

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

Attanayake Mudiyansele  
Wickramasinghe Dayasiri,  
No. 37, Ekanayaka Mawatha,  
Hali-ela.  
Petitioner

**CASE NO: CA/18/2016/WRIT**

Vs.

A.H.K. Jagath Chandrasiri,  
Commissioner of Motor Traffic,  
Department of Motor Traffic,  
P.O. Box 533-341,  
Alvitigala Mawatha,  
Colombo 5,  
and 4 others.  
Respondents

Before: Mahinda Samayawardhena, J.  
Counsel: Nimal Jayasinghe for the Petitioner.  
Vikum de Abrew, SDSG, for the 1st Respondent.  
Krishantha Premasiri for the 4th Respondent.

Written Submissions:

by the 1st Respondent: 18.06.2018

by the Petitioner: 20.06.2018

Decided on: 16.07.2018

Samayawardhena, J.

The petitioner filed this application seeking a writ of mandamus compelling the 1st respondent-Commissioner General of Motor Traffic to submit the original of the Statement of Change of Possession of a Motor Vehicle (Form MTA 6) marked P2 to the Magistrate's Court of Kuliyaipitiya in case No. BR/1422/2012, and a writ of certiorari quashing the decision of the 1st respondent to register the vehicle relevant to that document, i.e. vehicle No. UP KE 6563, in the name of the 3rd respondent on P2.

The petitioner was the registered owner the said vehicle. His complaint is that his former wife who is the 2nd respondent has transferred the said vehicle to the 3rd respondent forging his signature on P2. Upon his complaint the police have initiated criminal proceedings before the Magistrate's Court against the former wife, and the Magistrate's Court has directed the 1st respondent to produce the original of P2.

The 1st respondent by way of several written communications has explained to the Magistrate's Court his inability to produce the original immediately, the main reason being due to lack of storage facilities the difficulty in tracing this document among around eight million of such files, and such files being spread over at various locations, which are now being shifted to the new building at Werahara.

With the objections the 1st respondent has also filed photographs for this Court to better understand the ground situation regarding storage facilities of these files.

Nonetheless, it is not the position of the 1st respondent that he cannot produce the document, but he cannot produce it immediately due to the prevailing situation.

I am convinced with what the 1st respondent says in that regard.

In any event, this Court cannot quash the transfer by way of certiorari when investigations are underway and the matter is still pending in the Magistrate's Court.

On the other hand, mandamus will not be issued if the act is practically impossible to perform or the compliance of which will entail grave public and administrative inconvenience by reason of the circumstances. (*Mowjood v. Pussadeniya*<sup>1</sup>, *Credit Information Bureau of Sri Lanka v. Messrs Jafferjee and Jafferjee (Pvt) Ltd*<sup>2</sup>, *Wannigama v. Incorporated Council of Legal Education*<sup>3</sup>)

Prerogative writs will not be issued as a matter of routine, as a matter of course or as a matter of right. It is purely a discretionary remedy to be granted or denied in the unique facts and circumstances of each individual case. Even if the party applying the writ is entitled to that relief, still it can be denied if the other factors stand against granting of that relief. (*Jayaweera v. Assistant Commissioner of Agrarian Services Ratnapura*<sup>4</sup>, *Siddeek v. Jacolyn Seneviratne*<sup>5</sup>, *Edirisooriya v. National Salaries and Carde Commission*<sup>6</sup>, *Selvamani v. Dr. Kumaravelupillai*<sup>7</sup>)

Application of the petitioner is dismissed but without costs.

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<sup>1</sup> [1987] 2 Sri LR 287

<sup>2</sup> [2005] 1 Sri LR 89

<sup>3</sup> [2007] 2 Sri LR 281

<sup>4</sup> [1996] 2 Sri LR 70

<sup>5</sup> [1984] 1 Sri LR 83

<sup>6</sup> [2011] 2 Sri LR 221

<sup>7</sup> [2005] 2 Sri LR 99

Judge of the Court of Appeal