

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

Society of the Margaya Fellowship  
of Sri Lanka,  
No. 62,  
Ekwatta Road,  
Mirihana,  
Nugegoda.  
Petitioner

**CASE NO: CA/WRIT/28/2017**

Vs.

Dilan Gunaratne,  
Divisional Secretary,  
Mahakumbukkadawala  
Pradeshiya Sabhawa,  
Mahakumbukkadawala  
And 3 Others  
Respondents

Before: Mahinda Samayawardhena, J.  
Counsel: Lakshan Dias for the Petitioner.  
Nayomi Kahawita, S.C., for the Respondents.  
Decided on: 10.09.2019

Mahinda Samayawardhena, J.

The Petitioner, a religious society, filed this application seeking to quash by writ of certiorari the Quit Notice marked P21 served on it by the 1<sup>st</sup> Respondent Divisional Secretary under the State Lands (Recovery of Possession) Act, and to compel the 1<sup>st</sup> Respondent by writ of mandamus to convey the land in question by way of a Deed to the Petitioner Society.

The subject land is admittedly a State Land. There had been a severe opposition from the villagers and clergy when the Petitioner Society attempted to construct some buildings in this State Land, and that has led to making complaints to the police, and filing a case in the Magistrate's Court to prevent breach of the peace, and maintain religious harmony.

By P19 the 1<sup>st</sup> Respondent has informed the Petitioner to stop construction of religious buildings as no approval from the Ministry of Religious Affairs has been obtained (vide R7).

When the land is admittedly a State Land, as an agent of the State the 1<sup>st</sup> Respondent is legally entitled to take steps to evict the Petitioner from the land. Notice of Quit has been issued as the first step in that process.

Merely because Permits and Grants have been issued under the Land Development Ordinance to some of the unlawful occupiers of the neighbourhood, the Petitioner cannot demand that it shall also be issued with a Permit or Grant. That decision will be taken in terms of the established procedure on case by case basis.

The Petitioner has obviously no legal right to the performance of a legal duty by the 1<sup>st</sup> Respondent to transfer the subject land belonging to the State on what is called by the Petitioner by way of a “Deed of Sacred Land”. Hence mandamus will not lie.

The Petitioner’s application is dismissed without costs.

Judge of the Court of Appeal