

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

K. M. K. Prasad Bandara Kulatunga,
No. 2, Samodaya Mawatha,
Mattegama.

PETITIONER

C.A. 71/2008 (Writ)

Vs.

1. Dr. Nevil Gunawardena,
Director General.
Customs Department,
Customs House No. 11,
Colombo 11.
2. U. Liyanage
Assistant Director of Customs
Automated Data Processing Unit
Customs Department,
Customs House No. 11,
Colombo 11.
3. Hon. Attorney General
Attorney General's Department
Colombo 12.

RESPONDENTS

BEFORE: Anil Gooneratne J.

COUNSEL: K. Deekiriwewa with L.M. Deekiriwewa,
H.K. Herath & Rasangi Wedamuni for the Petitioner

F. Jameel D.S.G., for Respondents

ARGUED ON: 22.11.2012 & 30.11.2012

DECIDED ON: 30.07.2013

GOONERATNE J.

The Petitioner in this Writ Application is one K.M.K. Prasad Bandara Kulatunga. This application is somewhat connected to C.A. Application No. 70/2008. Both these applications were argued together, and consolidated, since the relief sought is the same (to quash X7) and grounds relied upon for issue of Writ of Certiorari is identical, vehicle seized and forfeited as in order X7. The vehicle referred to in this application was an Intercooler Mitsubishi Jeep which was purchased on 17.11.1999 as in paragraph 2 of the petition. X2 is the book of registration, and the vehicle registered in the name of the Petitioner. The date of 1st registration was 17.11.1999 and Petitioner allege that he used the vehicle until 17.12.2009/18.12.2009 midnight and it was seized by the Customs Department

official on the said date as in paragraph 8 of the Petition (same as in application 70/2008 from the same place).

This court has no reason to deliver a different judgment as the issue for issuance or refusal of writ and the subject matter and the facts and circumstances are same and identical to CA 70/2008.

However it need to be noted that by document 1R1 it is confirmed that no permit had been issued to import the vehicle in question. Further by 1R2 Petitioner admits non-payment of custom duty. The Petitioner is guilty of laches. After the vehicle was forfeited for 65 days Petitioner had not appealed or instituted action. (vide 1R3). As such state had allocated the vehicle to a Government Department.

This court observes that the Petitioner has not disclosed a single ground to consider whether a Writ could be issued? This is a futile application. The reasons stated by this court in C.A Application 70/2008 would also apply to this application. There is absolutely no merit in this application.

Application dismissed without costs.

JUDGE OF THE COURT OF APPEAL