

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

In the matter of an application
For prerogative writs.

Case No. CA (Writ) 266/2011

1. Dona Nihal Jayanthi Mallawarachchi
No.37B,
Government Housing Scheme,
Ratmalana.
2. Kodikara Gedera Punchi Bandara
No.117A,
Government Housing Scheme,
Ratmalana.
3. Ahangama Liyanage Ranaraja
Patmasiri
No.70B,
Government Housing Scheme,
Ratmalana.
4. Hibusugoda Ruhunuge Ananda
No.116A,
Government Housing Scheme,
Ratmalana.
5. Adikari Mudiyanseage Karuna
Basnayake
No.15B,
Government Housing Scheme,
Ratmalana.
6. Palle Kandelage Gnanawathie
No.38A,
Government Housing Scheme,
Ratmalana.

7. Rankoth Gedera Swarnathilaka
Dolapihille
No.C39B,
Government Housing Scheme,
Ratmalana.
8. Indrajith Presanna Wickramasinghe
No.22B,
Government Housing Scheme,
Ratmalana.
9. Hennayake Mudiyansele
Premarathna
No.48A,
Government Housing Scheme,
Ratmalana.
10. Makawitige Anthony Weerasena
Nanayakkara
No.C/77/A,
Government Housing Scheme,
Ratmalana.
11. Athukoralage Padma Ranjani
No.C/8/21,
Government Housing Scheme,
Ratmalana.
12. Amara Wijesekera Dissanayake
No.C/105/b
Government Housing Scheme,
Ratmalana.
13. Mudaliamige Seneviratne
No.99A,
Government Housing Scheme,
Ratmalana.

14. Hewa Warawitage Sumanarathna
No.69A,
Government Housing Scheme,
Ratmalana.
15. Munasinghe Vidana Pathirannahalage Abeyrathna,
No.41B,
Government Housing Scheme,
Ratmalana.
16. Ranjan Wijetunga
No.55B,
Government Housing Scheme,
Ratmalana.
17. Ginthota Pathirana Vidanagae Malani Nanayakkara
No.80A,
Government Housing Scheme,
Ratmalana.
18. Rathmalana Government Quarters
Residence Welfare Society Ltd,
69/ A, Government Quarters,
Ratmalana.

Petitioners

Vs.

1. A.L.Sisira Kumara,
The Regional Director of Irrigation,
The Office of the Regional Director of the Irrigation,
P.O.Box 1514,
Jawaththa Road,
Colombo 5.
2. Hon Attorney General
Attorney General's Department
Colombo 12.

Respondents

Decided on : 20.03.2013

S.Sriskandarajah, J,

The 1st to 17th Petitioners are residents of the Government Housing Scheme, situated at Ratmalana, which is called as Irrigation Department Ratmalana Housing Scheme. The 1st Petitioner is a government employee, attached to the Ministry of Power and Energy. The 2nd Petitioner is a government employee, attached to the Department of Commissioner of Motor Vehicles, the 3rd Petitioner is a government employee, attached to the Department of Inland Revenue, the 4th Petitioner is a government employee, attached to the Department of Immigration and Emigration, the 5th Petitioner is a government employee, attached to the Ministry of Power and Energy, the 6th Petitioner is a government employee, attached to the Land Commissioner Department, the 7th Petitioner is a government employee, attached to the Immigration and Emigration Department, the 8th Petitioner is a government employee, attached to the Ministry of Coconut Development and Janatha Estate Development, the 9th Petitioner is a government employee, attached to the Ministry of Minor Export, the 10th Petitioner is a government employee, attached to the Survey Department, the 11th Petitioner is a government employee, attached to the President's Secretariat, the 12th Petitioner is a government employee, attached to the Inland Revenue Department, the 13th Petitioner is a government employee, attached to the Petroleum Corporation, the 14th Petitioner is a retired government employee, last attached to the Ministry of Agriculture Development and Agrarian Services, the 15th Petitioner is a retired government employee, last attached to the Ministry of Agriculture Development and Agrarian Services, the 16th Petitioner is a retired government officer, last attached to the Land Commissioner General's Department, and the 17th Petitioner is a retired government employee, last attached to the Central Engineering Consultant Bureau.

The Petitioners submitted that they have been as government servants, allocated government quarters by their respective departments. The said quarters, occupied by

the Petitioners, was constructed by the Irrigation Department, for the employees of the then Department of Highway Equipment and Machinery, which was affiliated to the Irrigation Department, upon the policy of the said Department of Highway Equipment and Machinery, in or about 1985. The relevant ministry, viz., the Land and Land Development, had transferred the Housing Scheme to the Ministry of Irrigation, Power and Energy. The Ministry of Irrigation, Power and Energy, by its letter of 27/12/1995, handed over the Housing Scheme to the Irrigation Department with effect from 1/01/1996. The 1st to the 17th Petitioners had gone into occupation of the said government quarters on the basis that, at the time of their first occupation of the quarters, they were employed at the Department of Irrigation. The 1st Respondent, the Regional Director of Irrigation, contended that he was in charge of the said quarters from January 1996. As the Petitioners are no longer in the services of the 1st Respondent, and some of the Petitioners are now retired or are in occupation of the said quarters for longer than 5 years, they became ineligible to remain in the said quarters by virtue of Clauses 6-14 in Chapter IX of the Establishment Code and Chapter XV of the Establishment Code. For the above reason, the 1st Respondent has taken action to evict them and to take possession of the said quarters. For this reason he has issued quit notice and, in certain cases, instituted action in the Magistrates Court as per the provisions of the Government Quarters Recovery of Possession Act No.8 of 1981, as amended. In the above circumstances, the 1st Respondent has acted within his powers and has also acted reasonably in issuing quit notices to the Petitioners to take possession of the said quarters. The contention of the Petitioners is that the said quarters do not belong or is not under the control of the Irrigation Department, is not supported by any evidence, and this Court has, on previous occasions held that these quarters were under the control of the Irrigation Department, by its judgment in C.A. (Writ) Application No.449/2003, C.A. Minutes of 25/04/2006 and C.A. (Writ) Application No.1239/2004, C.A. Minutes of 25/04/2006, C.A. (Writ) Application No.570/2002, C.A. Minutes of 24/04/2006.

In view of the above facts and circumstances, the Petitioners are not entitled to seek a writ of certiorari to quash the quit notices marked as P51 to P67 and, therefore, this Court dismisses this Application without cost.

President of the Court of Appeal