

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

In the matter of an application in the nature of Writ of Mandamus under article 140 of the constitution of the Democratic Socialist Republic of Sri Lanka.

Kohomban Aratchige Piyal Roshan
Dharmasena,
No. 202 A, High Level Road,
Nugegoda.

**Court of Appeal case
No. CA 193/2017 Writ**

Vs.

Petitioner

1. Dammika Muthugala,
Municipal Commissioner,
Dehiwala-Mount Lavinia Municipal
Council,
Galle Road, Dehiwala.
2. Salochana Gamage
President of the Public Petitions
Committee of Western Province
Provincial Council,
Srawasthi Mandiraya,
No. 32, Sri Marcus Fernando Mawatha,
Colombo 07.
3. Hemantha Samarakoon,
Secretary of the Western Province,
Provincial Council,
5th Floor, Wing B,
Sethsiripaya, Battaramulla.
4. Nimal Perera
Chairman
Urban Development Authority,
6th and 7th Floor,
Sethsiripaya, Battaramulla.

5. Hon. Attorney General
Attorney General's Department,
Hulftdorp,
Colombo 12.

Respondents

Before : L.T.B. Dehideniya J, (P/CA)

&

A.L. Shiran Gooneratne J.

Counsel : Lakshan Dias with Chinthaka Hettiarachchi for the Petitioner.

Decided on : 09/10/2017

Order

A.L. Shiran Gooneratne J.

The Counsel for the Petitioner in support of the Petition admits that the Petitioner has no legal right to seek relief based on the recommendation of the 2nd Respondent. However the Counsel further states that since all parties were present at the inquiry held before the 2nd Respondent, the 1st Respondent is bound to give effect to the recommendation given by the 2nd Respondent dated 16/12/2016, marked P18.

It is observed that the Petitioner has failed to satisfy Court that the 1st Respondent has a statutory remit to adhere and implement the recommendation given by the 2nd Respondent. Accordingly the substantive relief prayed for by the

Petitioner cannot be granted in the absence of a statute which imposes a clear and qualified duty to perform such act.

Therefore notice is refused.

Petition dismissed without costs.

JUDGE OF THE COURT OF APPEAL

L.T.B. Dehideniya J, (P/CA)

I agree.

PRESIDENT OF THE COURT OF APPEAL