

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 Writ of Certiorari.

Perumpura Devayalage Kumararatne,
Beerellapathana, 3rd Mile Post,
Passara Road,
Ella.

PETITIONER

Vs.

Court of Appeal Case No:
CA/WRIT/1224/2025

1. Dissanayake Mudiyansele Saman
Kumara Dissanayake,
Wildlife Ranger,
Wildlife Conservation Office,
12th Post,
Uva Karandagolla,
Ella.
2. Ranjan Marasinghe,
Director General (Acting),
Department of Wildlife Conservation,
No. 811/A, Jayanthipura,
Battaramulla.
3. The Hon. Attorney General,
Attorney General's Department,
Colombo 12.

RESPONDENTS

Before: Mayadunne Corea, J
Mahen Gopallawa, J

Counsel: Ranil Samarasooriya with Wimukthi Weragama and K. Tillekeratne instructed by Navoda Wanniarachchi for the Petitioner.
Shemanthi Dunuwille, S.C. for the Respondents.

Supported on: 26.05.2026.

Order delivered on: 26.06.2026.

Mayadunne Corea J

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

“Grant a mandate in the nature of a Writ of Certiorari quashing the Quit Notice dated 31.07.2025 issued by the 1st Respondent (appended marked A1).”

Factual matrix

The facts of the case, in brief, are as follows. It is alleged that the Petitioner’s father had come into possession of a parcel of land that had devolved on him from the Petitioner’s grandfather, who was the permit holder of the said land. The Petitioner alleges that he occupies a portion of land situated adjacent to his father’s land. However, he concedes that there is no fence or demarcation between his land and his father’s land. The Petitioner admits that neither he nor his father hold a deed to the said lands.

According to the Petitioner, the 1st Respondent approached his father and represented that he would assist them in obtaining a deed to the land, provided that they transferred the land to a third party introduced by the 1st Respondent. The Petitioner and his father declined to do so. The Petitioner states that, as a consequence, the 1st Respondent issued a quit notice

dated 06.08.2024 (marked B1) and instituted proceedings against him in the Magistrate's Court of Bandarawela bearing case no. 51280/WL.

Thereafter, the Petitioner filed a Writ Application in this Court bearing no. 180/2025. The said application was subsequently withdrawn, reserving the Petitioner's right to institute a fresh application, upon the assurance given by the 1st Respondent that the said quit notice and the proceedings pending before the Magistrate's Court of Bandarawela would be withdrawn. Instead, following the withdrawal of the said Writ Application, the 1st Respondent issued a further quit notice dated 31.07.2025 (marked A1) and instituted fresh proceedings against the Petitioner in the Magistrate's Court of Bandarawela bearing case no. 59170 on 10.09.2025. Hence, the Petitioner has instituted the present Writ Application.

The Petitioner's contention

The Petitioner challenged the acts of the Respondents, *inter alia*, on the following grounds:

- The Respondents have acted contrary to section 3 of the State Lands (Recovery of Possession) Act, No. 7 of 1979.
- The quit notice was issued against a party that is not in possession of the land described in the Schedule to the quit notice.
- The 1st Respondent had acted with interests of personal revenge against the Petitioner.
- The 1st Respondent is attempting to misuse the process of Court to achieve his ulterior motives.
- The acts of the Respondents are biased, arbitrary, malicious, capricious and tainted with illegality and *mala fide*, erroneous, *ultra vires*, unreasonable, bad in law, wrongful and contrary to law.

The Respondents' contention

The Respondents raised the following objections:

- The Respondents have sufficient material to establish unlawful possession and occupation.

- The Respondents have acted within the provisions of the State Lands (Recovery of Possession) Act.
- The Petitioner is guilty of suppression and misrepresentation of material facts.

Analysis

I will now consider the Petitioner's contention along with the Respondent's objections. The parties are not at variance on the following;

- The corpus in dispute is state land.
- Neither the Petitioner nor his father have a valid permit to occupy state land.
- Within the corpus there is a house constructed and used for tourism-related business purposes.

The Petitioner's main contention is that he is not in possession of the corpus. It is his contention that the person who possessed the corpus is his father. However, he concedes that being a carpenter, he was involved in the construction of the building within the corpus (paragraph 8 of the Petition). The Petitioner alleges that while the building was being constructed, the offices of the Department of Wildlife had arrived and it was his contention that he had been named in the quit notice. It was also his contention that before receiving the impugned quit notice marked as A1, he had received another quit notice marked as B1 and a case for eviction of the Petitioner had been filed under the State Lands (Recovery of Possession) Act. The Petitioner has invoked the Writ jurisdiction of this Court by case no. CA Writ Application 180/2025 challenging the quit notice and filing of action. It is his contention that the Respondents subsequently informed the Court that they will not proceed against the Petitioner in the Magistrate's Court and thereafter withdrew the quit notice, which led to the Petitioner to withdraw the said Writ application.

The proceedings of the said Writ application have been marked and tendered as B. This Court has considered the said document and finds that the Respondents in the said case had informed Court that they were withdrawing the quit notice that was impugned in the said application, while reserving the right to issue a fresh quit notice. The learned Counsel for the Respondent stated that due to defects in the said quit notice, the said quit notice had been withdrawn and subsequently, a new quit notice marked as A1 had been served on the Petitioner. Pursuant to the said quit notice, a case has been filed in the Magistrate's Court. It was further submitted that after hearing both parties, the Court had reserved the said case

for order. The learned State Counsel also tendered to this Court by way of a motion, a letter that has been issued by the Attorney General's Department advising the Director General of the Wildlife Conservation to withdraw the previous quit notice (R15).

Be that as it may, I will now examine the Petitioner's main contention.

The quit notice is bad in law

The Petitioner's main argument is that since he is not occupying the corpus, the Petitioner does not fall within the ambit of section 3 of the Act. This would be an ideal time to examine section 3(1) of the State Lands (Recovery of Possession) Act as amended.

"3. Section 3 of the principal enactment is hereby amended as follows:

(a) by the repeal of subsection (1) of that section and the substitution therefore of the following subsection: " (1) Where a competent authority is of the opinion

(a) that any land is State land; and

(b) that any person is in unauthorized possession or occupation of such land,"

For the competent authority to issue a quit notice, they must be of the opinion that the property constitutes state land

In this instance, the Petitioner has conceded that the corpus is state land. However, the bone of the contention of the Petitioner is that the second limb, which is section 3(1)(b) of the Act, does not encapsulate the Petitioner as he is not in possession or in occupation of such land. To establish the said contention, the Petitioner argues that he is not in possession of the corpus but is occupying an adjoining land. However, the Petitioner has failed to establish this argument with any material tendered to this Court. Further, upon inquiry the Petitioner conceded that even though the contention is that he is not in the corpus but occupying the adjoining land, there is no demarcation between the corpus and the so-called adjoining land. Hence, if the Petitioner is to succeed, he should establish by material tendered to this Court that the so-called adjoining land and the corpus are two different lands, which the Petitioner has failed to establish. Further, there is no defined boundary or demarcation to the so-called adjoining land that the Petitioner is occupying. It is observed

that the only boundaries of a land tendered to this Court is the boundary and the extent of the corpus in dispute.

The Petitioner contends the corpus is occupied by one Yasaratne who is the father of the Petitioner and he concedes that neither the Petitioner nor the father has any valid permit to occupy the state land. By paragraph 8(i) of the Petition, the Petitioner himself concedes that in the year 2014, the Petitioner being a carpenter was helping with the construction of a building purported to be for his father within the corpus. It is his contention that, at the time of construction, the 1st Respondent had visited the land and had seen him constructing the house. With this averment, the Petitioner himself concedes that he has been constructing on state land and that this had been observed by the 1st Respondent. The Petitioner himself concedes and states in paragraph 14 of the Petition that, subsequent to the construction, a building stands on the corpus, and a business of a “home-stay” is carried out on the corpus which caters to foreign visitors and the foreign visitors occupy the said premises.

It is observed by this Court that the Petitioner himself has produced several documents which are part and parcel of B8(ii), which are proceedings of a Magistrate’s Court case. As per letter dated 27.03.2017, the Divisional Secretary of Ella had informed the Forest Department that the Petitioner was constructing a building in the Forest Department land. Two months later, the Divisional Secretary of Ella had informed the Director General of Forests of a request made by the Petitioner’s father, among others, to release a portion of land on a permit to him. The learned State Counsel by way of a motion dated 22.05.2026 has filed several documents. The document marked as R5 is purported to have been sent by the Petitioner whereby he has made a complaint to the Divisional Secretary of the obstruction caused to the tourists who visit the corpus. The Petitioner, by the document marked as R6, had entered into an agreement to obtain electricity to the corpus. Most importantly, by the document marked and tendered as R7A, the Petitioner’s father has written a letter to the Superintendent of the Electricity Board where he states that the Petitioner, his son, has constructed a house on the premises occupied by the father Yasaratne and is giving his consent for the Petitioner to obtain electricity. Further, the Grama Niladari of the division by his letter dated 24.06.26 has reported that the Petitioner is in possession of the corpus. In 02.02.2017, R9 the Grama Niladari at the time, after a field inspection, had reported that the Petitioner is constructing a building on the corpus. Further, by document marked as R11, the Forest Conservation Department has been informed of an incident where the Petitioner had obstructed the officers of the Forest Department who had gone on an inspection to the corpus. Further, most importantly, the Petitioner’s father, through his Attorney-at-Law, has written a letter dated 24.08.2024 in

reply to a quit notice sent by the Forest Department and has stated that the Petitioner is in occupation of part of the corpus and the rest of the corpus is occupied by the Petitioner's father. It appears that this letter has been sent on the instructions of the Petitioner. The final village plan no. 7b marked as R18 clearly establishes that the corpus is within the state land. The learned State Counsel has also submitted a gazette which declares the consisting of the corpus as a sanctuary named Ravana Ella sanctuary. The said gazette no. 37 of 18.05.1979 was marked and tendered as R14.

Further, subsequent to the filing of Writ 180/25, the Divisional Secretary had informed the Forest Department that the request by the Petitioner's father to obtain a permit for the corpus cannot be acceded to as the corpus is within a sanctuary. In my view, all this material clearly establishes that the corpus is occupied by the Petitioner's father and the Petitioner. The reply submitted by the Petitioner and his Attorney-at-Law to the Divisional Secretary, pursuant to the Petitioner's instructions, is inconsistent with the Petitioner's position that he is not in occupation of the corpus.

Considering all these documents that have been tendered to this Court, in my view, the Respondents have established that the Petitioner is possessing the corpus which is also occupied by his father.

Coming back to the provisions of section 3 of the State Lands (Recovery of Possession) Act, the competent authority is only required to form the opinion that a person is in unauthorized occupation of State land before issuing a quit notice. To form such an opinion the Divisional Secretary should have sufficient material to satisfy himself. In view of the above stated facts and material, in my view, the Divisional Secretary had sufficient material to form the impugned opinion that resulted in the issuance of the quit notice.

If I am to elaborate further, the competent authority had ample material upon which to form an opinion. Such material included the Gazette Notification, which established that the corpus constituted State land and formed part of a forest sanctuary reservation. It was further evident that the occupants of the corpus were unlawful occupants, lacking any valid permit or legal authorization. The Petitioner, together with his father, was not only in occupation of the said corpus but had also undertaken the construction of a building thereon and was operating a business in the nature of a "home-stay". Hence, in my view, the Petitioner's contention that he is not in occupation and therefore, does not fall within the ambit of section 3(1)(b), cannot be sustained. It is also observed that throughout the

submissions and the material tendered to this Court, the Petitioner has failed to give a separate address or demonstrate any material to show where he actually resides. I will now consider the objections raised by the State Counsel.

Have the Respondents acted maliciously?

Although the Petitioner submits that the Respondents have acted maliciously, in my view, he has failed to establish the said ground. The Petitioner has even failed to annex an affidavit from his father about the allegation of the reasons for the Respondents to act maliciously. Although the Petitioner has annexed a few letters purported to have been written by the villagers, all the said letters have been written subsequent to the Petitioner receiving a quit notice. In the given circumstances, in my view, the Petitioners have failed to establish any malice by the Respondents towards the Petitioners and the Petitioner has failed to establish that the impugned quit notice and the subsequent actions of the Respondents are *ultra vires* the powers vested under the State Lands (Recovery of Possession) Act.

Suppression and misrepresentation of material facts

The learned Counsel for the Petitioner contended that the quit notices filed and withdrawn has the same corpus boundaries. However, on a careful consideration of the quit notices marked as A1 and B1, I observe the said two quit notices are based on two different lands. While the first quit notice is based on a Surveyor General Department tracing, the second refers to a final village plan. Further, the schedule of the second quit notice, not only defines the lot in which the corpus is depicted in the final village plan but, also describes that there is a permanent two-storied structure in the corpus. This has not been disclosed by the Petitioner.

The Petitioner has failed to explain to this Court why he instructed his Attorney-at-Law to inform that he is also occupying the land that his father is occupying, namely, the corpus. It is pertinent to observe that the Petitioner has not denied or impugned any of the documents filed by the Respondents at the submission stage. As correctly observed by learned Counsel, it appears that the Petitioner, under the guise of his father's occupation of the lot in question, has not only constructed a building thereon and obtained an electricity

connection for the purpose of operating a “home-stay”, but has also himself been in occupation and possession of the said land.

The Petitioner has failed to plead that the construction was his as stated by his father he has failed to plead that his father had given a no-objection letter and sought permission to obtain an electricity connection to the Petitioner nor has he disclosed the existence of these documents.

In my view, the non-disclosure of the above amounts to a serious suppression and misrepresentation of material facts. This disentitles the Petitioner from obtaining relief when invoking the Writ jurisdiction of this Court pursuant to Article 140 of the Constitution. This has been constantly held in many instances in our Courts.

In the case of **W. S. Alphonso Appuhamy v. Hettiarachchi (1973) 22 NLR 77** it was held that;

“when an application for a prerogative writ or an injunction is made, it is the duty of the Petitioner to place before the Court, before it issues notice in the first instance, a full and truthful disclosure of all the material facts; the Petitioner must act with uberrima fides.”

Further, in **Namunukula Plantations Limited v. Minister of Lands and others (2012) 1 SLR 376** it was inter alia held that;

“It is settled law that a person approaches the Court for grant of discretionary relief, to which category and application for a writ of certiorari would undoubtedly belong, has to come with clean hands, and should candidly disclose all the material facts which have any bearing on the adjudication of the issues raised in the case. In other words, he owes a duty of utmost good faith (uberima fides) to the court to make a full and complete disclosure of all material facts and refrain from concealing or suppressing any material facts within his knowledge or which he could have known by exercising diligence expected of a person of ordinary prudence.”

Conclusion

I have considered the submissions made and the documents tendered to this Court and in my view, the Petitioner has failed to establish a *prima facie* case that warrants an issuance of formal notice on the Respondents. Further, the serious misrepresentations and the suppression of material facts that is highlighted above disentitles the Petitioner from obtaining the reliefs he has prayed. Accordingly, for the above stated reasons, I refuse to issue formal notice and proceed to dismiss this Writ application.

Judge of the Court of Appeal

Mahen Gopallawa, J

I agree

Judge of the Court of Appeal