which records the succession relating to the said land.

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“ඒ අනුව හම් / ප්‍ර/5458 දරන කුඹුරු ඉඩම් සහ හම් / ප්‍ර/9707 දරන ගොඩ ඉඩම නිහිඬව ගමගේ බේබිහාමි නමින් ලබා දී ඇති බවත්, ඇය විසින් එම ඉඩම් දෙක සඳහා ඇගේ පුත්‍රයා වන කොඩිතුට්කු ආරච්චිගේ විජේදාස හා මුණුබුරකු වන ඔබ හට පසු අයිතිය නම් කර ඇති බවත්, එසේම දීමනා පත්‍රකාරියගේ ඇවැමෙන් පසු අදාළ ප්‍රමාණයන් නොතාරිස් ඔප්පු මගින් ඔබ වෙත ලබා දීමේ එකඟතාවය මත එම ඉඩමේ මුල් අයිතිය කොඩිතුට්කු ආරච්චිගේ විජේදාස නමින් ලියාපදිංචි කර ඇති බවත් වාර්තා කර ඇත.”

In these circumstances, it appears that the subsequent grant of a life interest over the entirety of the agricultural land in favour of the wife of Kodithuwakku Arachchige Wijedasa, namely Palathara Vidanagamage Somawathie, has been made without due consideration being given to the aforesaid circumstances and the documents relied upon by the Petitioner regarding the nomination of successors and the intended transfer of portions of the said land.

In the circumstances, I am of the view that the Petitioner has disclosed a prima facie case warranting the issuance of formal notice on the Respondents.

Accordingly, notice is issued to the Respondents, returnable on 31st August 2026.

JUDGE OF THE COURT OF APPEAL

Adithya Patabendige, J.

I AGREE.

JUDGE OF THE COURT OF APPEAL