

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*, *Mandamus* and Prohibition.

Mohammed Aboobaidha Mohammed Dilshad,
No. 450/5A, Piausho Gardens, Kandy.

PETITIONER

Vs.

**Court of Appeal Case No:
CA/WRIT/88/2022**

1. Keerthi Gamage,
Land Commissioner General,
Mihikatha Medura,
No. 1200/6,
Rajamalwaththa Road,
Battaramulla.
2. Jagath Adikari,
Provincial Commissioner of Lands,
Provincial Land Commissioner's
Department – Central Province,
Central Provincial Council,
PO Box 15, Pallekele, Kundasale.
3. R.A.D.T.N. Tennakoon,
Divisional Secretary Udapalatha,
Divisional Secretariat – Udapalatha,
Gampola.
4. Hon. Lalith Gamage,
Governor – Central Province,
Governor's Office, P.O. Box 06,
Maligawa Square, Kandy.

5. B.K. Thilanka Dishani,
23, Hill Street,
Gampola.

RESPONDENTS

Before: Mayadunne Corea, J
Mahen Gopallawa, J

Counsel: Shantha Jayawardana, PC with Hiranya Damunupola for the Petitioner.
Zuhri Zain, DSG for the 1st to 4th Respondents.
Sanjeewa Jayawaredena, PC with Lakmini Warusavithana for the 5th
Respondent.

Supported on: 23.02.2026.

Order delivered on: 27.03.2026.

Mayadunne Corea J

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

- “c) Grant and issue an order in the nature of a Writ of Certiorari quashing the decision of the 1st Respondent contained in the letter marked ‘P77’ hereto*
- d) Grant and issue an order in the nature of a Writ of Certiorari quashing the letter marked ‘P77’ hereto*
- e) Grant and issue an order in the nature of a Writ of Certiorari quashing the decision and/or findings contained in the letter marked ‘P54’*
- f) Grant and issue an order in the nature of a Writ of Certiorari quashing the letter marked ‘P54’ hereto*
- g) Grant and issue an order in the nature of a Writ of Mandamus directing the 1st to 4th Respondents or any one or more of them conduct a*

comprehensive inquiry afresh, in accordance with the law and principles of natural justice, taking to consideration the relevant factors, to arrive at a finding as to whether the Petitioner has been in long term occupation of the state land developing and conducting business therein

- h) Grant and issue an order in the nature of a Writ of Mandamus directing the 1st to 5th Respondents and/or any one or more of them to grant a long term lease in respect of lot 2:7 of the plan CM320125/2 having an extent of 01 Rood and 16 Perches to the Petitioner based on the findings of the inquiry in terms of prayer (c) hereinabove*
- i) For the grant and issuance of an order in the nature of Writ of Prohibition prohibiting the 1st to 4th Respondents or anyone or more of them and/or anyone acting under them from taking any step to dispossess the Petitioner from lot 2:7 of the plan CM320125/2 having an extent of 01 Rood and 16 Perches by acting according to the purported decision contained in the document marked 'P77' hereto*
- j) For the grant and issuance of an order in the nature of Writ of Prohibition prohibiting the 1st to 4th Respondents or anyone or more of them and/or anyone acting under them from taking any further step based on 'P77'”*

The facts of the case briefly are as follows. The Petitioner sought a lease for a state land. It is his contention that the said land is bordering a private land owned by the 5th Respondent who has leased it to the Petitioner. The Petitioner had used the said land obtained through a lease from the 1st Respondent to operate a tea shop. It was further contended by the Petitioner that the said state land which the Petitioner had sought for on a lease bordered the front portion of the private land he had taken on lease. Hence, the said state land had been utilized as a car park. It was the contention of the Petitioner that he had sought the lease from the state in the year 2020. However, the 5th Respondent had objected to the grant of the said lease. It is alleged that this objection was raised while the Petitioner's application to obtain a lease was pending. It is the contention of the Petitioner that, upon the objection from the 5th Respondent, the process to issue a lease was halted and subsequently refused. Subsequently, a decision had been taken to lease out the said land to the 5th Respondent.

The Petitioner's contention

The Petitioner's main contention is twofold. Firstly, he contends that the decision of the Land Commissioner not to lease the state land to him was under the dictates of the Minister. Secondly, before arriving at the said decision, the Petitioner had not been

given a fair hearing, and hence, that there is a violation of the rules of natural justice, rendering the said decisions bad in law.

The Respondents' contention

The 5th Respondent, had filed a limited objection and had taken several objections to the issuance of notice, namely:

- The Petitioner is guilty of suppression and gross misrepresentation of material facts.
- The Petitioner has suppressed his requirement for application for a long-term lease.
- The Petitioner has sought a long-term lease on the basis that he is the owner of the adjoining private land.
- The Petitioner's application is misconceived in law.

Analysis

I will now consider the Petitioner's contention with the Respondent's objections. It is common ground that the land sought by way of a lease is state land. It is also common ground that the land in dispute is depicted as lot 2:129 in plan no. CM 320125 marked as 5R-6A. It is also common ground that the adjoining land marked as 2:133 is owned by the 5th Respondent who has a tea factory. It is also common ground that the said tea factory had been leased to the Petitioner by the 5th Respondent by lease agreement no. 1164 marked and tendered as P5. Hence, it is common ground that the land adjacent to the state land, which is marked as lot 2:133 in the plan marked 5R-6A, is owned by the 5th Respondent.

The Petitioner contends that the Petitioner had obtained the lease from the 5th Respondent pertaining to lot no. 2:133 in the plan marked as 5R-6A on 24.01.2020 (P5). The Petitioner thereafter, operated the "Store Field Tea Factory" in the land leased out to him by the 5th Respondent. The Petitioner contended that, as stated above, the vehicles arriving at the tea factory are parked on the state land situated in front of the leased premises and that therefore, he had applied for a lease of the said state land.

The Petitioner's request for a long-term state lease

The Petitioner contends that the Petitioner's father-in-law had originally leased out the Store Field estate which consisted of the Store Field tea factory in 2008. In September 2015, the Petitioner's father-in-law had passed away and in 2020, the Petitioner had entered into a lease agreement with the 5th Respondent and became the lessee of the 5th Respondent's tea factory. It is the contention of the Petitioner that as the adjacent land was unoccupied and appeared to be abandoned, the Petitioner took steps to develop the land and cultivate it. Thereafter, he concedes that he had encroached onto the front land and constructed a part of the tea shop. As he became aware that the said front land was state land, he sought to obtain the said land on a lease from the state. The Petitioner in paragraphs 8 and 11 of his Petition submits that he was the sole developer of the state land. The Petitioner has failed to submit to this Court his application to obtain a lease pertaining to the state land. However, upon inquiry by Court, the Petitioner submitted that he had requested that the state land be leased to him through the letter marked and tendered as P40(a) dated 01.09.2020 addressed to Divisional Secretary, Gampola. The said letter states that he is in possession of 1 rood and 16 perches of the said state land and is conducting a business thereon.

It is his contention that upon his request, the Divisional Secretary had written several letters marked as P12, P13, P14(a), P15(a) and P15(b), whereby recommendations have been sought to ascertain the possession of the Petitioner. By P12, the Divisional Secretary had sought observations of the Grama Sevaka to confirm the Petitioner's position and whether he has developed the state land. In the said letter, the Petitioner had informed that he was having a tea shop in the said state land for a period of 20 years. However, strangely the said letter, although referring to February 2019, does not bear a specific date. By P13, the colonization officer had written to the Divisional Secretary by letter dated 25.02.2019 stating that it is pertinent to obtain the recommendation of the Pradeshiya Sabha prior to the execution of a lease in respect of the state land. Further, on 01.03.2019, the colonization officer had written to the Divisional Secretary that the land sought to be leased is state land and annexed the plan and gazette marked and tendered as P14(b) to demonstrate that the said land had been acquired for the state under the proviso to section 39(1)(a) of the Land Acquisition Act. The said gazette bears the date 23.09.2022. Thereafter, the Divisional Secretary had requested the Chairman of the Pradeshiya Sabha for his recommendation pertaining to leasing out of state land to the Petitioner (P15(a)). By the letter marked and tendered as P15(b), the Pradeshiya Sabha had consented to the said lease. Thereafter, the Divisional Secretary sought a recommendation from the Land Commissioner on 27.03.2019 pertaining to leasing out the state land to the Petitioner (P18). The said letter specifically states that the Petitioner is running a shop called "The Tea Shop" on the said land. Thereafter, by letter dated P20(b), the Divisional Secretary had once again written to the Land Commissioner

seeking his recommendation to lease out the state land to Petitioner. The said letter does not bear a date but was written in March 2019. In the first paragraph of the said letter, the Divisional Secretary has again stated that Petitioner is operating a shop named “The Tea Shop” in the adjoining land and on a part of the state land and hence, sought for a recommendation to lease out the said state land. The Divisional Secretary in May 2019 again sought for the Land Commissioner’s advice as to whether the state land can be given on a long-term lease to the Petitioner. The Land Commissioner, by letter dated 25.06.2019 marked and tendered as P22, had made an observation that based on the Divisional Secretary’s letters it would be prudent to give the land on a long-term lease to the Petitioner. The said letter of the Land Commissioner states as follows:

“03. යොමු කර ඇති තොරතුරු අනුව අදාළ ඉඩම් කොටස වෙනත් පාර්ශවයක් වෙත ලබා දීම හෝ මෙම පුද්ගලයා ඉවත් කිරීම ප්‍රායෝගික නොවන බැවින් මෙම ඉඩම් කොටස එම පුද්ගලයාට ලබා දීම සුදුසු බව නිරීක්ෂණය වන අතර ඒ සඳහා ප්‍රාදේශීය ලේකම් විසින් එවා ඇති පහත සඳහන් වාර්තා අවශ්‍ය කටයුතු සඳහා කාරුණිකව ඔබ වෙත යොමු කරමි.”

By this letter, it is pertinent to note that the Land Commissioner had made his observation purely based on the Divisional Secretary’s letters. Thereafter, the Land Commissioner has called for a valuation of said land. The Divisional Secretary too had called for a separate valuation of the said land by an undated letter written in November 2019. Thereafter, the Valuation Department had asked for a plan of said state land and the Divisional Secretary had sought the same from the Land Commissioner’s Department. The Divisional Secretary, thereafter, had tendered a copy of the plan to the Valuation Department. Strangely, all letters were written in 2019. Based on the contents of these letters, it appears that the Petitioner had made a request to obtain a lease in 2019 or earlier, which is contrary to the position taken before this Court, where it was stated that he had sought for a lease only in 2020. The learned Counsel specifically stated that although he doesn’t have the formal application, the Petitioner had made a formal request to obtain a lease only by document marked and tendered as P40(a) dated 01.09.2020. In view of the abovementioned documents and dates of the said letters, it appears that this is a severe misrepresentation of material facts before this Court.

The Divisional Secretary had informed the Land Commissioner that they are submitting the report compiled in respect of the land sought to be leased, and the said report is attached to the document marked and tendered as P41. Page 52 of said document states that the owner of the land is the Petitioner and that the Petitioner had obtained the said land in 2005 from an individual who had encroached upon the said land. However, in his response to the question whether or not the Petitioner was the first applicant for the land, and regarding his connection to the first applicant, the spaces were left blank. The Petitioner had also stated that he is in possession of the entire land without any

encumbrances. I observe that the contents of this report are far from satisfactory. As per the Petitioner's own contention, he had requested for a lease to the land only in 2020. Further, the Petitioner's father-in-law had obtained a lease to the adjacent land only in 2008. Hence, the entry that the Petitioner had come into possession in 2005 is contradictory to Petitioner's own contention. The Petitioner has failed to explain these contradictions and the misrepresentations but concedes that said report has been compiled on the information provided.

The 5th Respondent's contention

The 5th Respondent too conceded that the land sought on lease from the state is a state land. However, they contended that the land adjacent to the said land belongs to the father of the 5th Respondent, who in the year 2008 had leased it to the Petitioner's father-in-law and in 2020, the 5th Respondent had leased the property to the Petitioner. It is also not in dispute that the 5th Respondent's property consisted of a tea factory. It is also contended that the 5th Respondent had purchased the said property from one Ponnaiya by deed no. 9309 attested on 13.01.1983. The 5th Respondent contends that they had been in possession since then, and further as the seller of the said property Ponnaiya had encroached and was in possession of the state land sought by the Petitioner.

The learned Counsel for the Petitioner brought to our attention the document marked 5R-6A, a plan made in March 2004 bearing no. CM 320125 which depicts the state land as lot 2:129 and the land that has been purchased by the 5th Respondent as 2:133. It is observed by this Court that as per the column "*Remarks*" in the tenement list, it is stated that lot 2:129 was encroached by the 5th Respondent's father, and nowhere is it stated that the Petitioner had encroached upon the said land. Further, under the column "*Present Land use*", it is stated that there is a mixed cultivation which is 25 to 30 years old. The 5th Respondent has also tendered a plan marked as 5R-6. This document clearly contradicts the Petitioner's position that he had been there for more than 20 years prior to 2020. This contradiction was not explained by the Petitioner. In my view, this explains the 5th Respondent's position that the private land and tea factory belongs to the 5th Respondent and that they had encroached on state land before the 5th Respondent leased it out to the Petitioner. The Petitioner had tendered a document attached to the document marked as P42, which is yet another report by the Divisional Secretary in the year 2020 where it is stated that the state land in dispute is occupied by the Petitioner and that there are long-term plantations like tea and cloves and that the Petitioner is operating a business entity on the said land. Having perused this report, I find that if the Petitioner obtained a lease only in 2020 by virtue of P5, it is questionable how long-term plantations such as tea and cloves, which take time to mature and bear yield, could have been planted by the Petitioner. This is especially so given that the Petitioner

himself conceded that the said state land was used merely for parking vehicles upon obtaining the lease to operate the tea shop.

The 5th Respondent further contended that upon them being informed about the Petitioner's intention to obtain a state lease for the adjoining state land, which was also in the possession of the 5th Respondent, the 5th Respondent had objected to the said application by documents marked and tendered as P44 and P45 and sought for an inquiry. It was their contention that this objection and the commencement of the inquiry is what stopped the Petitioner's application from being processed until the conclusion of the inquiry. Upon perusing documents P44, P45, P46 and P47, it is observed that in October and November 2020 the 5th Respondent had complained to the Governor of the Central Province by the letters of objection stating her objection for the state land being leased to Petitioner. In the same objection, the 5th Respondent had explained how the Petitioner had come to possession of said land by entering into a lease with the 5th Respondent to operate the 5th Respondent's tea estate on the strength of which the Petitioner had sought to obtain a lease of the state land.

Keeping it as it may, I may now consider the Petitioner's main grievance. The Petitioner contends that after obtaining all the required recommendations, his request to obtain a lease for the state land has been forwarded to the approval of the Governor by letter marked and tendered as P48. However, by letter 27.11.2020 marked and tendered P22, a letter had been sent to the Divisional Secretary to temporarily halt the process of giving state land on lease to the Petitioner until the objections by the 5th Respondent are inquired into. Accordingly, by the said letter, an inquiry had commenced.

Inquiry into the 5th Respondent's complaints

It is the contention of the Petitioner that upon receiving the letter by the Governor's office, the Commissioner General of Land had issued a letter dated 18.12.2020 marked as P54, whereby the Land Commissioner General, *inter alia*, stated as follows:

“03. නමුත්, මේ සම්බන්ධයෙන් අංක 23, කන්දේ විදිය, ගම්පොල ලිපිනයේ පදිංචි බී.කේ.නිලංකා දීඝානි මිය විසින් ගරු ඉඩම් අමාත්‍යතුමා වෙත කරුණු දක්වා ඇත්තේ මෙම රජයේ ඉඩමට යාබදව ස්ටෝලිල්ඩ් නේ කමර්නන් ශාලාව පිහිටි සින්තක්කර ඉඩමේ හිමිකාරණය වන තමන්ගේ පියා විසින් මෙම ඉහත දක්වා ඇති රජයේ ඉඩමේ පොල්, තේ, කරාඹු යන ආදී බෝග වගාකර සංවධර්නය කර වසර 40කට ආසන්න කාලයක් භුක්ති විද ඇති බවත් ඇය හට හිමි සින්තක්කර ඉඩමේ පිහිටි ස්ටෝලිල්ඩ් නේ කමර්නන් ශාලාව පස් අවුරුදු බදු පදනම මත ලබා ගෙන ඇති එම්.ඒ.එම්. ඩිල්ෂාඩ් යන අය ඇයගේ අනුදැනුමකින් තොරව ස්ටෝලිල්ඩ් නේ කමර්නන් ශාලාවට යාබදව පිහිටි තමන් විසින් භුක්ති විදින ලද මෙම රජයේ ඉඩම, නිලධාරීන් නොමඟ යවමින් බදු පදනම

යටතේ ලබා ගැනීමට තැත් කරමින් සිටින බවත්ය. උක්ත කරුණු තහවුරු කිරීම සඳහා අදාලවන ලේඛනද ඉදිරිපත් කර ඇත.

04. එබැවින් එකී අභියාචනයේ සඳහන් කරුණු සැලකිල්ලට ගෙන ගරු ඉඩම් අමාත්‍යතුමා විසින් මා වෙත යොමු කර ඇති 2020.12.13 දිනැති ලිපියේ සඳහන් නියෝගය පරිදි මගේ අංක හා 2020.08.24 දිනැති ලිපිය මෙයින් අවලංගු කරන අතර උක්ත ඉඩම් කොටස බී.කේ. නිලංකා දිසානා මිය වෙත වාණිජ කටයුතු සඳහා අනුග්‍රාහක පදනම යටතේ දීර්-ස කාලීන බදු ලබාදීම සලකා බැලීම සඳහා අදාළ නිදේර්ශ වාර්තා මධ්‍යම පළාත් ඉඩම් කොමසාරිස් මහින් මා වෙත යොමු කරන ලෙස කාරුණිකව දන්වා සිටිමි.

05. තවද, මගේ සමාංක හා 2020.08.24 දිනැති ලිපිය මෙයින් අවලංගු කරන අතර යම් ගැටළුකාරී තත්ත්වයක් ඇත්නම් වාර්තා කරන ලෙසද වැඩිදුරටත් කාරුණිකව දන්වා සිටිමි.”

Upon the receipt of the objection by the 5th Respondent, all the parties had been called for an inquiry. This is reflected by letters marked as P69, P70, P71 and P72. Accordingly, it is observed that in 2021, the Petitioner and the 5th Respondent too had been present at the inquiry. The Petitioner alleged that he had gone to the inquiry with a legal representative and the said legal representative had not been allowed to take part in the inquiry. This allegation was countered by the Respondents, who submitted that the inquiry was a fact-finding exercise, as reflected in the notices requiring the parties to appear with supporting documents to substantiate their claims.

The parties are not at variance that the Petitioner and the 5th Respondent had taken part in an inquiry and had presented the documents in their possession. Subsequently, a decision had been taken not to proceed with the Petitioner’s application for a long-term lease on the basis that a long-term lease had been established in favour of the 5th Respondent. The letter marked and tendered as P77, under the hand of the Commissioner General of Lands and addressed to the Divisional Secretary, states as follows:

“නිර්ණය -

පවතින ලිපිලේඛන අනුව එම්. ඒ. එම්. ඩිල්ෂාඩ් මහතා ඉල්ලා ඇති පරිදි මෙම රජයේ ඉඩම් කොටස දීර්-ස කාලීන බදු පදනම මත වාණිජ කටයුතු සඳහා ලබා දිය නොහැකි අතර වගාවන් සංවධර්නය කර දීර්-ස කාලීනව බී.කේ.නිලංකා දිසානා මිය හා ඇගේ පියා විසින් භුක්ති විද ඇති බව තහවුරු වන බැවින් පෞද්ගලික ඉඩමට යාබදව ඇති මෙම රජයේ ඉඩම් කොටස පෞද්ගලික ඉඩමේ හිමිකාරිය වන බී.කේ.නිලංකා දිසානා මිය වෙත දීසර් කාලීන බදු පදනම මත වාණිජ කටයුතු සඳහා ලබා දීමට නිර්ණය කරමි.

තවද, එම්.ඒ.එම්. ඩිල්ෂාඩ් මහතා බලහත්කාරයේ රජයේ ඉඩම තුළ රැදී සිටිනම සන්නකය ආපසු ගැනීමේ පනත අනුව මෙම රජයේ ඉඩමේ භුක්තිය ලබා ගැනීමට පළමුව කටයුතු කරන ලෙසද දන්වමි.”

As per the wording, it is clear that this decision has been arrived at on the basis of the inquiring officers being satisfied that the 5th Respondent and her father had developed and had been in possession of the state land in dispute. Although the Petitioner submitted that this letter had been issued on the dictates of the Minister, there was no evidence submitted to substantiate the said allegation. The Petitioner's main contention that he was not given a fair hearing before the final decision was arrived at, is not tenable as both parties conceded that there had been an inquiry at which they had participated and subsequent to the inquiry, the decision in P77 had been issued. Hence, the Petitioner's contention of not having a fair hearing is not tenable.

Let me now consider the document marked and tendered as P54.

Document P54

On a careful consideration of this document, it appears that the Commissioner of Lands had issued a letter dated 24.08.2020. From the first paragraph of document P54, it appears that the Land Commissioner General had based the said letter on the information tendered to him by the Divisional Secretary. However, by the said letter, the Land Commissioner General had further submitted that in view of the 5th Respondent making a representation to the Minister by way of an appeal, the Minister had sent a letter to the Land Commissioner General. However, the said letter is not before this Court. Therefore, the Land Commissioner General had decided to cancel his letter dated 24.08.2020 as this letter refers to the Land Commissioner's letter dated 24.08.2020 (P34). This Court will now consider said letter, whereby the Land Commissioner General had sought the recommendations from the Land Commissioner of the Central Province pertaining to the Petitioner's request for a long-term lease. Hence, in my view, by the cancellation of his letter by the Land Commissioner General himself, the requests calling for recommendations pertaining to the lease have been revoked.

It is also pertinent to note that the Petitioner has failed to tender any letter whereby the Land Commissioner General or the Governor had granted approval or had taken a decision to lease out the said state land to the Petitioner. All the documents submitted relate only to the seeking of recommendations on whether the Petitioner should be granted a lease. Hence, the Petitioner's contention that the decision to grant the land on lease to the Petitioner had been cancelled on the dictates of a Minister, is not tenable as the Petitioner has failed to demonstrate that there was a decision to give him the lease. Further, the decision to deny the Petitioner a long-term lease and to grant it to the 5th Respondent was made only in 2021, after an inquiry in which both parties participated

and presented their documents (P77). The decision contains no reference to a Minister. The said letter had not been copied to the Minister. Hence, the Petitioner's contention that a decision had been taken on the dictates of the Minister cannot be sustained.

Prayers of the Petitioner

The Petitioner, by prayer (c), is seeking a Writ of Certiorari to quash the document marked as P77. The decision contained in P77 had been arrived at, after an inquiry where all parties had been present and the Petitioner has failed to demonstrate any illegality in the said decision. For the same reason, prayer (j) has to fail. The Petitioner has sought to quash the document marked as P54. However, quashing P54 becomes futile in view of the decision arrived at in P77, as the decision to refuse the long-term lease to the Petitioner and to grant it to the 5th Respondent has been taken only on 16.11.2021 by document marked as P77.

The Petitioner is seeking a Writ of Mandamus requiring the 1st to 4th Respondents to conduct a comprehensive inquiry afresh in relation to the land. However, it is not disputed that before the decision contained in P77 was arrived at, there had been an inquiry and the Petitioner has failed to demonstrate any illegality or violation of principles of natural justice in the conduct of the said inquiry. Both parties had been present at the said inquiry and had been heard. Further, the most crucial document to impugn the inquiry that resulted in the decision contained in P77, the proceedings of the inquiry has not been tendered to this Court. It is trite law that the burden of proof in a Writ application lies on the Petitioner.

In ***Saranguhewage Garvin De Silva v. Lankapura Pradeshiya Sabha and others SC Appeal 10/2009 decided on 15.12.2014, at page 5***, it was provided that,

“The burden of proof in any application for prerogative writ including mandamus is on the person who seeks such relief, to prove the facts on which he relies”

Moreover, in the case of ***Handapangoda Mudalige Mahendra Gunasekara, and another v. Ms. W.A.S. Chandrasekara, Commissioner General of Inland Revenue and 5 others CA/WRIT/313/24 decided on 29/08/2024***, the Court held that:

“Further, it is observed that though the Petitioners contend that they were not the directors as per the evidence submitted through their own pleadings, it is clear that this business entity had been in operation since 2006. It is also clear

*that the entity had been submitting its returns to the IRD which means it had been operating. Then there should have been a workforce under the entity and their salaries and statutory dues would have been paid. The profits of the entity would have been collected and some person would have been responsible for the losses if any. None of these facts were addressed by the Petitioners though **the burden of proof in a writ application lies with the Petitioners.**” (emphasis added)*

In the circumstances, in my view, the Petitioner has failed to establish this contention.

Prayer (h) of the Petition is misconceived as it is based on the findings of an inquiry in terms of prayer (e). However, prayer (e) does not refer to any inquiry, and the document marked as P54, which is relied upon in that prayer, also makes no reference to such an inquiry.

It is not disputed that the Petitioner is in occupation of a state land without a valid permit. In my view, a person who occupies state land without any authorisation cannot claim a Writ of Prohibition as of right to prevent state officers from ejecting him as he becomes an unauthorised occupier of state land. Hence, in view of the Petitioner’s failure to impugn the decision contained in P77, prayer (i) has to fail.

Misrepresentation and suppression of material facts

As observed by this Court above, the Petitioner has failed to establish the basis on which he has sought the state land to be leased out to him. This could have been established by producing his application to obtain a long-term lease. Further, in the reports that have been tendered, the Petitioner’s position is that he had been in possession of the state land since 2005. However, it was conceded during submissions that the Petitioner had entered into a lease agreement with the 5th Respondent only in 2020, upon which he entered to the land and it was contended that the said state land had been used to park the vehicles visiting the tea shop operated on the 5th Respondent’s land. The Petitioner suppressed this fact and also failed to disclose the basis for his request for a lease by not tendering the application for lease of the state land. The Petitioner has further failed to explain how he could have been in possession of the state land sought to be obtained on a lease from 2005 if he had only entered into a lease to operate the tea shop in 2020. As the Petitioner has failed to establish a *prima facie* case, I do not intend to consider all the objections raised by the Respondents.

Conclusion

For the above-stated reasons, this Court finds that the Petitioner has failed to establish any grounds to obtain the reliefs sought. Accordingly, this Court refuses to issue formal notice and dismisses this Writ application.

Judge of the Court of Appeal

Mahen Gopallawa, J

I agree

Judge of the Court of Appeal