

**IN THE COURT OF APPEAL OF THE**

**DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA**

In the matter of an Appeal under Article  
154 P (6) read with Article 138 of the  
Constitution against judgment of  
Provincial High Court exercising its writ  
jurisdiction.

C A (PHC) / 174 / 2012

Provincial High Court of

Sabaragamuwa Province (Rathnapura)

Case No. HCR/WA 41 / 2012

Kuruwita Pradeshiya Sabha,  
Kuruwita.

**PETITIONER - APPELLANT**

-Vs-

1. Divisional Secretary,

Divisional Secretariat,  
Kuruwita.

**RESPONDENT - RESPONDENT**

**Before:     **K K Wickremasinghe J****

**P. Padman Surasena J**

Counsel; T weragoda with Chinthaka Sugathapala for the Petitioner -  
Appellant.

A Samarasinghe ASA for the Respondent - Respondent.

Decided on :     2017 - 09 - 25

**JUDGMENT**

**P Padman Surasena J**

Learned counsel for all the Parties when this case came up on 2017-07-04 before us, agreed to have this case disposed of by way of written submissions, dispensing with their necessity of making oral submissions. They agreed that this Court could pronounce the judgment after considering the written submissions they would file. Therefore, this

judgment is based on the material that has been adduced by parties in their pleadings and the written submissions.

The Petitioner- Appellant (hereinafter sometimes referred to as the Appellant) had filed an application in the Provincial High Court of Sabaragamuwa Province holden at Rathnapura praying for a writ of certiorari to quash a quit notice issued by the Respondent-Respondent (hereinafter sometimes referred to as the Respondent) under section 3 of the State Lands (Recovery of Possession) Act.

It is the conclusion of the learned Provincial High Court Judge that the Appellant has failed to satisfy Court that the Provincial High Court has jurisdiction to issue writs sought.

It is to be observed at the outset that the Supreme Court in the case of The Superintendent, Stafford Estate and two others Vs. Solaimuthu Rasu<sup>1</sup> had clearly held that the jurisdiction conferred on the Provincial High Courts under Article 154 P 4(b) does not extend to matters in respect of powers relating to recovery/dispossession encroachment or alienation of State lands since they are not found in the Provincial Council List (List 1) in

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<sup>1</sup> 2013 (1) Sri. L. R. 25.



the 9<sup>th</sup> Schedule to the 13<sup>th</sup> amendment to the Constitution of the Democratic Socialist Republic of Sri Lanka.

Thus, it is now settled law that the Provincial High Court does not possess jurisdiction to issue under Article 154 P 4(b) writs of this nature in respect of matters relating to alienation of state lands since such a subject is not found in the Provincial Council List (List 1) in the 9<sup>th</sup> Schedule to the 13<sup>th</sup> amendment to the Constitution of the Democratic Socialist Republic of Sri Lanka.

The judgment pronounced by the Provincial High Court in this case is also on the same line. Therefore, this Court proceeds to dismiss this appeal with costs as the point of law sought to be canvassed in this case has been decided by the Supreme Court.

Appeal is dismissed with costs.

**JUDGE OF THE COURT OF APPEAL**

**K K Wickremasinghe J**

I agree,

**JUDGE OF THE COURT OF APPEAL**