

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

CA (Writ) Application 231/2015

Wannipura Gamage Malini Chandrika
Budumuththawa,
Jayanthi Mawatha,
Nikarawaratiya

Petitioner

Vs.

P. Susantha Jayathilaka
The Divisional Secretary,
Divisional Secretariat,
Nikawaratiya.

Hon. Attorney General
Attorney General's Department,
Colombo 12.

Respondents

C.A.No.231/2015 (writ)

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

Counsel : W.Dayaratne P.C. with Malika Perera for the
Petitioner.
Chaya Sri Namuni S.C. for Respondents

Argued and
Decided on : 21/09/2016

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

This application is coming up for objection today. However Learned State Counsel appearing ^{for} the respondent informs that the respondents would not be filing objections in this matter and will abide by the decision of this Court. She further submits that there was another writ application pending before this Court with regard to the same subject matter and in the said writ application this Court had held that the land referred to this application is a private land and not a state land. The said decision is before this Court marked P10. We observe the order marked P10 referred to a C.A. Writ application No.2033/2005. In the said order delivered by Hon. Sripavan , J. (as he was then) has specifically says that the said land "Galagoda Henayaya" referred to the document marked 1R1 ~~is~~ ^{is} a private land.

The petitioner when coming before this Court by present application has challenged the document P11 seeking a writ of

certiorari in order to quash the said document P11. Going through the document P11 we observe that the said document is a notice issued under the State Land Recovery of Possession of Law to obtain possession with regard to the Land "Galgoda Henyaya". Therefore it is clear that the respondent are now trying to take vacant possession of the same land which was the subject matter to an application before this Court previously namely C.A. Writ application No.2033/2005.

Considering the submissions made by the learned State Counsel as well as considering the documents in P10 and P11 before this Court, we decide to grant relief as prayed by the petitioner in prayer "b" and "C" to his petition. We therefore issue a writ of certiorari to quashing the notice to quit dated 25/3/2015 as marked as P11 and a writ of prohibition prohibiting the 1st respondent from taking any action to eject the petitioner as stated in the document marked P11.

Application is allowed.

PRESIDENT OF THE COURT OF APPEAL

P.Padman Surasena,J.

I agree.

JUDGE OF THE COURT OF APPEAL

WC/-