

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

In the matter of an application for  
Revision made under and in terms of  
the provisions of Article 138 of the  
Constitution of the Democratic Socialist  
Republic of Sri Lanka.

**Case No. CA/RV/09/2016**

Nawalage Gunathissa Cooray.  
No. 266, Nawala Road,  
Rajagiriya.

Petitioner

Vs.

The Acquiring Officer,  
Greater Colombo Flood Control Project,  
Divisional Secretariat,  
Sri Jayawardhanapura Mawatha,  
Welikada, Rajagiriya.

Respondent

AND NOW

Nawalage Gunathissa Cooray.  
No.266, Nawala Road,  
Rajagiriya.

Petitioner-Petitioner

Vs.

The Acquiring Officer,  
Greater Colombo Flood Control Project,  
Divisional Secretariat,  
Sri Jayawardhenapura Mawatha,  
Welikada, Rajagiriya.

Respondent-Respondent

Before : Mahinda Samayawardhena, J.

Counsel : Padma Bandara P.C., with Shanil Rajapaksha for the Substituted-Petitioner.  
Mithree Jayasinghe S.C., for the Respondent.

Argued &  
Decided on : 18.10.2018

Mahinda Samayawardhena, J.

The petitioner has filed this revision application seeking to set aside the order of the Land Acquisition Board of Review dated 06.05.2015.

Learned State Counsel appearing for the respondent takes up two preliminary objections with regard to the maintainability of this application. One is a jurisdictional objection and the other is the failure to make the necessary parties as respondents to the application.

I will first deal with the second preliminary objection.

It is elementary that the person whose decision is sought to be challenged shall necessarily be made a party to the action. Without giving him a hearing, no Court is entitled to set aside his decision. If the Court does so, it is a grave violation of natural justice—*audi alteram partem*. That is very basic and not at all high-flown law.

In this action, only the Acquiring Officer has been made a party. It is against the Acquiring Officer's decision, the petitioner has gone before the Land Acquisition Board of Review.

If I may repeat, the petitioner has come before this Court against the decision of the Land Acquisition Board of Review and not against that of the Acquiring Officer.

The argument of the learned President's Counsel for the petitioner that making the Land Acquisition Board of Review and/or its members a party to the action is necessary only in a writ application, but not in a revision application such as this is devoid of merit.

I have no hesitation to conclude that without making the Land Acquisition Board of Review and/or its members a party to the action, the petitioner cannot maintain this action.

The second preliminary objection taken up by the learned State Counsel for the respondent is upheld and the petitioner's application is dismissed but without costs.

JUDGE OF THE COURT OF APPEAL