

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

CA Writ No.342/2009

Serasinghe Jayakody Arachchilage Laksman
Kumarasiri Jayakody,
No.11/4, Mawilawate, Weerahena(East), Nattandiya.

Serasinghe Jayakody Arachchilage Sunil Jayakody,
Illupugamuwa, Welipennagahamulla.

Petitioners

Vs.

Divisional Secretary,
Divisional Secretariat, Udubeddawa.

Electrical Engineer,
Electricity Board, Nattandiya,
Chilaw Road, Wennappuwa.

G.Noroshani Fernando,
Illuppugamuwa, Welipannagahamulla.

Ceylon Electricity Board,
Chittampalam Gardinar Mawatha,
Colombo 02.

Divisional Secretary,
Divisional Secretariat, Kurunegala.

W.M.Upul Priyantha,
Iluppugamuwa, Welipannagahamulla.

Hon. Attorney General,
Attorney-General's Department,
Colombo 12.

Respondents

IN THE COURT OF APPEAL OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF SRI LANKA

An application in the nature of Writs of Certiorari in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

C.A. (Writ) Application No. 342/2009

BEFORE : Deepali Wijesundera J.

COUNSEL : D.H. Siriwardana for 1st and 2nd
Petitioners.
: Chaya Sri Nammuni S C for 1st, 2nd,
4th, 5th, 7th and 8th Respondents.

ARGUED ON : 20th January, 2014.

DECIDED ON : 04th April, 2014.

Deepali Wijesundera J.

The petitioners have filed this application against the respondents praying for a Writ of Certiorari to quash the documents marked as **P8** and **P13**. **P8** is a letter dated 22/07/2008 addressed to the 2nd petitioner by the 1st respondent. **P13** is a letter addressed by the 2nd respondent to the 1st petitioner.

By letter **P8** the 1st respondent has informed the 2nd respondent that an inquiry was held in his office regarding the objection made by the 2nd petitioner against the 2nd respondent in connection with the electricity connection to be given to the 3rd respondent's house and after the inquiry the 1st respondent sent an agent to inspect the said area and have decided to give the electricity connection as mentioned in the said letter. He has attached a sketch and under sec.15 of the Electricity Act approved the said connection.

By letter **P13** the 2nd respondent informs the 1st petitioner that an inquiry was held after he objected to lines being drawn to give the electricity connection to the 3rd respondent and it was decided to give the connection to the 3rd respondent with copies to 2nd petitioner and 3rd

respondent. He was informed under sec. 15 of the said act to act accordingly, by the 1st respondent. This court has to decide whether there is sufficient material to issue a writ of certiorari to quash these two documents.

When the 1st and 2nd respondents tried to give an electricity connection to the 3rd respondent after she made an application for same the 1st and 2nd petitioners have objected by letters marked as **P4** and **P5** for the electrical lines being drawn close to their houses. The petitioner's argument was since the 3rd respondent bought the land from the 6th respondent she should be given the connection over the 6th respondent's land as they have shown in their sketch marked as **P3** with their petition.

The main argument of the petitioners was that the 3rd respondent who bought the land from the 6th respondent acting in collusion with the officials of the Divisional Secretariat of Udubeddawa and the 6th respondent, whose wife is a Samurdhi Animator sought to get the electricity lines drawn over their land without getting the connection over the 6th respondent's land. The petitioners submitted in these conditions they have been wronged and victimized in an unreasonable manner by the respondents.

Though the petitioners stated that they have been unreasonably treated the 1st petitioner did not participate at the inquiry held by the 1st respondent after the petitioners objected to the electricity lines been drawn near their houses. After the inquiry and field visit by the 1st respondent's agent and the 2nd respondent they have decided to draw the electricity lines by the sides of the petitioner's land **1R2, 2R1** shows that the line does not fall on to their land.

Document **P3** produced by the petitioner's shows that the only roadway to the 3rd respondent's land is the road which go between the 1st and 2nd petitioner's houses therefore the electricity line should also take the same route.

P8 is dated 22/07/2008 and the said letter stated an inquiry was held on the 21/07/2008 for which only the 2nd petitioner has gone and it was decided at the inquiry itself to draw the electricity lines along their roadway. This application was filed to quash this letter dated 22/07/2008 in June 2009. That is almost one year after the said decision was taken. To get over this the petitioners have sought to quash **P13** also which is dated 12/05/2009, by this letter which is a reply to the 1st petitioner's inquiry they have informed the 1st petitioner that the 1st and 2nd respondents have already made a decision on 22/07/2008 and that both

parties were sent copies of same. The petitioners after staying silent for nearly a year without giving a valid reason for the delay tried to mislead court by introducing P13 to get over their lapse.

On perusal of all the documents filed by both parties this court decide that the decision to draw the electricity lines along the route specified has been subsequent to the ruling out of any possibility of a threat to life or property of the petitioners. No prejudice has been caused to the petitioners by this decision of the 1st and 2nd respondents therefore the petitioner's application is misconceived in law. Therefore the application of the petitioners is dismissed with cost fixed at Rs. 10,000/=

JUDGE OF THE COURT OF APPEAL.