

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

C.A. Writ No. 396/2012

Seyed Yaseen Moulana Sayed Hussain
Moulana,
No. 187 /5 A,
Jayasamagi Mawatha,
Kalubowila,
Dehiwala.

PETITIONER

Vs.

Divisional Secretary of Thibirigasyaya
Divisional Secretariat,
No. 7,
Vajira Lane,
Colombo 05.

And 06 Others.

RESPONDENTS

C.A. Writ Appln; No. 396/2012

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

Counsel : M.U.M. Ali Sabry, P.C., with Ruwanthi Cooray
for the Petitioner.

Anusha Samaranayake, S.SC., for the 1st to 5th and
7th Respondents.

Geethaka Gunawardane with U. Senevirathne for 6th
Respondent.

Argued &
Decided on : 14.03.2013.

S. Sriskandarajah, J (P/CA)

D.M.D. Prashadini the Administrative Officer of the Divisional Secretariat of Thibirigasyaya is present in Court and produced the department file in relation to the inquiry held in relation to the payment of compensation in respect of the award made under section 17 in relation to the land that is the subject matter of this application. The section 17 award made on the 08th of August 2012, it is brought to the notice of court that the Divisional Secretary when arriving at the decision after an inquiry under section 9 has not given an opportunity for the petitioner to present his case before the Divisional

Secretary and in this circumstances the award has been made in favour of the 6th Respondent who is present in this court. The learned Senior State Counsel who is appearing for the respondents submits to court that it is irrelevant to give an opportunity for the petitioner to establish his claim before arriving at a decision and in these circumstances this Court quash the section 17 award made by the 1st respondent which is dated 08.08.2012 and a certified copy of which is filed of record and the order is in the departmental file which is produced today in court. The Court direct the Divisional Secretary to hold a fresh inquiry under section 9 after giving notice to the relevant parties including the Petitioner and the 6th Respondent. This application for writ of certiorari as prayed for in prayer 'b' of the petition is allowed without costs.

PRESIDENT OF THE COURT OF APPEAL

AKN