

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

In the matter of an application for a mandate in the nature of certio-rari and mandamus under Article 140 of the constitution of the Democratic Socialist Republic of Sri Lanka.

C.A.Application No. 331 /11

1. S.Mohanraj  
14/10A, Nursing Home Road,  
Hatton.
2. K.T.Shanmugam  
14/10, Nursing Home Road,  
Hatton.

**Petitioners**

1. The Attorney General  
Attorney General's Department,  
Hulftsdorp,  
Colombo-12.
2. The Chairman,  
Land Reform Commission,  
18, Gregory;s Avenue  
Colombo 07
3. Land Reform Commission  
18, Gregory's Avenue,  
Colombo-7 .
4. Mohamed Shiraz  
Fathima Stores,  
Saide Street,  
Hatton

**Respondents**

**C.A. Writ Application 331/2011**

Before : S. Sriskandarajah,J, (P/CA) &  
Sunil Rajapakshe,J.

Counsel : S. Kumara Singham for the Petitioners.

S.S. Sahabandu PC. with I.R. Rajapakshe  
for the 2<sup>nd</sup> and 3<sup>rd</sup> respondents.

Sandamal Rajapakshe for the 4<sup>th</sup>  
respondent.

Argued &  
Decided on : 27.09.2012

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S. Sriskandarajah,J. (P/CA)

The petitioner in this application submits to Court that the petitioner is a bona fide possessor of a land together with a well and a pump house from 1989. The said land belongs to the Land Reform Commission the said 2<sup>nd</sup> respondent. The petitioner submitted the adjacent land was bought by one Chandrasoma in 1998 from the Land Reform Commission.

It appears from the proceedings that there is a dispute in relation to a portion of the land between the

petitioners and the 4<sup>th</sup> respondent and cases in the Magistrate Court under section 66 of the Primary Court Act and District Court case in District Court of Hatton were filed in relation to a possession of the said land. The petitioner submitted to Court that the petitioner by his letter dated 19.02.2003 had made a request to the chairman Land Reform Commission to effect a deed of transfer to the Land adjacent to the well to him. In reply to the said request, the District Land Officer of Nuwara Eliya addressed to the Chairman Land Reform Commission by his letter dated 03.06.2003 has recommended the said application. Thereafter the Director Land Reform Commission of Nuwara Eliya has written to the petitioner calling for documents from the petitioner to proof the possession of the land from the Gramasevaka of that area . This letter was written on 29.06.2005.

It appears that thereafter the petitioner has not sought to submit any documentation to the Land Reform Commission for the Land Reform Commission to take further steps in relation to the transfer of the said land. Under section 22 of

the Land Reform Commission Law a land could be alienated by the Land Reform Commission by way of sale for none agricultural purposes. This is a discretion vested with the land Reform Commission and the Land Reform Commission after considering the application of the parties could decide whether it could exercise is discretion under this section to alienate the said land.

The documentation submitted by the petitioner is not sufficient to show that the Land Reform Commission has made a decision to alienate the said land to the petitioner. The document submitted only shows the petitioner has made a request and the Land Reform Commission is considering his request. In the mean time the Land Reform Commission has considered an application made by the 4<sup>th</sup> respondent and had made a decision to alienate the said land to the 4<sup>th</sup> respondent by deed No: 3735 dated 01.11.2010 marked as 4R3 by the 4<sup>th</sup> respondent. The said land was alienated by sale to the 4<sup>th</sup> respondent.

The petitioners only claim is that he has a legitimate expectation that the said land be transferred to him as he was in continues possession of the said land and that he has made an application to purchase the land. In this application the petitioner has sought a writ of certiorari to quash the decision made by the Land Reform Commission already made to alienate the said land to the 4<sup>th</sup> respondent. The Land Reform Commission has the power and authority to alienate said land under section 22(1) of the Land Reform Law and there is no illegality or irrationality shown to this court in relation to the transfer of the said property by the Land Reform Commission to the 4<sup>th</sup> respondent. As such the said decision to transfer the said land to the 4<sup>th</sup> respondent cannot be quashed by a writ of certiorari. The petitioner cannot seek a mandamus to alienate the said land to him, as he has no right to purchase the said land and at the same time the Land Reform Commission does not have a corresponding duty to sell the said land to the petitioner. On the other hand the Land Reform Commission had not made any commitment or promise to the petitioner that the said land will be alienated to

the petitioner at any point of time. In these circumstances the petitioner cannot claim that the land should be transferred to him and not to the 4<sup>th</sup> respondent. For the aforesaid reasons this Court dismisses this application without costs.

President of the Court of Appeal

Sunil Rajapakshe, J.

I agree.

Judge of the Court of Appeal

Jmr/-