

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

CA Writ 30/2013

Balithiyannalage Sriyawathi
Karapincha,
Hidellana.

Petitioner

-Vs-

B.M.U.D.Basnayake
Secretary,
Ministry of Environment,
"Sampathpaya", No 82,
Rajamal watte Road,
Battaramulla.

National Gem and Jewellery Authority,
25,Galle Face Terrace,
Colombo 03.

Regional Manager,
National Gem and Jewellery Authority,
Regional Headquarters,
Rathnapura.

Paththinige Nandanasinghe.
No 60,1st Lane, Vidyala Mawatha,
New town, Rathnapura.

M.A.Vajira Chitrananda
Amuthagoda,
Hidellana.

N. Kamal Jayaweera
502 ,Mal Para
NewTown.

Respondents

C.A. Application No. 30/2013 (Writ)

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

Counsel: W. Dayaratne PC with . Jayawardena, D.N.
Dayarathna and Nadeeka K. Arachchi for the
Petitioner.

D.S. Wijesinghe PC with Anuruddha Dharamaratne and
Kaushalya Molligoda for the 5th and 6th Respondents.

Argued &
Decided on: **18.02.2013**

Sriskandarajah, J (P,C/A)

Learned President's counsel for petitioner submitted to Court that the Petitioner has got a District Court decree for possession in favour of him and in the meantime the 5th and 6th Respondents have got a Gemming License from the 2nd respondent the National Gem and Jewellery Authority to gem in the said land. Therefore he seeking a writ of certiorari to quash the decision of the 1st respondent dated 23.01.202 and the decision of the 2nd respondent dated 29.01.2013 to re validate the permit No. 10209 for gemming

The facts revealed that when the Petitioner has got the decree in his favour for possession from the District Court, the 5th and 6th Respondents have got title of the

said property transferred in their name from the Land Reform Commission. It was also brought to the notice of the Gem and Jewellery Authority that the Land Reform Commission has given authority for the 5th and 6th Respondents to gem in the said land.

The 1st respondent who heard the appeal of the 5th and 6th respondents in relation to the refusal of gemming license to them has considered the fact that the ownership of the said land was now properly transferred to the 5th and 6th respondents and the predecessor to the title the Land Reform Commission has also given permission for the 5th and 6th respondents to gem in the said land.

In these circumstances the 1st respondent has acted legally in performing his function in holding that the 5th and 6th respondents is entitled for a gemming license. There is no dispute of title in relation to this land. The Petitioner is only claiming possession of the said land.

In these circumstances there is no illegality or irrationality in arriving at the said decision and the 1st respondent has given a fair hearing to all the parties in arriving at the said decision.

In these circumstances the 1st respondent's order cannot be challenged by a writ of certiorari and therefore this Court refuses to issue notice on the respondents.

Notice refused.

President of the Court of Appeal

Kpm/-