

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

CA Writ 289/2014

Loku Banda Herath  
5th Mile Post,  
Handaganawa.

**Petitioner**

**Vs.**

1. Commissioner General of Land  
Department of Land Commissioner General  
Gregory's Lane, Colombo 7.

2. P. G . Abeykoon  
Deputy Commissioner of Land Department

3. M.G.S.K. Gunarathna  
Land Officer

4. Former Hon. Minister lanaka Bandara Tennakoon  
Minister of Land and Land Development

5. Permanent Secretary to the Ministry of Land Ministry

And Others

**Respondents**

**C.A.No.289/2014 (Writ)**

Before : Vijith K. Malalgoda, P.C. J. (P/CA)

Counsel : Upul Hewage for the Petitioner.

ViKum de Abrew DSG for the 9<sup>th</sup>  
Respondent .

Kumar Dunusinghe for the 10<sup>th</sup>  
Respondent.

Argued and

Decided on : 23.07.2015.

**Vijith K.Malalgoda PC,J. (P/CA)**

Heard counsel for the Petitioner in support of this application and also the learned Deputy Solicitor General for the 9<sup>th</sup> Respondent and counsel for the 10<sup>th</sup> Respondent.

This matter is being supported today for notices as well as for interim relief. This refers to a disputed land which was originally granted by a permit to the Petitioner's mother. On her death, the permit has now been issued to the Petitioner. However the material before us shows that there is a continuous dispute

with regard to the question of using this land as a burial ground. At one stage the learned Magistrate had made order declaring this as a burial ground but thereafter by a District Court order the land has been given back to the Petitioner's mother. However after the death of the Petitioner's mother the Respondent had held an inquiry and decided under Section 109 of the Land Development Ordinance to cancel the permit but this Court on a writ application filed by the Petitioner had cancelled the said order since the correct order should be not under Section 109 of the Land Development Ordinance but under Section 110 of the Land Development Ordinance. A fresh inquiry was held and in fact the officer who conducted the inquiry has visited the land in question and made observations with regard to this land. One allegation against the petitioner is that he is not occupying the land. Petitioner's position is that he is occupying the adjoining land and he uses this land to cultivate. But in contrary the officer who visited the land had reported that there was very little cultivation in the said land. The Respondents have finally come to the conclusion to cancel the said permit under Section 110 of the Land Development Ordinance, which is the correct Section applicable for cancellation of such permit. Since the order marked X51 had been issued by the officer who had visited the land in question and the 1<sup>st</sup> Respondent who heard the appeal had

referred to the said order and was satisfied with regard to the decision made by the 8<sup>th</sup> Respondent.

Therefore, this Court is not inclined to interfere with the decision made by the 1<sup>st</sup> respondent marked X55. Application by the Petitioner is accordingly dismissed.

PRESIDENT OF THE COURT OF APPEAL

H.C.J.Madawala,J.

I agree.

JUDGE OF THE COURT OF APPEAL.

WC/-