

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

Rani Padmalatha Jayasooriya
Gal-Oya Safari Lodge,
106, Kandy Road,
Ampara.

PETITIONER

C.A 169/2013 (Writ)

Vs.

1. Hon. Janaka Bandara Tennakoon
Minister of Lands and Land
Development,
Mihikatha Medura, Land Secretariat,
6/1200, Rajamalwatta Road,
Battaramulla.
2. Commissioner General of Lands,
Land Commissioner General's
Department,
No. 1200/6, Rajamalwatta Road,
Battaramulla.
3. Deputy Land Commissioner
Kachcheriya, Ampara.
4. The Divisional Secretary,
Divisional Secretariat, Ampara.
5. Nimala Piyeaseeli Senarath
No. 30/01, Sunethradevi Mawatha,
Kohuwela.

RESPONDENTS

BEFORE: Anil Gooneratne J. &
Malinie Gunaratne J.

COUNSEL: Kanishka Vitharana & W.M. Abeyratne for the Petitioner
Milinda Gunatilleke D.S.G., for 1st to 4th Respondents
Udaya Bandara for the 5th Respondent

ARGUED ON: 07.02.2014

DECIDED ON: 18.02.2014

GOONERATNE J.

This is an application for mandates in the nature of Writ of Certiorari/ Mandamus. By sub-para 'b' of the prayer to the petition a Writ of Certiorari is sought to quash letter marked P25 of 21.9.2012 (communication by 1st Respondent to one Rani Padmalatha Jayasekera informing that the land in dispute cannot be leased, but would be leased to 5th Respondent). A Writ of Mandamus as in sub-para 'c' directing 1st – 4th Respondent to lease the land described in P25 to the Petitioner and also by sub- para 'd' for mandamus to follow the provisions

referred to therein and select the suitable person to alienate land described in P25. When this application was supported by learned counsel for Petitioner on 07.02.2014, learned Deputy Solicitor General for 1st – 4th Respondent and learned Counsel for 5th Respondent objected to the issuance of notice and moved to have the said application rejected and dismissed.

Learned Counsel for Petitioner drew the attention of this court to the several paras contained in the amended petition viz paras 6 to 24 and submitted to court that a long lease (P2) of 30 years of the land in dispute was granted to 5th Respondent's husband one Somaratne Senerath a former Member of Parliament and Deputy Minister who had done some improvements, re-construction of houses etc. However after 1977 for reasons stated in para 9 of the petition the above named Senerath could not continue to possess the land in dispute. It is also pleaded that Petitioner's husband (paras 11 -24) had negotiated with the above Senerath to obtain title and ownership ^{of} as the land in dispute. It is also pleaded that a large sum of money had been invested in the land and certain improvements had been done by the Petitioner's husband and continued to enjoy land in dispute in the manner pleaded therein. i.e continuation of Guest House etc. This court observes that there had not been any valid lease entered between the Petitioner's husband and the state at any given point of time or the land had

not been alienated according to the provisions of the Crown Lands Ordinance or any other statute in favour of the Petitioner's husband or Petitioner.

The learned counsel accept the position that both the Petitioner's husband and 5th Respondent's husband expired at some point of time and also refer to paras 30 – 33 of the Amended Petition.

It was the submission of learned counsel for Petitioner that attempts were made and assurances given in some method or the other would make the Petitioner to be entitled to have the land alienated to her, in the manner pleaded in the body of the amended petition and that the Petitioner would be entitled to the land in dispute. The learned Deputy Solicitor General drew the attention of this court to lease document marked P2 and clause 9 of same which prohibits alienation of the land in dispute as stated in the said Clause 9 and such acts would make the lease invalid or void.

In view of the submissions made on behalf of the Respondents and more particular the Petitioner having absolutely no status or a legal basis to maintain this application and the delay in making an application to this court, would disentitle the Petitioner for any relief in the manner pleaded. Any form of possession by the Petitioner or any one holding under the Petition²⁻³ would be ~~an~~ unauthorized possession or a trespassing²⁻³. This is not a fit and proper application

to grant or issue formal notice on the Respondents. There is no merit in this application. Further the material placed before this court indicates that the Petitioner had previously moved the Supreme Court and at a certain stage withdrew such application, before the Supreme Court. This is nothing but a futile and a frivolous application without merit, and a misconceived application to court. As such we reject and refuse to issue notice

Application dismissed without costs.

JUDGE OF THE COURT OF APPEAL

W.M.M. Malinie Gunaratne J.

I agree.

JUDGE OF THE COURT OF APPEAL