

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

Raman Rajarathnam,
No. 28/7, Bharathi Puram,
School Road,
Bogawanthalawa.
Petitioner

CASE NO: CA/423/2015/WRIT

Vs.

1. Jayasekara Mudiyansele,
Chandrika Priyadarshani,
The Competent Authority,
Plantation Management
Monitoring Unit,
Ministry of Plantations,
11th Floor, Sethsiripaya,
2nd Phase,
Baththaramulla.
2. Ministry of Plantations,
11th Floor, Sethsiripaya,
2nd Phase,
Baththaramulla.
3. The Secretary,
Ministry of Plantations,
11th Floor, Sethsiripaya,
2nd Phase,
Baththaramulla.

4. The Minister,
Ministry of Plantations,
11th Floor,
Sethsiripaya,
2nd Phase,
Baththaramulla.
 5. The Land Reform Commission,
No. 82C,
Hector Kobbekaduwa Mawatha,
Colombo 7.
- Respondents

Before: Mahinda Samayawardhena, J.

Counsel: Achini Kularatne for the Petitioner.

R.C. Karunakaran for the 1st Respondent.

Vikum De Abrew, Senior D.S.G., for the 3rd and 4th
Respondents.

Ranil Samarasooriya for the 5th Respondent.

Decided on: 19.09.2018

Samayawardhena, J.

The petitioner filed this application seeking to quash, by way of certiorari, the Quit Notice issued under section 3 of the State Lands (Recovery of Possession) Act, No. 7 of 1979, as amended, and; to issue a writ of prohibition preventing the 1st-4th respondents from ejecting the petitioner from the land described in the schedule to the Quit Notice.

The Quit Notice has been issued on the basis that the said land belongs to the State Plantation Corporation, whereas the petitioner states that it belongs to the Land Reform Commission- the 5th respondent to this application. It is on that premise, learned counsel for the petitioner submits that the issuance of Quit Notice is fundamentally flawed.

The sole document relied on by the petitioner to say that the land belongs to the Land Reform Commission is the letter issued by the Land Reform Commission marked P7.

However, that letter refers to a land known as Bagawantalawa Estate, and not Kotiyagala Estate, which is the land relevant to the Quit Notice. Therefore, that letter cannot be of any assistance to the petitioner. Hence the application of the petitioner is liable to be dismissed.

Even though it is not necessary, let me now consider the position taken up by the Land Reform Commission in supporting the application of the petitioner.

The Land Reform Commission in its purported statement of objections states that an extent of 1518 and $\frac{1}{2}$ acres of Kotiyagala Estate was vested in the Land Reform Commission under the Land Reform Law, No.1 of 1972; and by the Extraordinary Gazette No.150/12 dated 24.07.1981, out of that land, an extent of 1081 acres 2 roods and 1 perch has been, arbitrarily and illegally, vested (by the subject minister) in the State Plantation Corporation; and the balance portion of 147 acres is still owned by the Land Reform Commission; and therefore the State Plantation Corporation has no right to evict the petitioner from the balance portion.

A close perusal of the said Gazette marked 1R1 reveals that, what has been vested in the State Plantation Corporation is not an extent of 1081 acres 2 roods and 1 perch, but an extent of 1754 acres 2 roods and 12 perches (that is, 1081 acres 2 roods and 1 perch from Kotiyagala Estate, and 673 acres and 11 perches from Chapelton Estate, which is part of Kotiyagala Estate). In addition, an extent of 543 acres 1 rood and 39 perches from Bogawantalawa Estate (the land referred to in P7) has also been vested in the State Plantation Corporation. Then it is clear that nothing is left with the Land Reform Commission in Kotiyagala Estate, after vesting in the State Plantation Corporation.

The alleged illegality of the said vesting order (1R1) in favour of the State Plantation Corporation is not being challenged in these proceedings.

There is no merit in this application.

In view of the above finding of fact, there is no necessity for this Court to consider in detail, the grounds upon which Quit Notice can be challenged in law, the point stressed by learned Senior Deputy Solicitor General at the argument.

Application is dismissed without costs.

The parties in the connected writ applications: 424/2015, 425/2015 and 426/2015 will abide by this Judgment.

Judge of the Court of Appeal