

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

1. Galapaththi Arachchi Nihal Nandasiri
Tissa Road,
Thanamalwila

2. Galapaththi Arachchige Gamini
Tissa Road,
Thanamalwila

3. Galapaththi Arachchige Priyantha
Gamnipura
Thanamalwila

PETITIONERS

CA WRIT 333/2016

Vs.

1. Galapaththi Arachchige Ajith Indrasiri
Tissa Road,
Thanamalwila

2. K.H.A.C.Nishantha
Divisional Secretary
Thanamalwila
Divisional Secretary's Office
Thanamalwila

3. R.P.R Rajapakse
Land Commissioner Generals
Department
Mihikatha Madura
Battaramulla

4. Chathura Samarasekere
The Commissioner of Lands
Commissioner of Lands Office
(Uva Province)
Badulla.

RESPONDENTS

C.A. Writ Appln. No.333/2016

Before : Vijith K. Malalgoda, P.C., J (P/CA)
Counsel : Ranjan Suwandaradne with Anil Rajakaruna for
the Petitioner.

Argued &

Decided on : 11.11.2016.

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

Heard the learned Counsel for the petitioner in support of this application. The Petitioners are the children of the original grantee Galappatti Arachchige Uparis Appu. Their position before this Court is that, after the demise of their father who made an attempt to divide the land into 3 blocks and prepared separate documents in favour of them but he died prior to such action been finalized. However after the death of Uparis Appu that his wife Jane Nona has succeeded on her life interest and he complained to this Court that, subsequent to the death of the mother, the 2nd Respondent has now taken steps to give a grant to the eldest brother namely Galappatti Arachchige Ajith Indrasiri the 1st respondent in this application. The position taken up by the petitioners before this Court is that the land refers to a grant made

by the State and therefore the provisions governing with permits issued under the Land Development Ordinance will not applicable and therefore strict adherence to section 68 and 72 of the said ordinance is not required. However when looking at the grant which was produced before this Court is clear that the said grant has been made under section 19(4) of the Land Development Ordinance. As observed by this Court the succession when the successor was not nominated by the grantee under the Land Development Ordinance is governed by section 68 and 72 read with the first schedule of the Land Development Ordinance. Therefore we observed that the 2nd to 4th respondent have acted within the powers given to them and therefore I see no reason to interfere with the said decision by the said respondents. Therefore this Court is not inclined to issue notices in this case. I therefore refuse notices. The application is accordingly dismissed.

PRESIDENT OF THE COURT OF APPEAL

AKN