

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

In the matter of an application under and in terms of articles 140 of the Constitution of the republic for mandates in the nature of writs of certiorari and mandamus.

Kumuduni Pandithasekara,
63/9A,
Sri Rathanapura Mawatha,
Matara.

Petitioner.

Vs.

- (1) A.Sunil Weerasinghe,
Commissioner General,
Of Agrarian Development,
Department of Agrarian Services,
42, Sir Marcus Fernando Mawatha,
(POBox 537) Colombo 07.
- (2) N.Priyadarshini Gamage,
Assistant Commissioner of Agrarian
Department, Office the Assistant
Commissioner of Agrarian
Services, Hambantota.
- (3) Hon. Attorney General,
Attorney General's Department,
Colombo 12.
- (4) Chandrasena Ranasinghe,
Walawa, Medagama, Ambalantota.

CA/WRIT/504/2011

Respondents.

C.A. Writ 504/2011.

Before : K.T.Chitrasiri, J.&
L.T.B. Dehideniya, J.

Counsel : Senura Abaywardena for the Petitioner.
Chaya Sri Nammuni SSC for the 1st to 3rd
Respondents.

D.M.G. Dissanayake with B.C.Balasuriya for
the 4th Respondent.

Argued &
Decided on : 07.09.2015.

K.T.Chitrasiri, J.

This is an application to have a mandate in the nature of a certiorari quashing the decision contained in the document marked "P17". The decision found therein is to have a re-valuation of the paddy land subjected to in this case. The Petitioner also has sought to have a writ of mandamus directing the 1st and the 2nd Respondents to take steps in order to eject the 4th Respondent from the paddy land described in the schedule to the petition, in terms of Section 8 of the Agrarian Development Act No: 46 of 2000.

All three counsel concede that the aforesaid Act No: 46 of 2000 does not contain provisions to have a second inquiry to re-value a paddy field once a decision had been made under Section 2 of the said Act. Therefore, it is clear that the decision by the Assistant Commissioner Agrarian Development in Hambantota that was made on the 21.04.2010 had been made without authority. Therefore, the relief prayed for in the prayer (b) to the petition dated 02.09.2011 is granted. Accordingly, the decision contained in the document marked "P17" is quashed.

The remaining relief is to have a writ of mandamus issued on the 1st and the 2nd Respondents to take steps under Section 8 of the Act No: 46 of 2000. It is brought to the notice of court by the counsel that before taking steps under Section 8 of the Act there shall be an inquiry held by the Commissioner General in terms of Section 2(4) of the Act No: 46 of 2000. Counsel for the Petitioner agrees to participate at such an inquiry before taking steps under Section 8 of the Act. Therefore, the relief prayed for in the prayer (c) is refused.

At this stage counsel for the 4th Respondent submits that his client will make an application to the Commissioner General to have an inquiry under Section 2 (4) of the Act. However, he reserves his right to take up the issue at that inquiry, as to the matters referred to in the document marked "1R1" filed with the objections of the 1st Respondent. The document 1R1 which is dated 23.12.2009 had been prepared by A.A Wickremasinghe, Director Investigations in the Ministry of Agricultural Development and Agrarian Services.

Subject to the above conditions this application is allowed.

Application allowed.

JUDGE OF THE COURT OF APPEAL

L.T.B. Dehideniya, J.

I agree.

JUDGE OF THE COURT OF APPEAL

Vkg/-