

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

In the matter of an application for a mandates in the nature of Writ of Certiorari and Mandamus under and in terms of the Article 140 of the constitution of the Democratic Socialist Republic of Sri Lanka.

C.A. (Writ) Application No.24/2015

Nanayakkara Thalpe Merawinnage
Wedarathne,
No.47/44 E,
Eruppalawatta Road,
Kandy.

Petitioner

Vs.

1. Secretary, Minister of Land and Land Development,
Ministry of Land and Land Development,
"Mihikatha Medura",

Land Secretariat,
No.1200/6, Rajamalwatta Avenue,
Battaramulla.

2. Commissioner General of Lands,
Ministry of Land and Land Development,
"Mihikatha Medura",
Land Secretariat,
No.1200/6, Rajamalwatta Avenue,
Battaramulla.
3. Provincial Commissioner of Lands,
Provincial Land Commissioner
Department,
P.O.Box 46, Provincial Council Complex,
Kurunegala.
4. District Secretary of the Kurunegala
District, District Secretariat Office,
Kurunegala.
5. Divisional Secretary,
Divisional Secretariat Office,
Ganewatta, Nikadalupotha.

6. B.M.Dharmasiri,
Uyangalla, 75 Mile Post,
Nikadalupotha.

Respondents

- Before** : P.Padman Surasena, J (P/CA) and
A.L. Shiran Gooneratne, J.
- Counsel** : Saliya Peiris, PC with Thanuka Nandasiri and
Diyath Wijesinghe for the Petitioner.
- Daya Guruge with R. Wimalaweera for the 6th
Respondent.
- Chaya Sri Nammuni, SC for 1st to 5th
Respondents.
- Argued on** : 26.02.2018

P. Padman Surasena, J. (P/CA)

Petitioner in this application seeks to quash by way of Writ of Certiorari, the decision of the 5th Respondent to cancel the permits produced marked **P 22(A)** and **P 22(B)**. This Court observes that the basis of the cancellations of the above permits is the demise of the permit holder. In any case, in terms of Section 16(1) of the State

Lands Ordinance, a permit given to a permit holder is personal to him and him alone and terminated with the demise of such permit holder. Therefore, it is the observation of this Court that even in the absence of any specific cancellation by the 5th Respondent, these permits do not have any validity in law after the demise of the permit holder. Therefore, this Court does not have any legal basis to issue the Writ of Certiorari prayed for by the Petitioner to quash the said decision.

Petitioner has also prayed for a Writ of Mandamus to compel the Respondents to issue to the petitioner a permit or long term lease in respect of the two lands described in the said permits.

Learned Counsel for the 6th Respondent claims to be in occupation of this land for a considerable period of time.

Learned State Counsel submits to Court that the 1st to 5th Respondents have not yet decided as to whether this land should be alienated or the manner in which it should be done in case they decide any such possible alienation. Learned State Counsel also submits that the 1st to 5th Respondents had instructed her that there had been a discussion at the Co-ordination meeting that the relevant land might

be required for a farm. However learned State Counsel informs this Court that she is in a position to instruct the 1st to 5th Respondents (subject to the above interest of the State regarding a farm) to have an inquiry to resolve the dispute between the Petitioner and the 6th Respondent, in case they decide to alienate this land.

In the light of the facts of this case, this Court is not inclined to grant a Writ of Mandamus that has been prayed for by the Petitioner in prayer (G) as well.

Subject to the above this Court decides to dismiss this application without costs.

PRESIDENT OF THE COURT OF APPEAL

A.L. Shiran Gooneratne, J.

I agree.

JUDGE OF THE COURT OF APPEAL

Lwm/-