

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

Case No: CA PHC 132/2002

PHC Hambantota Case No. 64/2000

Gurusinghe Arachcchige Diyonis,
Wattambuwewa,
Weeraketiya.

Petitioner-Applicant

Vs.

1. M.Y.M. Nawfer,
Yakgasmulla,
Weeraketiya.

2. H. Hemachandra,
Assistant Commissioner of Agrarian Services,
Hambanthota.

3. W. Gunaratne,
Inquiring Officer,
Agrarian Services Dept.,
Hambanthota.

Respondent-Respondents

CA(PHC) 132/2002

PHC - HAMBANTOTA 64/2000

BEFORE: H.C.J. MADAWALA, J.
L.T.B. DEHIDENIYA, J.

COUNSEL: Dr. Sunil Coorey for the Appellant.
Chathura Galhena with Hirosh Munasinghe & Manoja
Gunawardana for the 1st Respondent-Respondent.

DECIDED ON: 27.10.2016.

Counsel for the 1st Respondent-Respondent submits that the proceedings which have been filed by the present appellant who was the Petitioner before the Provincial High Court of Hambantota was not pertaining to the second inquiry which was a result of the order of the Provincial High Court dated 28.02.1996. However, the judgment which has been presently challenged was made by the Hon. High Court Judge of the Provincial High Court of Hambantota with regard to the second fresh inquiry. The proceedings of which has not been tendered to the High Court in applying for the Writ of Certiorari. Since the Hon. High Court Judge making his Judgment on or about 30.01.2002 did not have the opportunity to go through the proper relevant proceedings of the second inquiry due to the non-submissions of the said documents by the petitioner-appellant I take an objection at this point that this appeal cannot be maintained due to the said inquiry.

Counsel for the appellant submits that he concedes that the relevant inquiry proceedings have not been filed in the High Court in applying for this writ. In those circumstance, he concedes that the petitioner was not in a position to establish any error on the part of the High Court Judge's Judgment refusing the writ of certiorari because of the relevant inquiry proceedings have not been filed.

L.T.B. DEHIDENIYA, J.

It is being a writ application, which is mandatory for the petitioner-appellant to submit all the relevant documents to the High Court. It has been established the relevant documents, that is the proceedings of the fresh inquiry, has not been submitted to the High Court. Therefore, the application itself is bad in law and the learned Counsel Dr. Sunil Coorey admits that this appeal cannot be proceeded. Accordingly, we dismiss the appeal without costs.

JUDGE OF THE COURT OF APPEAL.

H.C.J. MADAWALA, J.

I agree.

JUDGE OF THE COURT OF APPEAL.

Mm/-.