

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

**CA 301/2015**

Dianne Rebecca Muller  
No: 05, Tourist Depot Road, Katubedda,  
Moratuwa.

**Petitioner**

**Vs.**

The National Housing Development Authority,  
6th Floor, National Housing Secretariat,  
Sir Chittampalam A Gardner Mawatha,  
Colombo 02.

And Others

**Respondent**

CA 301/2015

**WRIT APPLICATION**

**Before** : **Vijith K. Malalgoda, P.C.J. (P/CA) &**  
**H.C.J. Madawala, J.**

Counsel : Asthika Devendra for the petitioner  
Chaya Sri Nammuni, SC for Respondents

Argued &

Decided on : 02.10.2015

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

Heard counsel for the petitioner as well as the State Counsel

The petitioner is before this court asking for relief including to quash a deed already issued by the NHDA to the 11<sup>th</sup> Respondent. It was submitted by the petitioner that the petitioner's father was in occupation in the premises in question until his death in year 2013. The position taken up by the petitioner was that the 11<sup>th</sup> Respondent who was also a sister of her father had claimed for the said premises prior to 2009 and in 2009 when she was to be granted the said premises she withdraw her request. Petitioner further submits that just after her father's death the 11<sup>th</sup> Respondent has re-agitated the issue and the NHDA without informing and giving an opportunity

to the petitioner a deed had been executed in favour of the 11<sup>th</sup> Respondent.

Court observes that the 11<sup>th</sup> Respondent is a 3<sup>rd</sup> Generation member of the original lessee and the petitioner belongs to the 4<sup>th</sup> Generation. Learned State Counsel's position before this court was that when considering such grants the NHDA give priority to the 3<sup>rd</sup> generation above the 4<sup>th</sup> generation. The position taken up by the petitioner was that she was not granted an opportunity to represent before an inquiry if the criteria is to grant 3<sup>rd</sup> generation above the 4<sup>th</sup> generation.

At the same time the position taken up by the leaned State Counsel was that, at the time the deed was executed and decision is arrived there was no request from the petitioner for the said premises. By that time, petitioner's farther had passed away.

Under these circumstances, we see no merit in this application and therefore we refuse to issue notices in this matter.

Notices are refused.

**PRESIDENT OF THE COURT OF APPEAL**

**H.C.J. Madawala, J.**

I agree.

**JUDGE OF THE COURT OF APPEAL**

LA/-