

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

In the matter of an application for writ of Mandamus under Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

**Court of Appeal Case No.  
CA/WRT/290/20**

R.S.D. Perera  
No. 12/142, Nelum Mawatha, Gorakana

**Petitioner**

1. Land Reform Commission,  
No. 475, Kaduwela Road, Battaramulla.
2. W.M.N. Wijesinghe.  
The Chairman, The Land Reform  
Commission, No. 475, Kaduwela Road,  
Battaramulla.
3. D.K.D. Disanayake  
The Executive Director,  
The Land Reform Commission,  
No. 475, Kaduwela Road, Battaramulla.
4. Director  
District Land Reform Authority,  
Kalutara, No. 220, Old Road,  
Kalutara South.
5. Attorney General,  
Attorney General Department,  
Colombo 12.

**Respondents**

Before: M. T. MOHAMMED LAFFAR, J. and  
S. U. B. KARALLIYADDE, J.

Counsel: N. Jayasinghe for the Petitioner

A. D. H. Gunawardhana for the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents

Argued on: 02.09.2022

Written Submissions on: 07.09.2022 by the Petitioner  
07.10.2022 by the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup>  
Respondents

Decided on: 03.11.2022

**MOHAMMED LAFFAR, J.**

The Petitioner in this application is seeking an order in the nature of a writ of *Mandamus* compelling 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents to issue a plan and the title document for the identified land, to the Petitioner under Section 22(1)(a) of the Land Reform Law.

The 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents, having filed their objections dated 18.05.2022, moved for a dismissal of the writ application of the Petitioner.

The 5<sup>th</sup> Respondent did not file a Statement of Objections and of consent, was released from the proceedings of this case.

The subject matter of this case is a land identified as ‘Tunhaul Kongahawatta’ situated in a village called ‘Gorakana’ of the ‘Gorakana’ Grama Niladari Division belonging to Kehelwatta Town Council as a Minor Division within the Panadura Divisional Secretary's Division of Kalutara District, containing an extent of 37.6 Perches depicted as Lot No. 06 with its boundaries in Plan No. 646 dated 18.02.1960, drawn by Mr. W. R. De Silva, Licensed Surveyor marked as ‘P4’ to the Petition. Particulars are also detailed in the statutory declaration of the Land Reform Commission marked as ‘1R1’ to the Statement of Objections of the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents’.

The Petitioner submits that his deceased mother cultivated the said land as a tenant cultivator and after her death, he continued cultivation in the land as a tenant cultivator.

This court observes that the 1<sup>st</sup> Respondent, the Land Reform Commission had decided to grant the said land to the Petitioner under Section 22(1)(a) of the Land Reform Law on payment of its assessed value of Rs. 192,191 and such decision was clearly communicated to the Petitioner by the letters dated 26.06.2013 and 03.07.2013 marked as 'P5' and 'P5A' to the Petition respectively. The Petitioner thereafter paid the assessed value of the land on 04.07.2013. These facts are not denied by the Respondents.

The Respondents have drawn the attention of the court to a dispute between the Petitioner and an owner of an adjacent land, which acts as an impediment to the issue of the relevant documents.

In these respects, the central questions to be considered in this application are as follows:

1. Whether the Petitioner is entitled to the relief as prayed for on the basis of legitimate expectation.
2. Whether there any legal impediments preventing the Land Reform Commission from alienating the land to the Petitioner?

What is 'legitimate expectation'? This concept is focused upon the idea of fairness and the enforcement of promises or representations. This principle creates the idea that *it is unlawful for a public authority to fail to abide by a promise or representation that it has made without good reason, provided that the promise is lawful and that whoever made the promise was entitled to bind the authority.*

In ***Junaideen Mohamed Iqbal vs. The Divisional Secretary, Kundasale***<sup>1</sup> the Court of Appeal simply described the principle of legitimate expectation as follows:

*“...When a public authority represents that it will or will not do something within its authority and later attempts to rescind the said representation, a person who has reasonably relied on it should be entitled to enforce it by law. This concept is based on the principles of natural justice and fairness, and seeks to prevent the abuse of power by public authorities...”*

Wade discusses the principle of legitimate expectations<sup>2</sup> as follows:

*“...A further and more satisfactory reason for the protection of legitimate expectations lie in the trust that has been reposed by the citizen in what he has been told or led to believe by the official. Good government depends upon trust between the governed and the governor. Unless that trust is sustained and protected officials will not be believed and government becomes a choice between chaos and coercion.”*

*“...It is not enough that an expectation should exist: it must in addition be legitimate. But how is it to be determined whether a particular expectation is worthy of protection? This is a difficult area since an expectation reasonably entertained by a person may not be found to be legitimate because of some countervailing consideration of policy or law. A crucial requirement is that the assurance must itself be clear, unequivocal and unambiguous. Many claimant fail at this hurdle after close analysis of the assurance. The test is how on a fair reading of the promise it would have been reasonably understood by those to whom it was made....”*

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<sup>1</sup> CA/WRIT/328/215, CA Minutes of 19.02.2020.

<sup>2</sup> H.W.R. Wade and C.F. Forsyth, Administrative Law, 11th Edition, p.451.

In ***Kurukulasooriya vs. Edirisinghe and Six Others***<sup>3</sup> it was held that:

*“It would be necessary for the party which claims the benefit of legitimate expectation to show that such expectation arises from a promise or hope given by the authority in question”*

When applying the above-stated principles to the instant application, the question that begs an answer is whether a promise or an assurance was given by the Respondents to the Petitioner, to transfer the said land in favour of the Petitioner. Having scrutinized the documents tendered and submissions made by the parties, it is abundantly clear that the Petitioner was promised the transfer of the land in his favour upon payment of the assessed value. This court is of the view that the Petitioner had a legitimate expectation that he would be issued the relevant documentation upon payment of the stipulated sum as communicated to him by documents marked ‘P5’ and ‘P5A’.

This court also observes that the final decree of the partition action No. 45 filed in the District Court Panadura, had allotted the said land to ‘R. S. Perera’, the 4<sup>th</sup> Defendant of that case. It had thereafter vested onto the Land Reform Commission. This is evident based on the final decree marked ‘P1’, an extract relevant to the registration of the said lot obtained from the land registry marked ‘P2’ and a letter 04.06.2004 issued by the Land Reform Commission marked ‘P8’. Thus, as this court sees no encumbrances to the said land and the 1<sup>st</sup> Respondent’s ability to transfer it to the Petitioner; I observe that the Respondent’s position that the interference and/or dispute by the owner of the adjoining land affects the Petitioner’s right to the land, holds no merit whatsoever. It appears as an evasive and unreasonable defence to not act on the promise made by the commission.

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<sup>3</sup> S.C. Application (FR) No. 577/2009, SC. Minute of 01.11.2011.

In the above pretext, this court also observes that the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents have failed to duly exercise their public duty entrusted upon them as an organ of the state and being public officials.

Accordingly, a writ of *Mandamus* mandating the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents to issue a plan and the title document for the said land to the Petitioner, under Section 22(1)(a) of the Land Reform Law as prayed for in prayer (b) of the Petition dated 27.08.2020.

I make no order as to costs.

JUDGE OF THE COURT OF APPEAL

S. U. B. Karalliyadde, J.

I agree.

JUDGE OF THE COURT OF APPEAL