

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

In the matter of an Application
under Article 154P of the
Constitution read together with
High Court of the Provinces
(Special Provisions) No: 19 of
1990.

1. Galauda Gedara Kalubanda
Dayapala.

2. Ranathunga Gedara
Latharani Malkanthi.
Both of Pandulagama.

**CA (PHC) Application No:
144/2010**

Petitioner – Appellants

Vs.

1. Provincial Land,
Commissioner –
Anuradhapura.

2. Divisional Secretary,
Pandulagama.

3. B.E.M. Mendis,
No: 93, Maliyadewa
Mawatha,
Vijepura,
Anuradhapura.

4. Hon. Attorney General,
Attorney General's
Department, Colombo 12.
And another

Respondents – Respondents

**Before : P.R. Walgama, J
: L.T.B. Dehideniya, J**

**Council : Appellant is absent and unrepresented.
: Nayomi Kanavita, SC for the state.**

Argued on : 27.05.2016

Decided on : 01.08.2016

CASE- NO-CA(PHC)- 144/2010-JUDGMENT- 01.08.2016

P.R. Walgama, J

The Petitioner- Appellants had lodged the instant appeal to assail the order of the Learned High Court Judge dated 04.08.2010, by which order the Petitioner

- Appellants application, for a mandate in the nature of a writ of Certiorari was refused.

Being aggrieved by the said order the Appellants had impugned the said order by the instant appeal to this Court.

In the application to the Provincial High Court holden at Anuradhapura the Petitioner - Appellants had unfolded the following;

That the Petitioners, had from 1992 developed the land described in the schedule thereto and was in possession of the same.

That the 2nd Petitioner has made an application to the authority to obtain a permit in terms of Land Development Act or under the State Lands Act.

It is also been noted that there is a dispute in respect of the land in issue between the 1st Petitioner and the 3rd Respondent.

It has been further alleged by the Petitioners that the 1st and the 2nd Respondent are taking steps to allocate a portion of the subject land to the 3rd Respondent. Therefore it is contended by the Petitioners that when the 2nd Respondent had taken steps to issue a legal document to the 2nd Petitioner, but had deviated from the said procedure by the 1st Respondent, and given a directive to the 2nd Respondent to comply with the same. It is the

said decision of the 1st Respondent which is to be enforced by the 2nd Respondent is to be quashed by writ of Certiorari, as moved by the Petitioner – Appellants.

Therefore in the above setting the Petitioners move for a writ of Certiorari to quash the decision taken and contents of which are contained in the documents marked P5, P6 and P8.

In objecting to the above application the Respondents submit that the disputed land is a state land and the Provincial High Court has no jurisdiction to hear and make a determination of the said issue.

It is to be noted that the Petitioner-Appellants were absent and unrepresented, even after receiving notice of the date of argument. Therefore this Court is possessed only with the argument of the Respondents.

It is trite law, that the Provincial High Court of Anuradhapura stands denuded of jurisdiction as the subject matter of the State lands does not come within the purview of the Provincial List (list 1) of the 9th Schedule to the 13th Amendment to the Constitution.

It is noted by virtue of Article 154(4) of the Constitution has recognised the power of the High Court to issue writs in the nature of Certiorari, prohibition, procedendo, mandamus and quo warrento,

only in respect of matters set out in the Provincial Council list. In the said list it is apparent that the subject of State Lands does not come with the said ambit and as such as stated before the High Court is not empowered to adjudicate any matter pertaining to the State Lands as the said subject is vested with the Centre.

The said proposition was recognised by judgment delivered in the case of SOLIMUTTU RASU .VS. THE SUPRINTENDENT STAFFORD ESTATE- decided on 26.09.2013.

Therefore in the above exposition of the facts and law, we reach to an irresistible conclusion that the appeal being devoid of merit, deserve to be dismissed and is dismissed accordingly.

We order no costs.

JUDGE OF THE COURT OF APPEAL

L.T.B. Dehideniya, J

I agree.

JUDGE OF THE COURT OF APPEAL