

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

CA PHC 256/06

PHC Anuradhapura 40/02 Writ

BANDUSENA DISSANAYAKE,
VAVUNIYA ROAD,
KEBITHIGOLLAWA
APPELLANT-PETITIONER.

Vs.

P.B. SIRIPALA,
DIVISIONAL SECRETARY,
KEBITHIGOLLAWA

Hon. ATTORNEY General,
COLOMBO 12.

RESPONDENT-

RESPONDENT

Before : A.W.A. Salam, J.

Counsel : Ranjan Suwanderathne with Shiral Lakthilake for
the Appellant-Petitioner and Nayomi Kahawita, S.C., for the
Respondents.

Argued on : 25.07.2013

Written Submissions tendered on: 17.09.2013.

Decided on : 23.10.2013.

A W A Salam, J.

This appeal arises from the order of the learned High Court judge, refusing to issue a writ of *certiorari* quashing the notice to quit issued by the competent authority with regard to a State land. Being aggrieved by the said judgement of the Learned High Court Judge the petitioner-appellant has preferred the instant appeal with the view to have the said judgement of the learned High Court judge set aside.

The facts briefly, as far as it is relevant to the present appeal are as follows. The petitioner-appellant has been served with a notice to quit under and in terms of the State Lands (Recovery of Possession) commanding him to vacate the land in question failure on his part to result in the initiation of legal action against him. The petitioner-appellant without obeying the demand made by the competent authority invoked the writ jurisdiction of the provincial High Court in order to have the said notice quashed. The learned High Court judge after hearing both parties on the issue as to whether the notice to quit should be quashed, held inter alia that the petitioner-appellant is not entitled to succeed in his application. Thereafter, the present appeal was filed in this court and the instant judgement relates to the said appeal.

In the case of The Superintendent, Stafford Estate Vs Solaimuthu Rasu S.C appeal No 21/13-SC special L.A 203/12-CA/PHC-appeal No 37/2001 – HC/CP Certi. 42/97 it was held inter alia by the Supreme.

Court that the act of the competent authority in issuing a quit notice for ejection does not fall within the extents of matters specified in the provincial Council list and therefore the provincial High Court would have no jurisdiction to exercise writ jurisdiction in respect of quit notices issued under State Lands (Recovery of Possession) Act as amended.

In the circumstances, as I am bound to follow the ratio in the case cited above, the appeal preferred by the petitioner-appellant is dismissed. There shall be no costs.

Judge of the Court of Appeal

Sunil Rajapaksha, J

I agree

Judge of the Court of Appeal

AKN/-