

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

S.A. Piyasena,  
5/27, Flower Lane,  
Pepiliyana Road,  
Nugegoda.  
Petitioner

**CASE NO: CA/WRIT/274/2015**

Vs.

R.M.D.P.I. Pushpakumari,  
Divisional Secretary,  
Hingurakgoda.  
And 6 Others  
Respondents

Before: Mahinda Samayawardhena, J.

Counsel: Manohara de Silva, P.C. for the Petitioner.

Chaya Sri Nammuni, S.S.C., for the 1<sup>st</sup>-4<sup>th</sup>  
Respondents.

Uditha Egalahewa, P.C., for the 5<sup>th</sup>-7<sup>th</sup> Respondents.

Decided on: 26.07.2019

Mahinda Samayawardhena, J.

There is no necessity to unfold the long history of this case as the facts relevant to the present purposes are straightforward.

The petitioner filed this writ application seeking to compel the 1<sup>st</sup> Respondent Divisional Secretary of Hingurakgoda by way of writ of mandamus (a) to cancel the Permit No. 156 marked P1, and (b) to issue a new Permit in the name of the petitioner for 30 perches out of the above land and referred to in Permit No. 156A marked P3.

The petitioner basically makes this claim based on a settlement entered into before this Court on 25.01.2008 in a former writ application marked P14.

However in a subsequent appeal<sup>1</sup> decided on 05.02.2013, the Supreme Court in the Judgment marked P12B has clearly held that the Permit No. 156 is legal and the Permit No. 156A is illegal.

Hence this Court cannot based on P14 settlement compel the Divisional Secretary to cancel the Permit No. 156. If that cannot be done, the question whether the petitioner could be issued a new Permit for 30 perches out of the said land does not arise.

The point emphasized by the learned President's Counsel for the petitioner that the attention of the P14 settlement was not brought to the notice of the Supreme Court when the Supreme Court delivered Judgment P12B is not relevant at this stage. The petitioner will only have himself to blame for that lapse. If that argument is to be accepted, this Court would indirectly be nullifying the Judgment of the Supreme Court.

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<sup>1</sup> This appeal is from the Judgment of the District Court regarding the same dispute among the same parties.

The petitioner has now been evicted from the portion of the land covered by Permit No. 156 by the Fiscal on the strength of the said Judgment of the Supreme Court.

This application cannot be maintained. The same is therefore dismissed without costs.

Judge of the Court of Appeal