

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



In the matter of an application for Ceriorari and Mandamus under and in terms of Article 140 of the Constitution.

Warusapperuma Kankanange Ranjanie
No- 149,
Rajaelagama,
Hingurakgoda

Petitioner

COURT OF APPEAL WRIT
APPLICATION NO : 677 / 2010

STAMP DUTY	
Case No.	CA 677 / 2010
Recd.	9/21 604571
Date	31-01-2012
App.	10/2
Subj.	objection
Date	31-01-2012

-VS-

1. Divisional Secretary,
Divisional Secretariat,
Hingurakgoda
2. The Hon: Minister of Land,
And Land Development,
No-80/5, Rajamalwatte Avenue,
Baththaramulla
3. The Secretary, Minister of Land and Land
Development,
80/5, Rajamalwatta Avenue,
Baththaramulla
4. Commissioner General of Lands,
No-7, Gregory's Avenue,
Land Commissioner General's Department,
Colombo 07
5. The Deputy Commissioner of Land,
Deputy Commissioner of Land Office,
District Secretariat Polonnaruwa
6. K. Jothipala,
IrangaWewa Road,
Minneriya
7. Hon. Attorney General,
Attorney Generals Department,
Colombo

Respondents

C.A Writ Application No: 677/2010.

Before : S.Sriskandarajah, J. (P/C.A).

Counsel : Razik Zarook PC with Rohana Deshapriya and
Chanakya Liyanage for the Petitioner.

Jagath Wickramanayake with Nimesha Nicholas
for the 6th Respondent

R.Pathirana SSC for the 1st, 5th and 7th
Respondents.

Argued &

Decided on : 07.06.2012

S.Sriskandarajah, J (P, C/A).

The Petitioner in this application is seeking a writ of certiorari to quash the decision of the 1st Respondent to equally divide the land referred to in document marked P1 dated 19.03.1973. The Petitioner has also sought a writ of certiorari to quash the permit issued to the 6th Respondent marked P35. It is common ground that the permit marked P1 was issued to W.K Hinniappuhamy. The Petitioner was living with the said Hinniappuhamy and he was

brought up by Hinniappuhamy. The said Hinniappuhamy cohabitating with one D.Somawathie who had three children and one of whom has been the 6th Respondent. In 1980 the said Appuhamy died and in 1989 D. Somawathie died. The Petitioner and the 6th Respondent is claiming the said land as they were in possession of the said land. The dispute was looked into by the Divisional Secretary and the inquiry was held on 31.08.2010 and the Divisional Secretary after considering the facts and circumstances of this matter has decided to divide the land into two and to offer one half to the Petitioner and the other half to the 6th Respondent. This decision was communicated to the Provincial Commissioner of land and he has also given consent to the said cause of action. Based on this decision the document P35 was issued to the 6th Respondent giving one half of the said land on permit. The Senior State Counsel informs court that the other half of the land will be offered to the Petitioner if the Petitioner is willing to accept the said land on permit. The above decision has been reconfirmed by the Divisional Secretary by his letter dated 22.06.2011 forwarded to the Attorney General's Department.

The decision of the Divisional Secretary to divide the land and to offer one half to the 6th Respondent and one half to the Petitioner is reasonable and justifiable in the given circumstances and as the

said land is a State land, the Petitioner and the 6th Respondent have no legal right to claim the said land. The issuance of permit to the Petitioner and the 6th Respondent as decided by the Divisional Secretary dated 31.08.2010 cannot be challenged as illegal or unreasonable in the given circumstances and therefore this court dismisses this application without costs.

PRESIDENT OF COURT OF APPEAL

Vkg/-