

**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.*

Gallage Lantis,
No. 154 B4,
Kahadawa South,
Ranna.

CA (Writ) App. No. 639/2025

PETITIONER

Vs.

1. Iresha Liyanagama,
Divisional Secretary,
Divisional Secretariat Office,
Tangalle.
2. S.A.N. Siriwardana,
Commissioner of Land,
Land Secretariat Office,
No. 1200/6,
Rajamalwatta,
Battaramulla.
3. Hon. Attorney General,
Attorney General's Department,

Hulfsdorp,
Colombo 12.

4. Pantis Gallage,
Pokunugoda,
Rekawa,
Netolpitiya.

RESPONDENTS

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

Counsel:

Chandana Dias with Maheesha Dushyanthi instructed by K.C. Govinnage for the Petitioner.

Sachith Fernando, S.C., for the 1st to 3rd Respondents.

Wasantha S. Widanage instructed by T. Jayawardene for the 4th Respondent.

Supported on: 15.10.2025

Order delivered on: 05.12.2025

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

Order

Introduction

Paranamanage Sarlenchihamy was once issued a permit under the Land Development Ordinance (hereinafter referred to as “the Ordinance”. Thereafter, her possession was legalized by the issuance of a grant marked as **P2**, annexed to the Petition. Sarlenchihamy had several children, and she died in 1996. Thereafter, the Petitioner as a child of Sarlenchihamy, sought to succeed to her rights in place of Sarlenchihamy since her spouse had also not succeeded to her rights. The 4th Respondent, who is also a child of Sarlenchihamy and a sibling of the Petitioner, claimed rights to the same land; therefore, several inquiries were held. After the said inquiries, the 1st Respondent finally decided to hold an inquiry by **P18**. In those circumstances, the Petitioner is now challenging **P18** on the basis that he is entitled to succeed to the rights of Sarlenchihamy.

Accordingly, the following arguments were advanced in support on 24.11.2025.

Arguments

The thrust of the main argument advanced by Mr. Dias, Counsel for the Petitioner, is that the Divisional Secretary has taken a decision without considering the nomination effected by the Petitioner’s mother who nominated the Petitioner right from the beginning, and which stands uncanceled even to date. Therefore, he argued that the cancellation of issuing a permit to the 4th Respondent applying Section 68 of the Ordinance is erroneous. In addition, that he argued that **P13** itself is contradictory per se, since on his own showing, sufficient evidence has not been adduced before him to issue a permit in favour of the 4th Respondent. Thus, a writ lies in this case to quash the decision contained in **P18**.

However, the learned State Counsel, Mr. Sachith Fernando, argued that though initially the 1st Respondent, the Divisional Secretary, had not taken a decision on the evidence placed before him by both parties, namely the Petitioner and the 4th Respondent. Later, after having considered the documentary evidence of the receipts, acreage taxes, and other documentary evidence, the 1st Respondent has taken the decision to issue the permit to the 4th Respondent. Therefore, no writ lies in this case quashing the decision contained in **P18**. In addition to that, she argued that the Petitioner is seeking to invoke the writ jurisdiction of this Court after 20 years of non-possession of the land in question. Therefore, after the death of the mother (the original grantee), the Petitioner should have, within 6 months, commenced possession. Since he has failed to do that, in terms of Section 68 of the Ordinance, after inquiry, the 1st Respondent has decided to issue the permit in favour of the 4th Respondent, which is justified.

On the other hand, it was argued for and on behalf of the 4th Respondent that subsequent to **P18**, a permit was already issued with a letter; however, he was unable to file even limited objections along with that. Therefore, even if the order contained in **P18** is issued, the other letter by which the 1st Respondent decided to issue the notice still remains. Therefore, that prevails over all other things. As such, even if the writ is issued, it will render everything nugatory as there is some document prevailing over all others.

Factual matrix

Sarlenchihamy has passed away in 1996, according to her death certificate filed by the Petitioner marked as **P3**, annexed to the Petition. Thereafter, for the first time, the Petitioner has made an application in 2020 by **P4**, to succeed to the rights of the said Sarlenchihamy followed by **P5**, also an appeal made by the Petitioner to the District Secretary. Thereafter, the Divisional Secretary has

issued **P6**, stating that the Petitioner has been named as the successor, and those correspondence have been followed by **P7**, another appeal made by the Petitioner to the District Secretary, and the District Secretary has written to the Divisional Secretary informing her to make a suitable order.

Thereafter, certain official correspondence has taken place as borne out by **P9**, **P10**, and **P12** between the District Secretary, Divisional Secretary and the Commissioner of Lands. However, finally, due to all appeals made by the Petitioner, the Divisional Secretary has made an inquiry, and according to the inquiry, the original grant had been issued to Sarlenchihamy by the original grant bearing No. ൪൫/ ൫൦/ 358, and she had nominated the Petitioner as the successor.

However, the Petitioner has not succeeded to Sarlenchihamy's rights within 6 months, in terms of Section 68 of the Ordinance. Nevertheless, another son of Sarlenchihamy, who is the 4th Respondent, had been in possession of the land for a long time and also cultivated it and developed it; he has also paid the acreage tax. In addition to that, two Grama Sevakas have given reports stating that the 4th Respondent has been in possession of the land in suit. The two Grama Sevakas who have issued those certificates, had served in the area where the land is situated at different times.

Nevertheless, another son of Sarlenchihamy has made an appeal to the Divisional Secretary nominating his son, Ishan Gallage, to be the successor; however, Ishan Gallage is also not entitled to succeed since he has never possessed the land in suit. Therefore, it is the decision of the Divisional Secretary that the 4th Respondent should succeed to the rights of the late Sarlenchihamy, who was the original grantee of the parcel of land in suit.

Accordingly, if the **P18** is disputed, evidence must be gone into. However, it is very clear, according to **P18**, that the Divisional Secretary has inquired into the appeals made particularly by

the Petitioner, and having heard other parties as well, she had come to the conclusion that only the 4th Respondent has been possessing the land after the mother's death and succeeded to the rights as a child of the original grantee, late Sarlenchihamy, and having paid acreage taxes, developed and possessed the land, he has succeeded thus; therefore, he is entitled to succeed to her rights.

However, if the Petitioner disputes that, more evidence must be gone into, and he has not placed such evidence before the Divisional Secretary; if at all, it can be done in a District Court case.¹ Therefore, this Court cannot go into evidence other than what is placed before us in this writ application. Accordingly, it is my view that this Application should be dismissed.

Conclusion

For the reasons adumbrated by me, it is my view that no writ lies; as such, this Application is liable to be dismissed. Accordingly, leave is refused and the Application is dismissed *in limine*.

JUDGE OF THE COURT OF APPEAL

¹ *Thajudeen v. Sri Lanka Tea Board and Another* [1981] 2 Sri LR 471.