

**IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST**

**REPUBLIC OF SRI LANKA.**

In the matter of an Application for  
Revision in terms of Article 154 of the  
Constitution read with the provisions of  
Act No 19 of 1990.

The officer in Charge,  
Police Station,  
Godakawela.

**Complainant**

Court of Appeal Case No: **CA (PHC) 63 /  
2017**

High Court of Embilipitiya Case No: **RA  
03/ 2016**

Magistrate's Court of Embilipitiya Case  
No: **96636 / 13**

Vs.

1.Mohammed Nilsham.

2.P.A. Sarath Kumara.

**Accused**

**And**

Ranatungage Sisira Kumara Yapal Aara,  
Pellebedda.

**Claimant of Animals**

**AND BETWEEN**

Ranatungage Sisira Kumara Yapal Aara,  
Pellebedda.

**Claimant Petitioner**

Vs.

The Officer in Charge,  
Police Station,  
Godakawela.

**Complainant – Respondent**

Hon. Attorney General,  
Attorney General's Department,  
Colombo 12.

**Respondent**

**And Now Between**

Ranatungage Sisira Kumara Yapal Aara,  
Pellebedda.

**Claimant Petitioner – Appellant**

Vs.

The officer in Charge,  
Police Station,  
Godakawela.

**Complainant – Respondent –  
Respondent**

Hon. Attorney General,  
Attorney General's Department,  
Colombo 12.

**Respondent – Respondent**

Before: Menaka Wijesundera J.

Neil Iddawala J.

Counsel: C. Rathnayake to the Appellant.

Maheshika Silva SSC for respondent.

Argued on: 17.02.2022

Decided on: 29.03.2022

**MENAKA WIJESUNDERA J**

The instant application for revision has been filed to set aside the order of the High Court dated 15.03.2017 and the order of the Magistrate's Court dated 07.07.2015

In the instant matter the Claimant- Petitioner (hereinafter referred to as the petitioner) is making a claim for the cattle in the instant matter to be released to him.

In the instant matter, a lorry bearing number SPCL-3081 has transported 12 heads of cattle without a valid permit. The lorry has been taken into custody by the police and charged in the Magistrate's Court under the provisions of the Animal's Act 1957 of No.29. The two accused who were charged in the Magistrates Court have pleaded guilty and they have been accordingly convicted.

The petitioner had claimed the cattle and the learned Magistrate have held an inquiry and accordingly evidence had been led. Upon the conclusion of the inquiry the magistrate had confiscated the cattle on the basis that the petitioner had not successfully proved the ownership of the animal.

If one may go through the law relating to the Animal's Act, according to Section 3AA (3) **“where the person who committed the offence referred to in subsection (1) is**

convicted of such offence , the magistrate shall in addition to the punishment he may impose in relation thereto (a) make order that the animal be confiscated or (b) make order that the animal be handed over to the owner of the animal, upon his establishing ownership of the animal and on the owner showing cause that the offence was committed or was ought to have been committed without his knowledge or connivance’.

Therefore, the Act is very clear that the party claiming the animal should establish,

- 1) The ownership to the animal
- 2) The alleged offence was committed without his or her knowledge.

**In the impugned order the magistrate has considered the** evidence and had come to the conclusion that the evidence before him describing the cattle does not tally with the description of the cattle produced in Court, plus the discrepancies in the evidence led in favour of the claimant, does not prove the petitioners ownership of the cattle. Therefore the cattle had been confiscated. Therefore the Magistrate has had no evidence before him to establish the ownership of the cattle nor the fact that the offence was committed without his knowledge, as per the provisions of the act.

Therefore the learned High Court Judge had affirmed the order of the Magistrates Court and this Court sees no exceptional circumstance which shocks the conscious of this Court. Hence the instant application for revision is dismissed.

**Judge of the Court of Appeal.**

**I agree.**

**Neil Iddawala J.**

**Judge of the Court of Appeal.**