

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) / 183 / 2012

Provincial High Court of

Uva Province (Badulla)

Case No. 125 / 2012 (Revision)

Magistrate's Court Bandarawela

Case No. 42214

Solan Ramasamy Subramaniam,

Block A,

Glenanor Estate,

Haputhale.

RESPONDENT - PETITIONER -

APPELLENT

-Vs-

1. Competent Authority,

J M P Priyadarshani,

Plantation Management Monitoring

Division,

Ministry of Plantation Industries,

Vauxhall Street,

Colombo 02.

APPLICANT - RESPONDENT -

RESPONDENT

2. Hon. Attorney General,

Attorney General's Department,

Colombo 12.

RESPONDENT - RESPONDENT

Before: K K Wickremasinghe J

P. Padman Surasena J

Counsel; Sandamal Rajapaksha for the Respondent – Petitioner -
Appellant.

Anuruddha Dharmarathna for the Applicant – Respondent -
Respondent.

U Serasinghe SC for the Attorney General.

Argued on : 2017 – 08 - 29

Decided on : 2017 - 11 - 06

JUDGMENT

P Padman Surasena J

Learned counsel for all the Parties when this case came up on 2017-08-29 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 adduced by parties in their pleadings and the written submissions.

The Applicant - Respondent - Respondent (hereinafter sometimes referred to as the 1st 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 1st Respondent had thereafter made an application under section 5 of the Act to the Magistrate's Court of Bandarawela 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 2012-10-02 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 made by the learned Magistrate, the Appellant had filed a revision application in the Provincial High Court of Uva Province holden at Badulla seeking a revision of the order of the learned Magistrate.

The Provincial High Court had pronounced its order dated 2012 -12-12, refusing to issue notices on the respondents holding that there is no basis to fault the conclusions arrived at by the learned Magistrate. The Provincial High Court in that order had on that basis proceeded to dismiss the said revision application.

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

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. ..."

In the instant case, it is clear upon consideration of the material adduced before this Court, 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.

Perusal of the impugned order of the learned Privincial High Court Judge does not reveal any basis upon which this Court can decide to interfere. Further, this Court needs to remind itself that the impugned order is an

order made by the Provincial High Court when exercising its revisionary jurisdiction. Therefore, there is absolutely no merit in this appeal.

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