

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

In the matter of an appeal under and
in terms of the Section 11 of the High
Court of the Provinces (Special
Provisions) Act No: 19 of 1990 that
shall real with the Articles 138 and
139 of the Constitution.

AMENDED CAPTION

Court of Appeal

Case No. CA(PHC) 119/2009

Uva Provincial High Court

Case Numver:Writ/160/2008

S.M. Sudubanda,
Amarakoongama,
Kalubululanda.

Petitioner

Vs.

1. Tennakumbura,
Agrarian Services Committee,
Kalubululanda.
2. Executive Secretary,
Tennakumbura,
Agrarian Services Committee,
Kalubululanda.

3. Agrarian Development
Commissioner General,
Agrarian Services Department,
Colombo 07.
4. Agrarian Development Assistant
Commissioner,
Badulla.
Agrarian Services Development
Department,
Keppetipola Mawatha,
Badulla.
5. Joslin Wijerathna,
Yahala Bedda,
Haputale.
6. W.L. Dharmasena,
56/1, Siyabalagastenna,
Kandy.
7. Administrative and Coordination
Secretary, Tennekumbura,
Agrarian Services Committee,
Kalubululanda.
8. Lalith Amarawansa,
Kusum Nivasa, Madowita,
Kalubululanda.
9. The Attorney General,
Attorney General's Department,
Halfsdrof Street,
Colombo 12.

Respondents

Court of Appeal

Case No: CA(PHC) 119/09

S.M. Sudubanda,
Amarakoongama,
Kalubululanda.

Petitioner – Appellant

Vs.

1. Tennakumbura,
Agrarian Services Committee,
Kalubululanda.
2. Executive Secretary,
Tennakumbura,
Agrarian Services Committee,
Kalubululanda.
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Commissioner General,
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Secretary, Tennekumbura,
Agrarian Services Committee,
Kalubululanda.
8. Lalith Amarawansa,
Kusum Nivasa, Madowita,
Kalubululanda.
9. The Attorney General,
Attorney General's Department,
Halfsdrof Street,
Colombo 12.

Respondents – Respondents

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

Council : D.P. L.A. Kashyapa Perera for the Petitioner.
: Chathura Galhena for the 5th , 6th & 8th
Respondents – Respondents.

Argued on : 09.06.2016

Decided on : 06.09.2016

CASE- NO- CA (PHC)- 119- 09- JUDGMENT- 06/09/2016

P.R. Walgama, J

When this matter was taken up for argument both Counsel agreed to dispose of this matter by way of written submissions. Hence this Court granted a date for written submissions, but nevertheless only for the 5th, 6th and 8th Respondents, written submissions were tendered.

The Petitioner- Appellant by his petition dated 14.11.2008 lodged a petition in the Provincial High Court of Badulla, moved for a mandate in the nature of a Writ of Certiorari and for a Writ of Mandamus, exercising the power vested in terms of the provisions of Act No. 19 of 1990 that shall be read with the Article 154 (p) (4) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Petitioner- Appellant was the tenant cultivator of the paddy land morefully described in the schedule thereto. The 5th and the 6th Respondents are the co owners of the subject land.

It is alleged by the Petitioner- Appellant that the 6th Respondent has offered to a third party to sell the paddy field for a sum of Rs. 800,000/, which was cultivated by the Petitioner -Appellant. It is salient to

note that under and in terms of Section 2 subsection (1) of the Agrarian Development Act No. 46 of 2000 the owner of an extent of paddy land shall make an offer such extent to the tenant cultivator. It is also alleged by the Appellant that the above said proposed sale was offered only by the 6th Respondent, when the 5th Respondent was also a co owner of the subject land.

Nevertheless it is admitted by the Petitioner- Appellant that the 1st Respondent by his letter dated 24th September 2003 has prescribed the price for the paddy land which was cultivated by the Petitioner- Appellant for Rs. 238,400/ and informed that the said paddy land should be purchased by the Appellant within 6 months from the date thereof.

In pursuant to the above determination the Petitioner- Appellant has appealed and the 7th Respondent held an inquiry and had informed the Petitioner- Appellant to purchase the said paddy land for a price of Rs. 417,200/ and had warned the Petitioner that if he failed to do so necessary action will be taken under and in terms of provisions of the Section 8 of the Act No. 46 of 2000.

It is alleged by the Petitioner- Appellant that the said valuation is much in excess of the valuation given by the M.K.C.Premachanra licensed Surveyor.

Being aggrieved by the said decision of the 4th Respondent, the Petitioner- Appellant moved in revision in the Provincial high Court of Badulla for a mandate in the nature of a Writ of Certiorari to quash the decision of the 4th Respondent and for a Writ of Mandamus to compel the 1st 2nd ,3rd and 4th Respondents to make a valuation to the land morefully described in the schedule to the petition.

The Learned High Court Judge after the inquiry had arrived at the conclusion by his order dated 02.06.2009, that in view of the determination in the case of WIJESURIYA .VS. WIMALAWATHI WANIGASINGHE (S.C Appeal No. 33/2007) and in MADDUMA BANDA .VS. DEPUTY COMMISSIONER OF AGRARIAN SERVICES (2003 (2) SLR- 80) that the High Court of Province is denuded of jurisdiction to adjudicate any matter relating to the above subject as the same being determined by the Commissioner General of Agrarian Services.

In the above setting the Learned High Court Judge has dismissed the application of the Petitioner- Appellant.

Being aggrieved by the said order of the Learned High Court Judge the Petitioner- Appellant appealed to this Court to have the said order set aside or vacate.

In considering the facts placed before the Court below this court is compelled to arrive at the irresistible conclusion that the order of the Learned High Court Judge is unattended in error.

Hence the legal propositions adumbrated by the judicial pronouncement adverted herein before this Court do not admit any exception.

Thus the appeal is dismissed accordingly.

Appeal is dismissed without costs.

JUDGE OF THE COURT OF APPEAL

L.T.B. Dehideniya, J

I agree.

JUDGE OF THE COURT OF APPEAL