

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

Athugal Pedige Pemadasa,
Debathgamawatte,
Kalugala,
Bossella.
Petitioner

CASE NO: CA/WRIT/437/2016

Vs.

1. Hon. Minister of Lands,
Ministry of Lands,
Colombo.
 2. Assistant Divisional Secretary,
Aranayake.
 3. Hon. Attorney General,
Attorney General's Department,
Colombo 12.
- Respondents

Before: Mahinda Samayawardhena, J.
Counsel: Sunil Abeyratne for the Petitioner.
Ganga Wakishta Arachchi, S.S.C. for the
Respondents.

Decided on: 05.08.2019

Mahinda Samayawardhena, J.

The Petitioner filed this application against the Respondents who are the Minister of Lands and the Divisional Secretary of Aranayake seeking to quash Section 2 Notice issued under the Land Acquisition Act by the latter on the direction of the former by way of writ of certiorari.

The Petitioner does not have paper title to the land. He seems to have been in possession of this land with several others.

In the said Section 2 Notice the public purpose for which the land was to be acquired had clearly been stated. That is to resettle the victims of massive earth slip in Aranayake in the year 2016. The Petitioner does not dispute it.

If that is not disputed, the Petitioner cannot seek to quash Section 2 Notice as there was no determination for this Court to quash by way of writ.

In terms of section 2 of the Act, that is a Notice to be exhibited in some conspicuous places in that area where the land is situated in order to investigate the suitability of the land for the intended public purpose. Such investigation may or may not ultimately result in acquisition.

The Petitioner's application as presented before Court was therefore premature and not ripe for review. Vide *Dayaratne v. Rajitha Senaratne, Minister of Lands* [2006] 1 Sri LR 7 at 18-21, *Ranawickrema v. Minister of Agriculture* [2006] 1 Sri LR 42.

On that ground alone, this application should have been dismissed *in limine*.

The Respondents filed objections stating *inter alia* that the land had already been acquired and vested in the State by virtue of proviso (a) to section 38 of the said Act and therefore the action is futile. A copy of the Gazette was tendered marked 2R1.

The Petitioner was unmoved even after such revelations. He did not make any attempt to amend papers.

According to proviso (a) to section 38 of the Act, in case of urgency, the Minister can make a Vesting Order, at any time after Section 2 Notice, without following the normal procedure set out in the Act.

I see no merit in the application of the Petitioner.

Application is dismissed but without costs.

Judge of the Court of Appeal