

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

**CA Writ Application No. 07/2017**

Nekath Ralalage Karunaratne,  
Godapitiyawatte, Bopeththa,  
Lellopitiya, Ratnapura.

**Petitioner**

**Vs.**

06. National Gem and Jewellery Authority,  
No.25, Galle Face Terrace,  
Colombo 03.

07. Asanka Welagedara,  
Chairman, National Gem and Jewellery Authority,  
No.25, Galle Face Terrace,  
Colombo 03.

08. Kanishka Abeynayake, Assistant Director  
(Senior Regional Manager),  
National Gem and Jewellery Authority,  
Regional Office, Ratnapura.

09. Udaya R.Senevirathne,  
Secretary,  
Ministry of Mahaweli Development and Environment,  
Sampath paya, No.82, Rajamalwatte Road,  
Battaramulla.

10. Dasanayake Mudiyanseelage Chandrapala,  
Aluthgedara, Bopeththa,  
Lellopitiya, Ratnapura.

**Respondents**

Before : **Vijith K. Malalgoda, PC, J(P/CA)**  
**S. Thurairaja, PC, J**

Counsel : Wasantha Atapattu instructed by  
A. Ranasinghe for the Petitioner.  
Anuruddha Dharmarathne with Indika  
Jayasinghe for the 5<sup>th</sup> Respondent.  
Suranga Wimalasena SSC for the  
1<sup>st</sup> to 3<sup>rd</sup> Respondents.

Decided on : 03.05.2017

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

Heard learned Counsel for the petitioner in support of this application and the Learned Counsel for the 5<sup>th</sup> respondent and the learned Senior State Counsel representing the other respondents. As observed by this court the petitioner to the present application has challenged the decision of the 9<sup>th</sup> respondent the Secretary to the Mahaweli Development and Environment Ministry to grant a gemming license to the 5<sup>th</sup> respondent namely Dasanayake Mudiyansele Chandrapala. As revealed before us the said Dasanayake Mudiyansele Chandrapala and his predecessors have been gemming in this land since 1963. For the 1<sup>st</sup> time when an application was made by the said 5<sup>th</sup> respondent for the year 2014 the petitioner has objected to the issuance of the gemming

license in the name of the said respondent. The 1<sup>st</sup> respondent National Gem & Jewelry Authority after an inquiry had decided not to issue the license based on the objection raised by the petitioner. However, the 5<sup>th</sup> respondent had gone before the Secretary to the Ministry who is the 9<sup>th</sup> respondent to the present application and the 9<sup>th</sup> respondent had issued the impugned order directing the 1<sup>st</sup> respondent to issue the gemming license in the name of the 5<sup>th</sup> respondent. As observed by us the petitioner is solely depend on his pedigree produced marked as "P7" before this court. As submitted by the petitioner the land referred to this application Owilane Meda Kella was originally owned by his grandfather M.K. Mohottihamy and later it was occupied by his father Heenhamy. Even though the petitioner is relied on few deeds produced before this court he has failed to submit any plan with regard to the land in question. However, as revealed before this court the tittle to this land was once decided before the District Court of Rathnapura in the year 1929 where there was a reference to the portion called Owilane Meda Kella in the said decision of the District Court and the half of the title with regard to Owilane Meda Kella has been declared under the name of Raththaranhamy. As observed by us the document P7 does not speak to the half share Raththaranhamy is claiming and if that position is correct, Mohottihamy has only half of Owilana Meda Kella and that half has been transferred to Heenhamy by deed no: 6947. There is another deed written in favour of N.K. Appuhamy by the said Heenhamy in the year

1929 with regard to the same half share. If this position is correct the petitioner will not have any right to the land referred to in this application. The position taken up by the 5<sup>th</sup> respondent before this court is that he is in occupation of this land and he has all the receipts with regard to the payment of taxes and other payments to the Maha Saman Devalaya Rathnapura. The petitioner failed to satisfy us that he has paid any moneys to any authority with regard to this land. The decision of the Secretary to the relevant Ministry is produced marked P18, and the said secretary had considered all these issues and reached his decision to direct the 1<sup>st</sup> respondent to issue the license in the name of the 5<sup>th</sup> respondent. Since the Secretary had considered all these matters we see no reason to interfere with the said decision of the Secretary which is produced marked P18 before this court. In the said circumstances, we are not inclined to interfere with the said findings and therefore we refuse notices in this application. Notices are refused.

**President of the Court of Appeal**

**S.Thurairaja, PC, J**

I agree

**Judge of the Court of Appeal**

Na/-