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

C.A. (WRIT) Application No: 267/2016

Wijeratne Ganithalage Sujeewa
Niroshani,
46 Yz,
N avaGammanaya,
Mahagodayaya,
Buttala

-Petitioner-

Vs.

01. DM. Sumathipala,
Divisional Secretaty,
Buttala.

02. S.K. Hettiarachchi,
District Manager,
National Housing Development,
Authority
Monaragala.

-Respondents-

CA Writ 267/2016

BEFORE : Vijith K. Malalgoda, PC, J (P/CA) &

S. Thurairaja, PC, J

COUNSEL : Vijaya Niranjan Perera for the Petitioner.

DATE : 07.10.2016

Vijith K. Malalgoda, PC, J (P/CA)

Heard the learned counsel for the petitioner. According to the petitioner he is occupying a land in Mahavilayaya modal village and has complained against an eviction order served on him in the year 2015. The learned Counsel takes up the position that the eviction order referred to this application had been issued by the 1st respondent without having powers to issue the same. His position is that the said land belongs to the National Housing Development Authority and therefore, the Divisional Secretary of the area has no jurisdiction to evict him. However, the petitioner has failed to submit any document before this Court to establish that the said land belongs to NHDA, and that he has obtained the said land from the NHDA. The document produced marked P11 only refers to the land allocated to community center of the modal village, but not the land occupied by the petitioner. We further observe that the said eviction order was issued in January 2015 and it refers to the four boundaries of the said land as State land. Therefore, it is clear that land claimed by the petitioner is

surrounded by State land and not within a model village as claimed by him. When the papers were filed in January 2015 to evict him, has gone before the Magistrate's Court and agreed to leave the premises and accordingly the Magistrate had made the eviction order. We observe that the petitioner is rather late in the day to come before this Court seeking the relief as prayed for. He has waited one year and eight months after making the eviction order. In these circumstances, we are not inclined to issue notices on the respondents. The petitioner's application is accordingly dismissed.

No cost is ordered.

PRESIDENT OF THE COURT OF APPEAL.

S. Thurairaja, PC, J

I agree.

JUDGE OF THE COURT OF APPEAL.

NR/-