

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

Wheel Masters (Private) Limited.,  
No. 562/106, A-11-14, Stage III,  
Industrial Area,  
Pavithrapura,  
Anuradhapura.  
Petitioner

**CASE NO: CA/WRIT/397/2015**

Vs.

1. Arumaduru Lal Mendis,  
No. 8/12,  
Industrial Place,  
Pavithrapura,  
Anuradhapura.
2. Dalsi Ranaweera,  
No. 9/12,  
Industrial Place,  
Pavithrapura,  
Anuradhapura.
- 2A. P. Kumuduni Peiris,  
No. 9/12,  
Industrial Place,  
Pavithrapura,  
Anuradhapura.

3. Mahinda Anuragha,  
No. 10/12,  
Industrial Place,  
Pavithrapura,  
Anuradhapura.
- 3A. Suduge Pathmasiri,  
No. 10/12,  
Industrial Place,  
Pavithrapura,  
Anuradhapura.  
And 9 Others  
Respondents

Before: Mahinda Samayawardhena, J.

Counsel: Kamran Aziz for the Petitioner.  
Thushani Machado and Thanuka Nandasiri for  
the 1<sup>st</sup>-3<sup>rd</sup> Respondents.  
K.W. Bandula for the 4<sup>th</sup> and 5<sup>th</sup> Respondents.  
Anusha Fernando, D.S.G., for the 6<sup>th</sup>-12<sup>th</sup>  
Respondents.

Decided on: 10.09.2019

Mahinda Samayawardhena, J.

The Petitioner being a limited liability company filed this writ application against several Respondents including Mayor of Anuradhapura, Divisional Secretary, General Manager of

Railways, Officer In Charge of Anuradhapura Police Station, Director of Provincial Urban Development Authority, Provincial Land Commissioner, Surveyor General seeking several reliefs on the basis that notwithstanding the 1<sup>st</sup>-3<sup>rd</sup> Respondents are in unlawful occupation of State Lands including 30 foot roadway<sup>1</sup>, the 4<sup>th</sup>-12<sup>th</sup> Respondents do not enforce the law to eject them.

The Petitioner is a sub-lessee<sup>2</sup> of one Rizvi to whom the subject land (Lot 924) was given on a long-term lease by the State<sup>3</sup>. The sub-lease, according to P10, is to expire by the year 2025.

The 1<sup>st</sup>-3<sup>rd</sup> Respondents, according to the Plans prepared by the Surveyor General for the purpose of this case marked 12R1-12R3, living on State Lands, which include Railway Reservation to the east of Lot 924, having built permanent houses thereon. These are, no doubt, unauthorized dwelling houses.

It appears that the authorities including the Divisional Secretary are not keen to eject those unlawful occupiers by resorting to State Lands (Recovery of Possession) Act or any other Statute for reasons best known to them.

Then the question is whether this Court can compel the authorities by way of mandamus to evict those unlawful occupiers. This Court is aware that the State can regularize unlawful occupation provided the occupiers fulfil the conditions in the laid down procedure. I do not think that this Court can compel the authorities to evict only the 1<sup>st</sup>-3<sup>rd</sup> Respondents as

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<sup>1</sup> Vide Plan P8.

<sup>2</sup> Vide P10.

<sup>3</sup> Vide P9.

unlawful occupiers of State Land using State machinery when there are a number of unlawful occupiers in the neighborhood.

However, there is one matter which concerns me. It appears by reading P9 and by looking at the addresses of the parties (subject to correction) that this area, where Lot 924 and the houses of 1<sup>st</sup>-3<sup>rd</sup> Respondents stand on, is in the Industrial Zone. The land has been given to Rizvi on a long-lease only to utilize for industrial purposes and not for residential purposes. The land is now being used by the Petitioner for industrial purpose, to be specific, to conduct the business of operating a garage (mechanical workshop). If it is in the Industrial Zone, it is not clear how to regularize the unlawful occupants for residential purposes. Such a step not only be ill-conceived, but also seems to me (subject to correction) to be against the Law. As arguments in that line were not presented, I do not wish to make any specific finding on that matter, and leave that matter open to be decided probably in a future litigation.

The next matter to be considered is what prompted the Petitioner to file this action. That is to seek redress to resolve a private dispute between the 1<sup>st</sup>-3<sup>rd</sup> Respondents on one hand and the Petitioner on the other. The Petitioner says that the 1<sup>st</sup>-3<sup>rd</sup> Respondents always disturb the smooth functioning of the motor vehicle garage business in his Lot No. 924 by various means including pelting stones to his side on the basis that the operation of the garage is a health hazard to their families and also nuisance to them. On the other hand, it is the position of the Petitioner that the presence of 1<sup>st</sup>-3<sup>rd</sup> Respondents is a nuisance to the Petitioner. In the facts of this case, I am not

convinced that the Petitioner has filed this action as a public-spirited person concerned to see that the law is obeyed in the interest of all.<sup>4</sup>

In *Weligama Multi Co-operative Society v. Daluwatte*<sup>5</sup>, Full Bench of the Supreme Court held that writ will not issue for private purposes.

The Petitioner has not shown to the satisfaction of the Court that he has a legal right to the performance of the legal duty by the 4<sup>th</sup>-12<sup>th</sup> Respondents to evict the 1<sup>st</sup>-3<sup>rd</sup> unlawful occupiers from the adjoining State Land when the law provides under certain conditions for regularizing unlawful occupation of State Lands. There is no legal duty on the part of the 4<sup>th</sup>-12<sup>th</sup> Respondents to compulsorily eject all the unlawful occupants from State Lands including the 1<sup>st</sup>-3<sup>rd</sup> Respondents. The situation might be different if they unlawfully reside in an Industrial Zone whilst being a nuisance to legitimate businesses carried on in the Zone. Hence the Court expects that the authorities will act responsibly.

When the authorities give State Lands with specific directions to use for industrial purposes, it is the duty of the relevant officials to facilitate them to carry out their businesses without hindrances from unlawful occupiers.

As public law remedy in my view is not available to the Petitioner in the manner the case was presented before Court, I dismiss the application of the Petitioner without costs.

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<sup>4</sup> Vide *Wijesiri v. Siriwardena* [1982] 1 Sri LR 171

<sup>5</sup> [1984] 1 Sri LR 195

This shall not prevent the Petitioner from resorting to any other legal remedy in order to seek redress.

Judge of the Court of Appeal