

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

**LANKA**

In the matter of an application under Article 140 of the constitution of the Democratic Socialist Republic of Sri Lanka for mandates in the nature of Writ of certiorari mandamus and prohibition.

CA. Writ No. 131/2013

1. G.K.T. Indrani Galappaththi,  
1139/1, Liyanagoda Road, Kottawa, Pannipitiya.  
And 02 others

**PETITIONERS**

**VS**

1. Urban Council of Kegalle, Kegalle.
2. G.K. Samarasinghe, Chairman, Urban Council of Kegalle.
3. W.M. Abeywickrama Wanasuriya, Divisional Secretary, Divisional Secretariat, Kegalle.
4. Thusitha P. Wanigasinghe, District Secretary, District Secretariat, Kegalle.
5. K.A. Senadheera, Chief Engineer, Road Development Authority, Ambanpitiya, Kegalle.
6. David Kiriella, Provincial Director, Road Development Authority, New Town, Rathnapura.
7. P.D. Kumara Pathirana, Provincial Director, Urban Development Authority, New Town, Ratnapura.
8. Urban Development Authority, Sethsiripaya, Battaramula.
9. Road Development Authority, Sethsiripaya, Battaramulla.
10. Janaka Bandara Tennakoon, Minister of Lands, Ministry of Lands and Land Development Mihikatha Madura, Rajamallwatta Road, Battaramulla.
11. R.P.R. Rajapakse, Commissioner General of Lands, Ministry of Lands and Land Development, Mihikatha Madura, Rajamalwatta Road, BAtaramulla.
12. Attorney General, Attorney General's Department, Colombo 12.

**RESPONDENTS**

**Before** : **Janak De Silva, J**  
**N. Banduala Karunarathna, J**

Counsel : Manohara De Silva PC with P. Wickremarathna and Hiroshan Munasinghe for the Petitioners.

Nayomi Kahawita SSC for the Respondent

Argued &

Decided on : 12/06/2019

**Janak De Silva, J**

Learned President's Counsel and the learned Senior State Counsel appearing on behalf of all the Respondents except the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents heard.

The main issue in this case is the alleged actions on the part of the 1<sup>st</sup> to 12<sup>th</sup> Respondents of attempting to demolish portions and or entirety of the buildings owned by the Petitioner situated at numbers 164,168,170,172 and 174 Kalugalla Mawatha, Kegalle for the purpose of road widening or for any other purpose without recourse to the provisions of the law.

The learned Senior State Counsel agrees that no action has been taken in terms of the Land Acquisition Act as amended to acquire any private land for the purposes of the road widening and that the road widening was done on land that has been willingly given by the relevant occupiers.

Court is of the view that the State is not entitled to use any private land for any development purposes unless steps have been taken under the Land Acquisition Act as amended unless the relevant parties have given their consent in clear and unequivocal terms in writing to the State that they are willing to part with private land without recourse to law for a public purpose.

Accordingly, we issue a writ of prohibition prohibiting the 1<sup>st</sup> to 12<sup>th</sup> Respondents or any one or more of them from demolishing portions and or entirety of the buildings owned by the Petitioners situated at numbers 164,168,170,172 and 174 Kalugalla Mawatha, Kegalle for the purpose of road widening or for any other purpose without recourse to the provision of the law.

This order will be effective from today and if any actions have been committed after the stay order has been issued by this Court, the Petitioners are at liberty to make an appropriate application.

This order will not prevent an appropriate authority from taking action in accordance with the law for any unauthorized construction that may have been done by the Petitioners at the aforesaid premises.

Application allowed to extend set out above. Parties will bear their costs.

**Judge of the Court of Appeal**

**N. Banduala Karunarithna, J**

I agree.

**Judge of the Court of Appeal**

TTS/-