

**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.*

1. Galbokka Hewage Chamith Lasantha,
No. 363, Aluthgedarawaththa,
Duwa Malalgama,
Habaraduwa.
2. Galbokka Hewage Ranil Prasanna,
Elthotawaththa, Duwa Malalgama,
Habaraduwa.

CA (Writ) App. No. 730/2025

PETITIONERS

Vs.

1. Prof. P.B. Terney Pradeep Kumara,
Director General,
Coastal Conservation and Coastal
Development Department,
4th Floor, Ministry of Fisheries
Building,
New Secretariat,
Maligawatta, Maradana,
Colombo 10.
2. Eng. Mrs. L.D. Ruhunage,
Additional Director General,

Coastal Conservation and Coastal
Development Department,
4th Floor, Ministry of Fisheries
Building,
New Secretariat,
Maligawatta, Maradana,
Colombo 10.

3. Eng. Dr. T.L.C. Vinod,
Area Engineer,
Galle District Office of the Coast
Conservation and Coastal Development
Department,
No. 274, Peelagoda,
Unawatuna.
4. W.K.G. Pushpakumara,
Assistant Director,
Galle District Office of the Coast
Conservation and Coastal Development
Department,
No. 274, Peelagoda,
Unawatuna.
5. U.G. Ranjith Ariyaratne,
Secretary,
Ministry of Urban Development,
Construction and Housing,
12th Floor, Sethsiripaya, Stage II,
Battaramulla.
6. N.D. Namarathna,
Additional Secretary,
Ministry of Urban Development,
Construction and Housing,
12th Floor, Sethsiripaya Stage II,
Battaramulla.
7. Hon. Anura Kumarathilaka,
Minister of Urban Development and
Housing,

Ministry of Urban Development,
Construction and Housing,
12th Floor, Sethsiripaya Stage II,
Battaramulla.

8. Hon. Attorney General,
Attorney General's Department,
Hulfsdorp,
Colombo 12.

RESPONDENTS

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

Counsel:

Upul Kumarapperuma, P.C. with Duvini Godagama, K.H. Dilrukshi and Adithya
Karalliadde instructed by U.M. Darshika Nayomi for the Petitioners.

Jemial Sahouja, S.C. for the Respondents.

Supported on: 09.03.2026

Order delivered on: 30.04.2026

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

Order

Introduction

By this Application the Petitioners challenge the notices issued under Section 31(2) of the Coast Conservation and Coastal Resource Management Act, No. 57 of 1981 (as amended) (hereinafter referred to as “the Act”) by the competent authority. In addition to that, the Petitioners challenge the rejection of their appeal to the Secretary of the line ministry.

When this came up for Support, the Respondents also filed their Limited Objections prior to Support and vehemently objected to the issuance of formal notice. The following arguments were advanced at the Support stage before me on 09.03.2026 by the counsel; hence, this order.

Arguments

First argument advanced by Mr. Kumarapperuma, P.C., is that the possession of the Petitioners, their father, and even their grandfather had been established by **P1(a)**, **P1(b)**, **P1(c)**, and **P6(a)**, and **P3**, and from 1973, which was established by the document marked **P3** annexed to the Petition.

Further, Mr. Kumarapperuma argued that the Act stipulates only the removal of unauthorized structures after 1983, as per the documents marked **P17** and **P18**. Therefore, the issuance of **P34** is illegal, and a *Writ of Mandamus* lies, therefore a structure built prior to 1983 cannot be removed.

On the other hand, Ms. Sahouja, S.C. argued that the Petitioners are now trying to circumvent the order given in respect of the documents marked **P17** and **P18**, where the Petitioners, in an earlier

application, challenged the same and the said application was dismissed by this Court. Pursuant to **P17** and **P18**, **P34** has now been issued giving further notice to remove the unlawful structure.

Ms. Sahouja further argued that, in fact, the Petitioners themselves have referred to how they effected unauthorized structures from time to time, starting from paragraph 12 of the Petition. Therefore, Ms. Sahouja's argument is that the Petitioners cannot now circumvent what has already been decided by this Court in dismissing the Application in which the Petitioners challenged **P17** and **P18**, thus the document marked **P34** is a document issued pursuant to **P17** and **P18**.

The Petitioners' position

The 1st and 2nd Petitioners are two brothers. According to the Petition, the Petitioners' paternal grandfather had been a fisherman who engaged in "still fishing" in the Habaraduwa area. Since around 1960, he had been fishing from the shore and, according to them, he used and possessed the land in question to store his fishing utensils and gear in a temporary hut constructed by him. Thereafter, certain other fishermen in the area joined him and used the same hut, and through their grandfather, they too were in possession of the same.

Subsequently, the grandfather converted the said hut standing on the premises into a boutique with a cafe. Thereafter, the Petitioners' mother, who inherited the property after the grandfather, divided the entire land into three lots, namely Lot A, Lot B, and Lot C as depicted in the plan marked as **P11**. Lot B was given to the 1st Petitioner by Deed marked as **P13**, while Lot A was donated to the 2nd Petitioner by Deed marked as **P12(a)**. Lot C was reserved as a common pathway used by both Petitioners to have access to the beach. According to the Petitioners, they developed huts standing on the land into permanent buildings and commenced two separate cafe businesses. The building

on Lot No. B is possessed by the 1st Petitioner, while the building on Lot No. A is possessed by the 2nd Petitioner, and they have been carrying on their respective businesses therein.

The Petitioners further state that their predecessors had engaged in several correspondences with government authorities when there were various nuisances and resistance faced by them from different parties, including rival fishermen from other areas and certain owners of nearby tourist hotels. Be that as it is, although those documents are marked as annexures to the Petition, I will refer only to the documents which are relevant to the issues before me.

The Petitioners' grievance

Thereafter, in 2023, the predecessor of the 1st Respondent, being the Director General of Coast Conservation, acting in terms of Act No. 57 of 1981, issued notices in terms of Section 31(2) to the Petitioners, requiring them to remove the unauthorized structures constructed on their respective plots of land. The notices so sent are annexed to the Petition marked as **P17** and **P18**.

The Petitioners appealed against the said order in terms of Section 31(3) by **P19**. Nevertheless, their appeal was dismissed, as evidenced by the documents marked as **P22** and annexed to the Petition. Thereafter, the Petitioners instituted a Writ Application in this Court bearing No. 507/2023, marked as **P24(a)**; however, upon hearing at the support stage, the said application was dismissed as per the document marked as **P27** annexed to the Petition.

Thereafter, no further action was taken, and the Petitioners continued to remain in possession, as no steps had been taken following the said judgment to remove the structures constructed on the respective parcels of land possessed by them. In the meantime, in 2024, by documents marked as **P28**, the 1st Respondent again issued notices to the Petitioners in respect of their respective lands, requiring them to remove the unlawful constructions effected thereon. Once again, they appealed

in terms of Section 31(3), by the document marked as **P30**, to the Secretary to the Ministry under whose purview the subject matter falls; however, the said appeal too was rejected. Thereafter, notice under Section 31(4) was issued to the Petitioners in order to avoid any further expenses incurred upon the removal of unauthorised constructions, as reflected in the document marked as **P34**.

Relief sought

Thereafter, the Petitioners instituted the above-styled application challenging the said notices. In this Application, the Petitioners have accordingly prayed for *inter alia* the following relief;

“b) Issue a mandate in the nature of Writ of Certiorari to quash the,

- i. The decision by the 1st Respondent embodied in the document marked as P17,*
- ii. The decision by the 1st Respondent embodied in the document marked as P18,*
- iii. The decision by the 1st Respondent embodied in the document marked as P28,*
- iv. The decision embodied in the document issued by the 6th Respondent on behalf of 5th Respondent marked as P22,*
- v. The decision embodied in the document issued by the 6th Respondent on behalf of 5th Respondent marked as P23,*
- vi. The decision embodied in the document issued by the 6th Respondent on behalf of 5th Respondent marked as P34,*

c) Issue a mandate in the nature of Writ of Mandamus, compelling the 1st Respondent to issue a Permit in terms of Section 14 of the Coast Conservation and Coastal Resources Management (Amended) Act on the basis that the premises owned by the Petitioners have been built before the appointed date 01.10.1983,”

According to the reliefs sought and the averments in the Petition, the Petitioners have challenged several notices, including those issued in this instance and the notices issued subject in the earlier case marked as **P17** and **P18**, as well as the rejection of their appeals by the letters marked as **P22** and **P23**, and the rejection of the appeals in respect of the documents marked as **P34**.

The Respondents' Objections

However, prior to support, the Respondents filed their Limited Objections, vehemently objecting to the issuance of notice. According to their Limited Objections, they have filed several documents marked as **R1** to **R5(h)**.

In their Limited Objections, the Respondents have stated that the area in which the Petitioners have effected the unauthorized constructions falls within the setback area identified as 'segment 31'. It is further stated that, under the Coast Conservation and Coastal Resource Management Act, No. 57 of 1981, the authorities have identified and mapped different coastal zones.

According to the Respondents, any coastal area comprises two main categories, namely, the reserved area and the restricted area. In the reserved area, no person is permitted to effect any improvements whatsoever. In contrast, within the restricted area, improvements may be carried out only upon obtaining the requisite permission.

However, the Respondents contend that the Petitioners have effected improvements within both the reserved area and the restricted area without obtaining any such permission after the Act came into operation. Therefore, such constructions are required to be removed. Accordingly, the Respondents initially issued notices under Section 31(2), marked as **P17** and **P18**, requiring the removal of the said constructions. These notices were challenged in the case bearing No. CA Writ Application 507/2023. However, even after the dismissal of that application, the Petitioners have

allegedly effected further improvements, including the construction of a deck and certain additional structures.

Thereafter, the Respondents issued further notices under Section 31(2) to both Petitioners, marked as **P28**.

Subsequently, upon inspection, it was observed that some of the constructions had been removed, while certain other constructions still remain. Therefore, the Respondents contend that the Petitioners cannot maintain this application on that basis.

No permit produced

According to Section 14, no person is entitled to effect any improvements within the coastal zone without a valid permit. For further clarity, Section 14 of the Act reads thus;

“14. (1) Notwithstanding the provisions of any other law, no person shall engage in any development activity other than a prescribed development activity within the Coastal Zone except under the authority of a permit issued in that behalf by the Director.

(2) The Minister may, having regard to the effect of those development activities on the long-term stability, productivity and environmental quality of the Coastal Zone, prescribe the categories of development activity which may be engaged in within the Coastal Zone without a permit issued under subsection (1).

(3) An application for a permit to engage in any development activity within the Coastal Zone shall be made to the Director in the prescribed manner. Every such application shall be in the prescribed form, shall contain the prescribed particulars and be accompanied by the prescribed fee.”

A valid permit can only be issued on an application made in that behalf by the Director General. Additionally, the Director General can issue such permits subject to certain conditions¹. An application for such a permit, will first be assessed and then issue the permit after considering the impact on the environment by such development².

On the Petitioners' own showing, from paragraph 12 of the Petition, they have effected various constructions in the land in suit; particularly, according to paragraph 21 and 22 of the Petition, the Petitioners state that having erected certain buildings on the two plots of land marked as Lots A and B of **P11**, the Petitioners are carrying on the business of two cafes. This itself shows that they have erected unauthorised construction as none of the Petitioners have placed any document before this Court to establish the fact that they have obtained the necessary permits to erect such buildings.

Therefore, it is my view that the opinion formed by the 1st Respondent as the competent authority is justifiable, and therefore, the issuance of notices under Section 31(2) of the Act is also justifiable.

The 1st Respondent's empowerment

Nevertheless, as the matters have transpired in this case, what is more important is that the Petitioners have obtained permission to effect improvements or constructions on the setback area as identified by the competent authority, who is the 1st Respondent to this Application and by whom the notice under Section 31(2) has been issued to the Petitioners marked as **P28**. Therefore, it is my view that the Section 31(2) notices issued by the 1st Respondent based on the identification that the Petitioners have effected improvements on the setback areas identified as the 'reservation area' and 'restricted areas', since the Petitioners have effected so without any permit obtained under

¹ Section 15 of the Coastal Conservation and Coastal Resource Management Act, No. 57 of 1981.

² Section 16 of the Coastal Conservation and Coastal Resource Management Act, No. 57 of 1981.

Section 14 of the Act. As such, if somebody has improved or made any construction on the setback area without any permit, then such construction is liable to be removed or demolished by the competent authority because there is a duty cast upon the competent authority to do so.

In addition to that, the Petitioners have not made any other valid document to establish on what basis they are possessing the land, except mere documents of correspondence exchanged between the government authorities and the Petitioners. In fact, the Petitioners themselves have stated that their predecessors-in-title have been allocated separate lands in some other area which they had abandoned. Now the Petitioners claim that their predecessors-in-title have come back and possessed these two parcels of land in question that the Petitioners claim that they have been gifted thereafter.

Accordingly, it is very clear that the Government has taken proper steps to remove the Petitioners from the land in question and given their predecessor-in-title land elsewhere as an alternative accommodation. As such, the Petitioners are not entitled, even on merits, to maintain this Application. Therefore, it is liable to be dismissed.

Res judicata

I shall now consider whether the Petitioners are entitled to the issuance of notice in the given factual scenario.

As the Petitioners presented to the this Court, it is my view that they are, not only, seeking to challenge the subsequent notice issued under Section 31(2), even the previous two notices and the order rejecting their appeals marked as **P22** and **P23** that arose from those notices marked as **P17** and **P18**, the Court has already decided on that. However, now through this Application, the

Petitioners are trying to circumvent what is decided in the previous case as well, as reflected in the order of this Court in **P27**.

As such, it is my view that the Petitioners have not even made out a *prima facie* case to issue formal notice.

Conclusion

For the reasons adumbrated above, the issuance of formal notice is refused, and this Application is dismissed without costs.

JUDGE OF THE COURT OF APPEAL