

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

Lantis Paththinige,
No. 740, Senapura, Tissamaharama.

CA (Writ) App. No. 551/2024

PETITIONER

Vs.

1. R.A. Chandana Saman Ranaweera
Arachchi,
Commissioner-General of Lands,
Commissioner-General of Lands
Department,
“Mihikatha Medura”,
Land Secretariat,
No. 1200/6,
Rajamalwatta Avenue,
Battaramulla.
2. Ms. S.M.M. Wijitha Mayadunna,
Inter Provincial Land
Commissioner,
Inter Provincial Land
Commissioner Office,
Deberawewa.

3. Mr. Bimal Indrajith De Silva,
District Secretary,
District Secretariat, Hambantota.
4. Mr. I.L. Wickramanayaka,
Divisional Secretary,
Divisional Secretariat,
Tissamaharama.
5. Mr. Chandana,
Land Officer,
Divisional Secretariat,
Tissamaharama.
6. Mr. S. Aloka Bandara,
Secretary,
Ministry of Public Administration,
Home Affairs,
Provincial Councils and Local
Government,
Independence Square, Colombo 07.
7. Mr. Nimal Shantha Dikkubura,
No. 728, Senapura, Tissamaharama.
8. Ms. Gunaseeli Dikumbura,
No. 728/3, Senapura,
Tissamaharama.
9. Ms. S Kusumawathi,
No. 728/1, Senapura,
Tissamaharama.
10. Y.G Gnanathilaka,
Surveyor General,
Survey Department of Sri Lanka,
No. 150, Bernad Soysa Road,
Narahenpita, Colombo 05.
11. Senior Superintendent of Surveys,
District Survey Office,
Hambanthota.
12. Assistant Land Commissioner,
Deputy Land Commissioner's

Office,
Hambantota.

RESPONDENTS

Before: Dr. D. F. H. Gunawardhana, J.

Counsel:

Sapumal Bandara instructed by Thavisha Hettiarachchi for the Petitioner.

P. Jayasuriya, SC for the 1st - 6th Respondents.

W. Dayaratne, PC with Ranjika Jayawardene for the 7th - 9th Respondents.

Supported on: 09.03.2026

Order delivered on: 28.07.2026

Dr. D. F. H. Gunawardhana, J.

Order

Introduction

The Petitioner in this Application is seeking to obtain a right over a State land which had once been depicted as a roadway in the Final Village Plan (**P1**); but later, the same had been annexed to a land for which a permit has been issued by the Government to the 7th and 8th Respondents.

This was supported on 28.07.2026; hence, this order.

The Petitioner's position

The Petitioner claims that he is 70 years old and has been residing since birth in the plot of land depicted as Lot 472 of the village plan bearing No. 627, same land is depicted as Lot No. 141 of the Cadastral Map bearing No. 830072, a copy of the village plan is marked as **P1**, and the cadastral plan is marked as **P2**, annexed to the Petition respectively.

The Petitioner claims that the Petitioner's mother, one Ensohamy, had been in occupation of the said Lot No. 472 depicted in the village plan marked **P1**, and that a grant had been issued to her in terms of the Land Development Ordinance; the said grant is marked as **P3**. According to him, the said land is bounded in the North by the land of S.P Niyodis (Lot No 471), East by a roadway, South by another roadway, and West by the land of N. T. Premadasa.

The Petitioner further states that in the cadastral map marked as **P2** annexed to the Petition, the said Eastern boundary, which is identified as a roadway, is not depicted. In addition to that, the Petitioner asserts that the said roadway had been encroached upon by the 7th and 8th Respondents and have annexed it to their parcel of land for which has now been issued with permits by the 3rd Respondent.

Therefore, the Petitioner had made a police complaint marked as **P4**. In addition, there are several police complaints made by the villagers are marked as **P5(a)** to **P5(d)** annexed to the Petition, which was made by the Petitioner.

In addition to that, the Petitioner asserts that he made complaints to the 4th Respondent to take action against the 7th and 8th Respondents. Nevertheless, there was no positive response. Therefore, he made a complaint to the 3rd Respondent; thereafter, the 3rd Respondent directed the 4th Respondent to look into the matter, and accordingly investigations were carried out by the 4th Respondent.

Further, there is a report made by the predecessor of the 4th Respondent, which is marked as **P7**. Upon the 4th Respondent's report, another complaint was made to the 3rd Respondent. Thereafter, on the directions of the 6th Respondent, the Additional Secretary, it was decided that a site inspection be carried out, and accordingly **P9** was issued.

However, consequent to the site inspection conducted by the 4th Respondent, the letter marked as **P10** was issued. According to **P10**, although there may have been a roadway depicted in the final village plan prepared by the Surveyor, there is no such roadway depicted in the cadastral plan; however, the 7th and 8th Respondents have annexed the said so-called roadway depicted in the final village plan to the land now in their possession, and they have paid the rent for the entire land including the annexed area; accordingly, permits have been issued. Since the Petitioner has access from the South and North to his land, the same letter indicates that there is no necessity for him to have a roadway on the Eastern boundary of the Petitioner's land.

The Petitioner's grievance

Thereafter, following several complaints made by the Petitioner, a committee was appointed to inquire into his application. Accordingly, the members of the committee were the Senior Superintendent of Surveys and the Additional Commissioner of Lands, and they prepared the

report marked as **P14**. However, despite the recommendation in **P14** to provide the said roadway to the Petitioner for his use, the 1st Respondent issued the letter marked as **P15**, stating that it was decided that the Petitioner cannot be given the roadway. It is further stated that, since the 7th and 8th Respondents had paid the rental, they had been issued with permits in respect of that area of the roadway which had been annexed to the bare land not possessed by the 7th and 8th Respondents.

It was further stated that the Petitioner had been allotted in excess of 13.4 Perches, and if he wished, he could have a roadway from his own land. The Petitioner challenges the same in this Application.

Objections

This Application was vehemently objected to by the Respondents and, as I mentioned above, it is the Respondents' argument that, if at all the Petitioner claims that a right had accrued to him over State land, he should have established that right in the District Court and not in this Court. It is further contended that the relevant authority had already taken a decision on the matter based on the cadastral plan prepared and marked as **P2** in 2009.

In addition to that, it is also argued for and on behalf of the 7th and 8th Respondents that there is no necessity for the Petitioner to have a roadway on his Eastern boundary, whereas he has access to the main road from both his Southern and Northern boundaries. It was further argued that, although the 7th and 8th Respondents have annexed the said portion of land depicted as a roadway to their land, since there was no proper demarcation at that time, and they have always cultivated that area as well. They have been paying rent in respect of the same. Therefore, the Respondents seek refusal of the issuance of notice and dismissal of this Application *in limine*.

On a perusal of the documents, it is my view that, although the Petitioner claims that he and his mother had been using the roadway on the Eastern boundary and that had been shown in

the Survey General's final village plan marked as **P1**, there is no right of way or access given in the deed itself issued to the Petitioner, which is marked as **P3** being a Crown grant.

Even the exact plot of land has not been identified in the said grant, except by a mere reference to the land, which is also identified by lot numbers. Nevertheless, if the Petitioner claims that he had been given Lot No. 142 of the **P2**, the cadastral plan. There is no roadway identified on the Eastern boundary in that plan, except the roadway identified on the Southern boundary, which the Petitioner admittedly has as access to the main road. There is also a roadway on the Northern boundary, which never existed when **P1** (village plan) was prepared. Therefore, there is no necessity to have a roadway on the Eastern boundary, which would only connect the northern and southern roadways, both of which appear to be wider roadways providing access to the main road; and both roads are abutting the Petitioner's land.

However, in the meantime, as there was no roadway demarcated in **P2**, the 7th and 8th Respondents appear to have annexed the said portion of land to their land, which is State land, and they have now fenced it off. In respect of that land, permits have been issued to them, and they now possess on valid documents establishing their entitlement, for which they have been paying rent to the Government, being the authority in respect of State land. Therefore, if the Petitioner claims that any rights have accrued to him, he should establish such common law rights before the relevant court and not in a writ court.

Accordingly, the Government authority, particularly the 1st Respondent, being the authority over the State land, has taken a decision not to allot or reserve any roadway access on the Eastern boundary of the Petitioner's land, which the Petitioner claims had been shown in the Survey General's plan marked as **P1** but not in the cadastral plan reflected in **P2**.

Therefore, it is my view that even notice should not be issued in this matter, since the Petitioner has not made out a *prima facie* sustainable case which he can maintain against the Respondents.

Conclusion

Accordingly, it is my view that the above-mentioned circumstances compel me to refuse formal notice and dismiss this Application *in limine*, without costs.

JUDGE OF THE COURT OF APPEAL