

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) / 173 / 2006

Provincial High Court of

Southern Province (Galle)

Case No. Revision 504 / 2005

Magistrate's Court Baddegama

Case No. 2728

Galhena Kankanamge Rohitha

Sumanasena,

Andanagala Kanda Road,

Lindapanadeniya,

Ganegama South,

Baddegama.

RESPONDENT - PETITIONER -

APPELLENT

-Vs-

1. Hon. Attorney General,
Attorney General's Department,
Colombo 12.

RESPONDENT - RESPONDENT

2. Abeynanda Dias,
Director,
Plantations Monitoring Division,
Ministry of Plantations,
55/ 75,
Vauxhall Street,

Colombo 02.

APPLICANT - RESPONDENT -

RESPONDENT

Before: K K Wickremasinghe J

P. Padman Surasena J

Counsel; Prabash Semasinghe for the Respondent - Petitioner -
Appellant.

Asela Serasinghe for the Applicant - Respondent - Respondent.

Manohara Jayasinghe SC for the Attorney General.

Argued on : 2017 - 07 - 26

Decided on : 2017 - 10 - 25

JUDGMENT

P Padman Surasena J

The Applicant - 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 Baddegama 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 2005-04-25 evicting the Appellant from the said land on the basis that he had failed to produce a permit or due authority to remain in the said land.

Being aggrieved by the said order of the learned Magistrate, the Appellant had filed a revision application in the Provincial High Court of Southern Province holden in Galle seeking a revision of the order of the learned Magistrate.

The Provincial High Court after the conclusion of the argument, had pronounced its judgment dated 2006 -08-29, upholding the preliminary objections raised on behalf of the Respondent. The Provincial High Court on that basis had proceeded to dismiss the said revision application.

It is that judgment that the Appellant is canvassing in this appeal before this Court.

The main conclusion arrived at by the learned Provincial High Court Judge is that the Appellant had failed to produce certified copies of documents relevant to the revision application filed before it. In this Court the Appellant has not put forward any argument to negate the said conclusion of the learned Provincial High Court Judge.

Learned counsel for the Appellant has failed to file written submission in this Court despite the undertaking that it would be filed within three weeks reckoned from the date of argument. Thus, this Court would proceed on the basis that the Appellant has no valid ground to be placed on his behalf before this Court, for its consideration.

It must also be noted that section 9 of the Act sets out the scope of the inquiry to be held before the Magistrate in following terms;

"... At such inquiry the person on whom summons under section 6 has been served shall not be entitled to contest any of the matters stated in the application under section 5 except that such person may establish that he is in possession or occupation of the land upon a valid permit or other

written authority of the State granted in accordance with any written law and that such permit or authority is in force and not revoked or otherwise rendered invalid. ...”

Upon consideration of the material adduced in this case this Court is unable to see any basis to assail the judgment of the Provincial High Court.

For the foregoing reasons, 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