

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

CA (PHC) 214/2009

PHC Colombo 164/2007

K.A.J. Premalal,
Area General Secretariat,
Secretariat Office,
Kolonnawa

Applicant

Vs.

Mallika Samarawikrama
Sirisanda Hotel,
No: 01,
Kolonnawa Road,
Kolonnawa.

Defendant

And Now

Mallika Samarawikrama
Sirisanda Hotel,
No: 01,
Kolonnawa Road,
Kolonnawa.

Defendant – Petitioner

Vs.

K.A.J. Premalal,
Area General Secretariat,
Secretariat Office,
Kolonnawa.

Applicant – Respondent

Hon. Attorney General
Attorney General's Department
Colombo 12

Respondent

CA. (PHC) No. 214/2009 - PHC. Colombo No. 164/2007

Before: **A.W.A. Salam, J. &**
Deepali Wijesundera, J

Counsel: Neville Abeyratne with Ms. Nilisha
 Kathurusinghe for the Respondent-Appellant.

 Ms. Nayomi Kahawita SC. for the Respondent.

Argued &
Decided on: **22.10.2012**

Salam, J

Learned Counsel for the Respondent-Petitioner-Appellant heard in support of the appeal. State Counsel has no objection to the appeal being allowed and the order of the learned High Court Judge and that of the learned Magistrate set aside. Learned State Counsel submits that the

application made by the Divisional Secretary of Kolonnawa has been misconceived and inadvertently filed under the Land Acquisition Act instead of taking steps under the Recovery of State Lands Act.

We are in total agreement with the submissions of the learned Counsel for the appellant and also that of the State Counsel. Accordingly we set aside the orders of the learned Magistrate and the High Court Judge and substitute the same with a direction issued to the Magistrate to dismiss this application. The State is not prevented from taking steps under the Recovery of State Lands, if they so wish, subject to the respondents taking exception to it, if advised .

Judge of the Court of Appeal

Deepali Wijesundera, J

I agree.

Judge of the Court of Appeal

Kpm/-