

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

**CA (PHC) 144/2003**

PHC-COLOMBO-108/2001

B.L. Ranji  
No: 70/G/08,  
Palangasthuduwa Housing Project  
Rodney Street,  
Colombo 08.

**Appellant**

**Vs.**

Chairman  
Land Reclamation and Development Co- Operation  
Rajagiriya.

**Respondent**

Before : K.T. Chitrasiri, J. &  
W.M.M. Malinie Gunarathne, J.

Counsel : Shantha Jayawardena for the Appellant  
A. Samaranayake, SSC for Respondent

Decided on : 15.10.2014

K.T. Chitrasiri, J.

This is an appeal seeking inter-alia to have an order, setting aside the decision dated 05.09.2001 of the learned Magistrate of Colombo. By that order the learned Magistrate allowed an application by the Respondents to take possession of the premises bearing No. 'J8' Palangasthuduwa Housing Scheme, evicting the appellant therefrom.

Admittedly, the aforesaid premises belongs to the state. This application has been made in terms of the provisions contained in the State Land (Recovery of Possession) Act No. 7 of 1979.

When applications are made to recover possession of the lands in terms of the provisions contained in the aforesaid Act No. 7 of 1979, it is the burden of the person who is in occupation of that land, to establish that he/she has a valid permit or written authority, issued by the State to occupy such a land.

This position in law is clearly established in the cases of Mohandiram Vs Chairman Janatha Estate Development Board, (1992 (1) SLR Page 110), Nirmal Paper Convertes (Pvt) Limited Vs. Sri Lanka Ports Authority (1993 (1) SLR page 219) and P.V. Dayananda Vs. Sunethra Nallaperuma. (CA (PHC) 52/10 Court of Appeal minutes dated 22.09.2011.)

In this instance, the appellant has failed to establish that he has a valid permit or written authority issued by the State to occupy the premises in question. Therefore, the appellant is not in a position to occupy the land put in suit.

For the aforesaid reasons, we, affirming the decisions of the learned Magistrate and the learned High Court Judge, dismiss this appeal.

*Appeal dismissed.*

**JUDGE OF THE COURT OF APPEAL**

**W.M.M. Malinie Gunarathne, J.**

I agree.

**JUDGE OF THE COURT OF APPEAL**

LA/-