

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

In the matter of an application for mandates in the nature of writ of *Mandamus & Prohibition* under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

**CASE NO: CA/WRIT/0316/2019**

Nadarajah Nayagam,  
No. 50, Rajavarothyam Street,  
Trincomalee.

**PETITIONER**

**VS.**

- (1) R. N. C. M. Herath,  
The Land Commissioner-General,  
Land Commissioner-General's Department.  
"Mihikatha Medura",  
No. 1200/6, Rajamalwatta Road,  
Battaramulla.
- (2) S. M. Sampath Rohana Dharmadase.  
The Provincial Land Commissioner,  
North-Central Province,  
Anuradhapura.
- (3) E. M. R. D. B. Ekanayake,  
The Divisional Secretary,  
Nuwaragampalatha-East,  
Anuradhapura.
- (4) W. P. Dharmadasa,  
No. 300. Bandaranayake Mawatha,  
Opposite Zahira Muslim School,  
New Town,

Anuradhapura.

(5) W. P. Upul Nishantha,  
No. 300, Bandaranayake Mawatha,  
Opposite Zahira Muslim School,  
New Town,  
Anuradhapura.

6) W. P. Upul Ashoka,  
No. 300, Bandaranayake Mawatha,  
Opposite Zahira Muslim School,  
New Town,  
Anuradhapura.

(6) W. P. Nilanthi Ashoka Kumari,  
No. 300, Bandaranayake Mawatha,  
Opposite Zahira Muslim School,  
New Town,  
Anuradhapura.

**RESPONDENTS**

Before: **M. T. MOHAMMED LAFFAR, J.**  
**S. U. B. Karalliyadda, J.**

Counsel: K. V. S. Ganesharajan with S. Ragul and K. Nasikethan for  
the Petitioner.

Dr. C. Ekanayake S.C. for the 1<sup>st</sup> to 4<sup>th</sup> Respondents

Supported on: 21.02.2021

Written Submissions on:

17.08.2022 (by the Petitioner).  
Not Tendered (by the Respondent).

Decided on: 05.05.2022

**Mohammed Laffar, J.**

The Petitioner, in her amended Petition dated 02-03-2020, seeks the following reliefs, *inter-alia*, that;

1. A mandate in the nature of Writ of Mandamus directing the 1<sup>st</sup> and/or 2<sup>nd</sup> and/or 3<sup>rd</sup> Respondents to issue a permit under the Land Development Ordinance in respect of the land marked Lots 330, 331 and 331A depicted in Plan No. P11/64 and which said lands are also referred as Lots 498, 499 and 500 in Surveyor General's Plan No. FUP A2.
2. A mandate in the nature of Writ of Prohibition prohibiting the 1<sup>st</sup> and/or 2<sup>nd</sup> and/or 3<sup>rd</sup> Respondents from taking any steps to issue permit under the Land Development Ordinance or any other law to the 4<sup>th</sup> and/or 5<sup>th</sup> and/or 6<sup>th</sup> and/or 7<sup>th</sup> Respondents in respect of the land marked Lots 330, 331 and 331A depicted in Plan No. P11/64 and which said lands are also referred as Lots 498, 499 and 500 in Surveyor General's Plan No. FUP A2.
3. A mandate in the nature of Writ of Prohibition prohibiting the 1<sup>st</sup> and/or 2<sup>nd</sup> and/or 3<sup>rd</sup> Respondents from issuing a permit under the Land Development Ordinance in respect of the land marked Lots 330, 331 and 331A depicted in Plan No. P11/64 and which said lands are also referred as Lots 498, 499 and 500 in Surveyor General's Plan No. FUP A2, to any person other than the Petitioner.

We heard the learned Counsel for the Petitioner in support of this application. We heard the learned State Counsel for the Respondents as well.

The contention of the learned Counsel for the Petitioner was that the land called "Sittampalam Theatre Watta" owned by Mrs. Thangaratnam Sittampalam was acquired by the State in 1962. In lieu of the said land acquired, Mrs. Thangaratnam Sittampalam was granted the lands in dispute, namely lots 330, 331 and 331A in Plan No. P11/64 in terms of the provisions of the Land Development Ordinance (Vide paragraph 2b of the Petition). Mrs. Thangaratnam Sittampalam demised on 06-11-1980 intestate and issueless, leaving her heirs, the Petitioner, Shakthivel and Balashanmuganathan who are the siblings of Mrs. Thangaratnam Sittampalam and Sivaguru and Sivasundaram who are the uncles of the Petitioner. By virtue of deed bearing No. 8550 dated 05-03-1998 attested by R. Sathanandan, Notary Public, the said Sivaguru, Sivasundaram and Shakthivel have transferred their entitlements to the petitioner. The said Balashanmuganathan consented to transfer his right to the Petitioner. The Petitioner states that the lands in dispute were mentioned in the inventory of the Testamentary Proceedings instituted in the District Court of Point Pedro in respect of the estate of deceased Mrs. Thangaratnam Sittampalam.

The Petitioner further states that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents failed to issue a permit in favour of the Petitioner pertaining to the lands in suit where as the Petitioner is entitled to the same under section 72 of the Land Development Ordinance.

It is pertinent to be noted that there is no permit/grant issued in favour of Mrs. Thangaratnam Sittampalam. As such, the Petitioner is not entitled to the said lands in terms of section 72 of the Land Development Ordinance, which deals with succession of permit-holders.

Be that as it may, the Petitioner totally failed to establish the fact that he is an heir of the deceased as well.

It is to be noted that, the lands in suit cannot be a part and parcel of the estate of late Mrs. Thangaratnam Sittampalam as she was not granted a permit in terms of the provisions of the Land Development Ordinance.

In the circumstances, it is the view of this Court that the instant writ application is devoid of merits.

Thus, I refuse to issue notice to the respondents and dismiss the application. No costs.

Application dismissed.

**Judge of the Court of Appeal**

**S. U. B. Karalliyadde, J.**

I agree.

**Judge of the Court of Appeal**