

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

In the matter of an application for
a Writ of Certiorari under Article
140 of the Constitution.

S. Manomani,
No.136, Kothkalawala Road,
Hingurakgoda.

Petitioner

C.A.(Writ) Application No:425/2010

Vs.

1. S.D.A.B. Boralessa,
Commissioner General of Lands,
No.7, Gregory's Avenue,
Colombo 07,
And 03 Others

Respondents

BEFORE	:	S.SRISKANDARAJAH, J (P/ CA)
COUNSEL	:	Jacop Joseph with Mohamed Rusary for the Petitioner. Nayomi Kahawita for the Respondents
Argued on	:	20.01.2012
Decided on	:	16.5.2012

S.Sriskandarajah, J.

The Petitioner in this case submitted that her husband, Gama Arachchige Dharmadasa, was granted a permit bearing No.NCP/HG/L/3/1/113 under the Lands Development Ordinance in respect of the land consisting 2 acres. After the death of G.A. Dharmadasa, on 9/10/92, the Petitioner was granted the said permit under the Land Development Ordinance by the Divisional Secretary of Hingurakgoda. The Petitioner further submitted that in the year 1993, several persons entered the said land forcibly and occupied portions of the said land, apparently with political influence and political patronage. The Petitioner had filed action against each one of them in the District Court of Polonnaruwa to evict them. The Petitioner submitted that in relation to 2 cases, judgment was delivered in her favour and, in relation to other cases, the judgments are due to be delivered. In the meantime the 2nd Respondent, the Divisional Secretary, by notice dated 9/08/2009, informed the Petitioner that the permit issued to her would be cancelled on the ground that the said lands were alienated and they were not developed by the Petitioner, and the Petitioner was given an opportunity to show cause against the cancellation. The Petitioner attended an inquiry on 12/10/2009 and was given an opportunity to show cause. Consequently, having considered the material placed before the Divisional Secretary at the said inquiry, an order was made, and the order of cancellation of the permit was issued on the 3rd November 2009. An appeal was lodged by the Petitioner to the 1st Respondent and an inquiry was held in regard to this appeal on the 23rd February 2010. In the said appeal, the Petitioner was also given an opportunity to make a statement. The 1st Respondent, by letter dated 9/03/2010 informed the Petitioner that there is no reason to revise or vary the order of the 2nd Respondent, and the appeal was rejected under Section 115 of the Land Development Ordinance. The Petitioner in this application is challenging the order of the 2nd Respondent dated 3/11/2009, and the decision of the 1st Respondent dated 3/09/2010 on the ground that the said decisions have been made on political influence and mala fide and they are illegal and contrary to law.

The Petitioner, even though, has claimed that the decisions of the 1st and 2nd Respondents are mala fide, she has not specifically pleaded that these officials have acted mala fide or for reasons of specific instances on which they have acted in the said manner. A mere statement that these government officials have acted mala fide will not be sufficient to challenge the decisions of these government officials. The 1st and 2nd Respondents, before taking the aforesaid decisions, have

given an opportunity to the Petitioner to present her case before them, and after an inquiry, the 2nd Respondent has come to the finding that the Petitioner has alienated the land that was given to the Petitioner and thereby violated the provisions of the Land Development Ordinance. Further, the 2nd Respondent has also come to the conclusion that the land that was given on permit to the Petitioner was not developed by the Petitioner. The 2nd Respondent, in cancelling the permit of the Petitioner has given reasons for the cancellation of the same. In these circumstances this Court cannot interfere in the decision of the 2nd Respondent. The Petitioner has exercised the statutory right of appeal against the decision of the 2nd Respondent to the 1st Respondent. The 1st Respondent, after holding a due inquiry, has given the Petitioner a fair hearing, has dismissed the appeal upholding the decision of the 2nd Respondent. In these circumstances the 1st Respondent has acted according to law, and in accordance with the rules of natural justice. In the above circumstances there is no reason for this Court to interfere with the decisions of the 1st and 2nd Respondents and, hence, this Court dismisses the Petitioner's application without cost.

President Court of Appeal