

**IN THE COURT OF APPEAL OF THE**

**DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA**

In the matter of an Appeal against  
judgment of Provincial High Court  
exercising its revisionary jurisdiction.

C A (PHC) / 165 / 2010

Provincial High Court

holden at Nuwara Eliya

Case No. 34 / 2010 (Revision)

Magistrate's Court Nuwara Eliya

Case No. 34/2010

Rani Vinifeeda Medagama,

**RESPONDENT - PETITIONER -**

**APPELLENT**

-Vs-

1. Competent Authority,  
Gamini Elangaratne.

**PETITIONER - RESPONDENT**

**- RESPONDENT**

2. Competent Authority,  
S P K Bodimanna.

**SUBSTITUTED PETITIONER -**

**RESPONDENT - RESPONDENT**

**Before: K K Wickremasinghe J**

**P. Padman Surasena J**

Counsel; Indunil Bandara with S Priyanthika for the Respondent –  
Petitioner - Appellant.

Upendra Yakgahawita ASA for the Substituted Petitioner –  
Respondent – Respondent.

Decided on : 2017 - 09 - 27

### JUDGMENT

## **P Padman Surasena J**

Learned counsel for all the Parties, when this case came up on 2017-06-28 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 had already filed. Therefore, this judgment would be based on the material adduced by the parties in their pleadings and the contents in their written submissions.

The Petitioner - Respondent - Respondent (hereinafter sometimes referred to as the Respondent) had issued a quit notice on the Respondent -  
Petitioner - Appellant (hereinafter sometimes referred to as the Appellant),

in terms of section 3 of the State Lands (Recovery of Possession) Act (hereinafter sometimes referred to as the Act).

As the Appellant had failed to respond to the said quit notice the Respondent had thereafter made an application under section 5 of the Act to the Magistrate's Court of Nuwara Eliya seeking an order to evict the Appellant from the land described in the schedule to the said application.

Learned Magistrate after an inquiry had pronounced the order dated 2010-08-19 evicting the Appellant from the said land.

Being aggrieved by the said order made by the learned Magistrate, the Appellant had filed a revision application in the Provincial High Court of Central Province holden at Nuwara Eliya.

The Provincial High Court after hearing parties, had pronounced its judgment dated 2011 -03-23. The Provincial High Court in that judgment had proceeded to dismiss the said revision application affirming the learned Magistrate's order.

It is against that judgment that the Appellant has filed this appeal in this Court.

The Appellant appears to have relied on some documents produced in the Magistrate's Court marked Ⓐ 1 - Ⓐ 7 in an attempt to prove that he had occupied this land with the prior consent of state. However, none of those documents is capable of establishing that the Appellant had been in possession or occupation of the said land upon any written authority of the state granted in accordance with any written law

Thus, it is proved that the Appellant has failed to establish that he is in possession or occupation of the said land upon any written authority of the state granted in accordance with any written law and that such authority is in force and not revoked or otherwise rendered invalid as required by section 9 of the Act.

This Court in the case of Muhandiram vs. Chairman, No.111, Janatha Estate Development Board 1992 (1) SLR 110 stated as follows;

" ... Unless the respondent-petitioner had established before the learned Magistrate that he was in occupation of the land stated in the schedule to the application on a valid permit or other written authority of the State, he cannot continue to occupy the said land and in terms of the State Lands

(Recovery of Possession) Act, No. 7 of 1979, the Magistrate has to make an order directing the respondent and his dependents to be ejected from the land. ...”

It is therefore the view of this Court that there is absolutely no merit in this appeal.

Thus, this Court decides to dismiss this appeal with costs.

Appeal is dismissed with costs.

**JUDGE OF THE COURT OF APPEAL**

**K K Wickremasinghe J**

I agree,

**JUDGE OF THE COURT OF APPEAL**