

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF
SRI LANKA

In the matter of an Application under Article
140 of the Constitution for a mandate in the
nature of Writs of *Certiorari* and *Mandamus*.

Court of Appeal Case No:
CA/WRIT/111/2026

Harischandra Senarath Rathnayake,
Aluth Walauwa,
Moraketiya Road, Pallegama,
Embilipitiya.

PETITIONER

Vs.

1. G.M.S.N. Gunasekara,
Resident Project Manager,
Sri Lanka Mahaweli Authority,
Walawa, Embilipitiya.
2. Mr. H.M.J.K. Herath,
Director General,
Sri Lanka Mahaweli Authority,
T.B. Jayah Mawatha,
Colombo 10.
3. Mr. K.G.S. Nishantha,
District Secretary (GA),
District Secretariat,
Rathnapura.

4. Hon. Mr. K.D. Lal Kantha,
Minister,
Ministry of Agriculture, Livestock,
Lands & Irrigation,
“Mihikatha Madura”,
No. 1200/6,
Rajamalwatta Road,
Battaramulla.
5. Mr. D.P. Wickramasinghe,
Secretary,
Minister, Ministry of Agriculture, Lands
& Irrigation,
“Mihikatha Madura”,
No. 1200/6,
Rajamalwatta Road,
Battaramulla.
6. Learned Magistrate,
Magistrate Court,
Embilipitiya.
7. Registrar,
Magistrate Court,
Embilipitiya.
8. Hon. Attorney General,
Attorney General’s Department,
Colombo 12.

RESPONDENTS

Before: Mayadunne Corea, J
Mahen Gopallawa, J

Counsel: Lakshan Dias with Yashodara Illangasinghe for the Petitioner.
Shellomy Gunaratne, S.C. for the 1st, 2nd and 6th to 8th Respondents.

Supported on: 01.06.2026 and 09.06.2026.

Decided on: 31.07.2026.

Mayadunne Corea J

The Petitioner in this application sought, *inter alia*, the following reliefs:

- “b) Grant and issue an order in the nature of a Writ of Certiorari to quash the quit notices dated 01.10.2024 marked P2(a) and P2(b) issued by the 1st Respondent, Mr. Ruwan Buddhika Punchihewa
- c) Grant and issue an order in the nature of a Writ of Certiorari quashing the proceedings/orders of the Magistrate court of Embilipitiya in case bearing number 15821/24”

The facts of this case, in brief, are as follows. The 1st Respondent Resident Project Manager issued the Petitioner with two quit notices marked P2a and P2b dated 01.10.2024 in respect of lots 774 and 775. The Petitioner states that he is only in possession of lot 774, and lot 745 is adjacent to the Petitioner’s land. However, it is alleged that quit notices for both lots were placed on lot 774, the Petitioner’s land.

The Petitioner also contends that lot 744 is a private land. According to the Petitioner, the Mahaweli Authority had on several occasions asserted that the Petitioner’s land was taken over by the State by virtue of Gazette no. 137 dated 16.04.1981. The Petitioner denies this position by stating that the property was never acquired under the Land Acquisition Act.

The Petitioner further states that the Mahaweli Authority has not taken steps to publish a notice under section 24 of the Mahaweli Authority Act No. 23 of 1979 to obtain possession of his land. The Petitioner also contends that by letter P11 dated 04.12.2013, the authorities have acknowledged that lot 774 as a private land.

Nevertheless, on 08.01.2025, the Petitioner was served with summons to appear in the Magistrate's Court of Embilipitiya on 17.01.2025, in respect of an application made by the 1st Respondent seeking an order of eviction against the Petitioner. Hence, this Writ application.

The Petitioner's contention

The Petitioner challenged the acts of the Respondents on the following grounds:

- The Respondents failed to identify the proper boundaries prior to the issuance of the quit notices.
- The authorities have failed to comply with the provisions of section 24 of the Mahaweli Authority Act.
- The 1st Respondent does not have capacity to issue quit notices as he is not a 'competent authority' within the meaning of the section 18 of the State Lands (Recovery of Possession) Act.
- Lot 774 is a private land owned by the Petitioner.

The Respondents' contention

The Respondent raised the following objections:

- The land the Petitioner seeks is settled in favour of State. Hence, it is State land.
- The quit notice has been issued by the Resident Project Manager of the Mahaweli Authority who is the duly empowered competent authority. Hence, there is no illegality in the quit notice marked P2a.

Analysis

I will now consider the Petitioner's contention along with the objections raised by the Respondents.

In summarising the Petitioner's contention, it appears that the Petitioner narrowed his submissions to two main grounds; firstly, it is his contention that the quit notice is bad in law as the said corpus is not State land, secondly, it is contended that the quit notice is bad in law as it is not signed by the authorised competent authority. Upon objections raised by the State in view of the document P12c, the Petitioner at the commencement of his submissions, conceded that the corpus is State land and is settled in favour of the State by the Land Settlement Order published in the Government Gazette no. 109 dated 26.04.2024 marked as P12c. Hence, this Court now has to determine whether the quit notice issued under P2a has been issued by the duly authorised competent authority.

The Petitioner also conceded that although in the Petition he is challenging two quit notices marked as P2a and P2b, he concedes that P2b is not pertaining to the land that he is in possession of, but is the adjoining land, and, therefore, is not seeking to pursue his relief for a Writ of Certiorari to quash quit notice P2b.

It is also not in dispute that the Petitioner does not have a valid authorisation to occupy a State land.

The quit notice P2a

The quit notice P2a has been signed by one R.B. Punchihewa as the Resident Project Manager, Sri Lanka Mahaweli Authority, Special Areas. The said quit notice is dated 01.10.2024 and in the Schedule, the boundaries for the corpus are specified. As per the Schedule, the quit notice pertains to lot no. 774 of the final village plan no. 778 (additional 2). It is not disputed that the said lot falls within lot no. 205. The Petitioner concedes that lot no. 205 has been settled in favour of the State. The quit notice has been sent under the State Lands (Recovery of Possession) Act. Section 3 of this Act contemplates, where a competent authority is of the opinion that the land is State land and any person is in unauthorised possession or occupation of such land, to serve a quit notice on such person

to vacate the said premises on the date contemplated in the quit notice. However, the notice should specify the date that the illegal occupant should vacate the premises and it should not be less than 30 days from issuance of the notice. It appears that the date of issuance of the quit notice is 01.10.2024 and the Petitioner has been requested to vacate the premises on or before 04.11.2024 which is in compliance with the time period stipulated in the Act. The issue the Petitioner contended was that the competent authority who has signed the quit notice does not fall within the meaning of competent authority under section 18 of the State Lands (Recovery of Possession) Act. Let me now consider this objection.

Section 18(h) states as follows:

“(h) the head of any other Government Department or Institution being a department or institution created by law, where such land is under the control of a local authority”

Section 18(l) states as follows:

“(l) an officer generally or specially authorized by a corporate body, where such land is vested in or owned by or under the control of, such corporate body”

It was the contention of the State Counsel that the land falls within the two above contemplated subsections of the State Lands (Recovery of Possession) Act as the land is within the Mahaweli Development Area. The Petitioner does not contest the said submission. However, it is his contention that the particular Resident Project Manager who has signed the quit notice has not been empowered or vested with the power by the Director General of the Mahaweli Authority. It is not disputed that the land, being State land, falls within the State Lands (Recovery of Possession) Act and that the Director General of the Mahaweli Authority has power to evict illegal occupants. However, in exercising the said powers, the Director General should authorise the person signing the quit notice and it is his contention that there is no such authorisation. Hence, the delegation of power from the Director General to the Resident Project Manager is not available in this instance. In response, the learned State Counsel submitted, with the approval of this Court and with the consent of the Petitioner, a letter that had been signed by the Director General of the Mahaweli Authority which has been marked as F along with the motion dated 27.04.2026. In the said motion, the Respondents have produced Gazette no. 137 dated 16.04.1981 which declares the land where the corpus is situated as a special area under the Mahaweli Authority Act and also a letter addressed to one G.M.S.N. Gunasekera, Resident Project Manager, empowering him to act under the State Lands (Recovery of Possession) Act.

However, as correctly pointed out by the Counsel for the Petitioner, the person who has signed the quit notice does not bear the name reflected in the letter of authorisation as P2a but is signed by R.B. Punchihewa. However, the learned State Counsel submitted that this authorisation letter has been inadvertently filed.

Subsequently, having acquired the permission of the Court, and without the objection of the Petitioner, the correct letter of authorisation was tendered to Court on 09.06.2026. This letter has been issued by the Director General authorising R.B. Punchihewa to act under the State Lands (Recovery of Possession) Act. Upon this letter being produced, it was further challenged on the basis that the delegation of power is still incorrect as it has to be signed by the Director General of the Mahaweli Authority in the presence of another Director. However, this Court observes that the said authorisation is issued under section 22(2) of the Mahaweli Authority Act. Section 22 of the Mahaweli Authority of Sri Lanka Act carries the marginal note “Special powers of authority in special areas”. The said section reads as follows:

“22. ...

- (2) *No authority, officer or person in which or whom any power or function is vested by any written law for the time being specified in Schedule B hereto shall, in relation to a Special Area, exercise or discharge any such power or function except for the purpose of executing or carrying out any arrangement or contract made by the Authority under section 14.”*

Schedule B of the Mahaweli Authority Act includes State Lands (Recovery of Possession) Act. Hence, it is competent for the Director General to empower the Resident Project Manager to delegate the power to act as a competent authority pertaining to taking possession of State lands which are in unauthorised occupation within the special areas designated under the Mahaweli Authority Act by acting pursuant to the State Lands (Recovery of Possession) Act, No. 7 of 1979 as amended.

Hence, in view of the above provision, the Petitioner’s contention that the proper delegation of power has not taken effect to authorise the signatory of P2a to execute the said quit notice cannot be sustained. Hence, the Petitioner’s main contention to seek a Writ of Certiorari to quash the said quit notice fails. As the Petitioner has conceded that he is not canvassing the quit notice P2b, this Court will refrain from making any observation pertaining to quit notice P2b.

Even though I have now dealt with the contentions raised by the Counsel for the Petitioner, for completeness, this Court wishes to make the following observations. It is observed, as conceded by all parties, the corpus described in the quit notice falls within lot no. 205 of final village plan no. 778 (additional 2). As per P12c, the lot 205 title is settled. I find that lot 205 in its entirety has not been vested in the State as small parts of lot 205 have been settled in favour of private parties. However, it is the duty of the Petitioner to establish that the corpus he claims belongs to him, is within a subsection which has been settled not in favour of the State but a private party, which the Petitioner has to do by adducing evidence in a proper forum. The Court has been informed that the Petitioner has already instituted action in the District Court of Embilipitiya to vindicate his title.

It is also observed that the corpus and the surrounding lots of land have been occupied by State institutions, for a long period of time. It has originally been given to the Ceylon Tobacco Company by the RVDB. The said company had occupied the land for a long period of time. It is pertinent to note that the said fact is not contested by the Petitioner. This militates against the Petitioner's claim. If the Petitioner was the owner, the Petitioner owes an explanation as to why he slept over his rights for such a long time and allowed the RVDB to lease out the land he claims is his own, to a State party.

Subsequent to the vacation of Ceylon Tobacco Company, the Petitioner claims that he occupies the premises that has been built for the purposes of the Ceylon Tobacco Company. The Petitioner has also without any explanation tendered documents marked P20(1) – (4), P24. It appears as per these documents, land has been acquired by the State and it appears that there had been an inquiry for payment of compensation under the Land Acquisition Act. The said inquiry has determined that the land belongs to the Land Reform Commission. And, as per the document P20(3), it has been decided that compensation has been paid to the Land Reform Commission. It is also observed that as per the letter P22, which is a letter addressed to the Attorney General by the Divisional Secretary, Embilipitiya, it is revealed that the Petitioner or his predecessor in title had not come forward to stake a claim to his title. The Petitioner failed to explain to this Court what these documents are or whether the acquired land contains the corpus that the Petitioner claims. Hence, this Court will not make any further observation on the said letters.

Conclusion

Considering all the material submitted to this Court and the submissions made, as I have deliberated above, the Petitioner's only contention of delegation of power fails, and therefore, in my view, the Petitioner has failed to establish a prima facie case that warrants issuance of notice on the Respondents. Hence, I decline to issue notice and proceed to dismiss this Writ application. However, this order and the findings should not be a bar for the Petitioner to proceed with the case in the District Court of Embilipitiya.

Judge of the Court of Appeal

Mahen Gopallawa, J

I agree

Judge of the Court of Appeal