

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

Balachandran Renukadevi,  
No. 20/3,  
Housing Scheme,  
Kanagambigaikulam,  
Killinochchi.  
Petitioner

**CASE NO: CA/WRIT/75/2016**

Vs.  
R.M.C.M. Herath,  
Land Commissioner,  
Land Commissioner General's  
Department,  
No. 1200/6,  
Mihikatha Madura,  
Rajamalwatta Road,  
Battaramulla.  
And 6 Others  
Respondents

Before: Mahinda Samayawardhena, J.

Counsel: V. Puvitharan, P.C., for the Petitioner.  
Indula Ratnayake, S.C., for the 1<sup>st</sup>-4<sup>th</sup>  
Respondents.  
K.V.S. Ganesharajan for the 5<sup>th</sup> Respondent.

Decided on: 06.09.2019

Mahinda Samayawardhena, J.

The Petitioner being the Attorney of Sumathy Jeyaratnam<sup>1</sup> has filed this application seeking to quash by way of writ of certiorari the decision made by the 1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup> Respondents marked P7 at the Mobile Service for Solving Land Problems; and to compel the said Respondents by way of writ of mandamus to give the entire land to the Petitioner on a long-term lease.

By P7 it was decided to divide the land in question in extent about 10 perches situated in a commercial area in Killinochchi to three allotments and give them on lease to the Petitioner, the 5<sup>th</sup> Respondent and the 7<sup>th</sup> Respondent.

The Petitioner's case is mainly dependent upon P2, which is an Annual Permit issued under the State Lands Ordinance in the year 1965 in the name of the Petitioner's deceased father, Jayaratnam. In terms of paragraph 1 of the said Permit, it expired on 31.03.1965.

By the averments of the amended petition, it is clear that the land has not been continuously in possession of Jayaratnam or his deceased son, Jeyakumar (who is the brother of Sumathy Jeyaratnam). The land has been in possession of several others including the 5<sup>th</sup> Respondent's father, Annalingam. Be it noted that, in paragraph 6(d), the Petitioner admits the possession of Annalingam (in or around 1974), and in paragraph 10, speaks of the possession of "*the 5<sup>th</sup> Respondent's father and other unlawful occupants*". That is, according to P5, in 1991. In terms of paragraphs 11 and 12 of the petition also, the possession of the premises has not been given to the Petitioner.

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<sup>1</sup> Vide paragraph 8 of the amended petition dated 15.01.2017.

The 5<sup>th</sup> Respondent with his objections has tendered several documents to this Court to say that Jayaratnam sold the land to his father, Annalingam. This is denied by the Petitioner. This Court cannot decide on those vital matters, which are in dispute.

After the civil war was over, P7 decision has been taken, on the directions given by the 1<sup>st</sup> Respondent by 1R1. The 1<sup>st</sup>-4<sup>th</sup> Respondents inform Court that the relevant old documents relating to this land are non-existent due to long-drawn out civil war, which is understandable.

I do not think that the decision P7 is arbitrary or unjustifiable. It is in consonance with written guidelines contained in 1R1 circular. This Court in exercising writ jurisdiction has no mandate to find the best solution to the problem. Hence certiorari cannot be issued to quash P7.

The Petitioner has obviously no legal right to the performance of a legal duty by the 1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup> Respondents to give the entire land on long-term lease only to the Petitioner. Hence mandamus does not lie.

The Petitioner's application is dismissed without costs.

Judge of the Court of Appeal