

**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) / 179 / 2014

Provincial High Court of

Central Province (Kandy)

Case No. 27 / 2012 (Writ)

1. Chairman,

National Livestock Development Board,

No. 68,

Gatambe,

Peradeniya.

2. Assistant Director General (Udarata  
Madarata)  
National Livestock Development Board,  
No. 68,  
Gatambe,  
Peradeniya.

3. I B W Gunawardena,  
Manager,  
National Livestock Development Board,  
No. 68,  
Gatambe,  
Peradeniya.

**RESPONDENT - APPELLANTS**

-Vs-

Bohingamuwa Mudiyanseelage Jayasena,  
No. 76,

Dewana Rajasinghe Mawatha,  
Kandy.

**PETITIONER - RESPONDENT**

**Before: K K Wickremasinghe J**

**P. Padman Surasena J**

Counsel; Indula Rathnayake SC for the Respondent - Appellant.

S Jayathileke for the Petitioner - Respondent.

Argued on: 2017-10-10

Decided on : 2018 - 01 - 29

**JUDGMENT**

**P Padman Surasena J**

The Petitioner - Respondent (hereinafter sometimes referred to as the Respondent) had filed an application in the Provincial High Court of Central Province holden in Kandy praying for a writ of certiorari to quash a quit

notice issued by the 2<sup>nd</sup> Respondent - Appellant (hereinafter sometimes referred to as the 2<sup>nd</sup> Appellant) who is the Chairman of the National Livestock Development Board, under section 3 of the State Lands (Recovery of Possession) Act.

Learned Provincial High Court Judge, after the hearing by his order dated 2014-09-24, had issued a writ of certiorari quashing the said quit notice.

Although a preliminary objection to the jurisdiction of the Provincial High Court had been raised on behalf of the Appellants, perusal of the judgment shows that learned Judge of the Provincial High Court had held in his judgment that the Provincial High Court has jurisdiction to issue the writs prayed for by the Respondent.

At the commencement of the argument of this case, learned State Counsel brought to the notice of this Court that this position of law has now been decided by the Supreme Court in the case of The Superintendent, Stafford Estate and two others Vs. Solaimuthu Rasu<sup>1</sup>.

The Supreme Court in that judgment had clearly held that the jurisdiction conferred on the Provincial High Courts under Article 154 P 4(b) does not

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

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 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 subject matter under challenge in that case as well as in the instant case is whether the Provincial High Court has jurisdiction to issue a writ of certiorari to quash a quit notice issued under the State Lands (Recovery of Possession) Act.

This question of law has now been settled by the Supreme Court in the case cited above.

Therefore 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. Thus, the Provincial High Court in the instant case has no jurisdiction to issue the writ it had issued. The Provincial High Court should have upheld the preliminary

objection raised against its exercise of writ jurisdiction in respect of this case.

In these circumstances this Court decides to set aside the judgment of the Provincial High Court dated 2014-09-24 and direct that the application made by the Respondent to the Provincial High Court be refused and dismissed.

Respondent is directed to pay a state cost of Rs. 40,000/=

Appeal is allowed.

**JUDGE OF THE COURT OF APPEAL**

**K K Wickremasinghe J**

I agree,

**JUDGE OF THE COURT OF APPEAL**