

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

E.P. Sanduni Wijesekara,
No. 172,
Jayaweera Niwasa,
Helekada South,
Angunakolapelessa
And Another
Petitioners

CASE NO: CA/WRIT/192/2016

Vs.

Mahaweli Authority of Sri Lanka,
No. 500, T.B. Jayah Mawatha,
Colombo 10
And 3 Others
Respondents

Before: Mahinda Samayawardhena, J.
Counsel: Shantha Jayawardena for the Petitioner.
Chaya Sri Nammuni, S.S.C., for the 1st-3rd
Respondents.
W. Dayaratne, P.C., for the 4th Respondent.
Decided on: 12.09.2019

Mahinda Samayawardhena, J.

The 1st and 2nd Petitioners, daughter and mother respectively, filed this application seeking to compel the Mahaweli Authority of Sri Lanka, the Resident Project Manager of Walawa Area, and Divisional Manager of Angunukolapelessa by writ of mandamus to issue a Permit or Grant in the name of the 1st Petitioner under the Land Development Ordinance in respect of the paddy land in suit. The 1st Respondent heavily relies on the document marked P9 issued by the Divisional Manager of Angunukolapelessa at a Provincial Day to regularize the possession of the land in her favour.

The 4th Respondent who is a sister of the 1st Respondent's deceased father is another contender to get a Permit issued in her name from the Mahaweli Authority. She tenders *inter alia* the document marked 4R3 issued by the Resident Project Manager of Walawa Area and ratified even by the Director General of the Mahaweli Authority to say that the Mahaweli Authority has decided to regularize the possession of the land in favour of the 4th Respondent.

Both parties have possessed the land at different times and now none cultivates the land as it is now in the possession of the Mahaweli Authority may be to prevent breach of the peace.

This Court cannot compel the Mahaweli Authority to issue the Permit in favour of the 1st Petitioner. That decision shall be taken by the Mahaweli Authority after a due inquiry according to law.

The Mahaweli Authority with its objections has *inter alia* tendered a copy of the letter marked 1R13 dated 22.06.2016,

which has been sent both to the 1st Petitioner and the 4th Respondent to attend for an inquiry on 29.06.2016 on the question of issuance of a Permit in respect of this land. In the meantime, this case has been filed on 20.06.2016.

The alternative relief sought for by the 1st Petitioner by paragraph (e) of the prayer to the petition is to compel the 1st-3rd Respondents by mandamus to hold an inquiry to issue a Permit or Grant under the Land Development Ordinance.

Already the 2nd Respondent by 1R13 taken steps to hold an inquiry, and it appears that the said inquiry could not be held due to this case.

There is no necessity for this Court to make that order sought under paragraph (e) of the prayer to the petition. However I formally make that order and grant the relief as prayed for in paragraph (e) of the prayer to the petition. In that inquiry, both the 1st Petitioner and the 4th Respondent shall be heard.

Application is partly allowed. No costs.

Judge of the Court of Appeal