

**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 Writs of Certiorari, and Mandamus under and in terms of Article 140 of the Constitution of the Democratic Socialists Republic of Sri Lanka.

**Case No:**

**CA-Writ-0306-19**

Rajakaruna Mudiyansele Leelawathie,  
Mudungoda, Kiralogama.

**Petitioner**

**Vs.**

1. Director General,  
Mahaweli Authority,  
No. 500, T.B. Jaya Mawatha,  
Colombo 10.
2. Resident Project Manager (land),  
Thambuththegama.
3. Commissioner of Lands,  
Land Commissioner's Department,  
Colombo 07.
4. Registrar of Lands,  
Land Registry, Anuradhapura.
5. Rajakaruna Mudiyansele  
Padmawathie,  
Mudungoda, Kiralogama.
6. Hon.Attorney General,  
Attorney General's Department,  
Colombo 12.

**Respondents**

**Before:**

M. T. Mohammed Laffar, J.

S. U. B. Karalliyadde, J.

**Counsel:**

Esara Wellala, instructed by Bandula Wellala for the Petitioner.

Medhaka Fernando, SC for the 1<sup>st</sup>-4<sup>th</sup> and 7<sup>th</sup> Respondents.

Migara Doss with Isuru Jayasantha, instructed by Dinesh De Silva for the 5<sup>th</sup> Respondent.

**Written submissions tendered on:**

17.11.2022 by the 5<sup>th</sup> Respondent.

29.11.2022 by the Petitioner.

29.11.2022 by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents.

**Argued on:** 20.09.2022.

**Decided on:** 31.05.2023.

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

By this Writ Application the Petitioner is challenging the nomination of the 5<sup>th</sup> Respondent by the Petitioner's mother as her successor under and in terms of the Land Development Ordinance, No. 19 of 1935 (as amended) (hereinafter referred to as the Ordinance). As evident by the documents marked as P2 and P2 (a) the father of the Petitioner, Punchirala had been selected on 21.09.1979 in terms of the Sale of State

Lands (Special Provisions) Law, No. 43 of 1973 of the National State Assembly, to alienate the subject matter of this Application which is a paddy land. The Petitioner's father Punchirala had died on 29.10.1980. After the demise of the father, in terms of section 19 (2) of the Ordinance, on 12.12.1984 a Permit (marked as P6) and thereafter, on 17.01.2002 in terms of section 19 (4) a Grant (marked as P5) had been issued in the name of the Petitioner's mother, Nandawathi for the subject matter.

The position of the learned Counsel appearing for the Petitioner is that on the consent of the Petitioner's father and her siblings, the Petitioner possessed the subject matter and Punchirala had nominated her as his successor to the subject matter. Nevertheless, in P6 which was prepared to be issued to Punchirala before his death naming him as the permit-holder and in the Land Ledger marked as P7, Punchirala's name has been deleted and the name of the Petitioner's mother, Nandawathi has been written and further, in P6 Punchirala's nomination of the Petitioner as his successor has been deleted and the name of the 5<sup>th</sup> Respondent, Padmawathi who is the sister of the Petitioner has been entered as the nominee by some Officer/s of the 1<sup>st</sup>-3<sup>rd</sup> Respondents. The learned Counsel for the Petitioner has submitted to Court that the mother of the Petitioner, under the undue influence of the 5<sup>th</sup> Respondent, has submitted the nomination paper marked as P 8 to 1<sup>st</sup>-3<sup>rd</sup> Respondents by which the 5<sup>th</sup> Respondent has been nominated as the successor of the mother and accordingly, the name of the 5<sup>th</sup> Respondent has been entered in the Land Ledger marked as P7. Under the said circumstances, the learned Counsel appearing for the Petitioner argued that as provided by the Ordinance, the mother of the Petitioner had only the life interest of Punchirala and therefore, in terms of section 48A (2) of the Ordinance she was not entitled to nominate the 5<sup>th</sup> Respondent as her successor to the subject matter and the deletion of the Petitioner's name as the successor and insertion of the name of the 5<sup>th</sup> Respondent as the successor by the

Respondents is illegal. On that premise, the Petitioner seeks to issue a writ of Certiorari to quash the decision of the 1<sup>st</sup> to 3<sup>rd</sup> Respondents to enter the 5<sup>th</sup> Respondent's name in P7 as the successor of the subject matter and writs of Mandamus directing the said Respondents to enter the Petitioner's name as the nominee of the subject matter and directing the 4<sup>th</sup> Respondent to delete the 5<sup>th</sup> Respondent's name in the Land Ledger marked as P7. In the Petition to this Application, no reliefs have been sought against naming the mother of the Petitioner as the Permit-holder in the Permit marked as P6 and in the Grant marked as P5 as the Grantee.

The position of the learned Counsel appearing for the Respondents is that in terms of the Sale of State Lands (Special Provisions) Law after Panchirala was selected to alienate the subject matter of the action, the Permit marked as P6 has been prepared but before alienation processes were completed by issuing the Permit to him he had died. Therefore, in the Permit marked as P6 and in the Ledgers maintained by the 1<sup>st</sup> to 4<sup>th</sup> Respondents in respect of the subject matter were altered by entering the name of Panchirala's widow, Nandawathi as the Permit-holder. Thereafter, the Grant marked as P5 has also been issued in the name of Nandawathi. The argument of the learned Counsel appeared for the Respondents is that since Nandawathi was the Permit-holder and thereafter the Grantee in terms of sections 19 (2) and 19 (4) of the Ordinance respectively, under Chapter VII of the Ordinance she has a right to nominate a successor and therefore, the nomination of the 5<sup>th</sup> Respondent by Nandawathi as her successor is according to the provisions of the Ordinance.

It is evident that Panchirala died on 29.10.1980 before the alienation process was over; therefore, the permit marked as P6 has been issued to his widow, Nandawathi on 12.12.1984, after Panchirala's death. Therefore, the Court can be satisfied that even though the Permit had been prepared to be issued to Panchirala before it was issued he

had died and therefore, the name of Punchirala had been deleted in P6 and the name of Nandawathi who was the widow of Punchirala has been entered deleting Punchirala's name. Since Punchirala had died before the Permit or Grant was issued, the conclusion of this Court is that the provisions of section 48 A (2) of the Ordinance have no application to the facts of this Application. Under the above-stated circumstances, the Court cannot accept the argument of the learned Counsel appearing for the Petitioner that Nandawathi had only the life interest to the subject matter and therefore, she had no right to nominate the 5<sup>th</sup> Respondent as her successor to the land. The Court can be satisfied that the Permit marked as P6 and thereafter the Grant marked as P5 has been issued in the name of Nandawahi and she has nominated the 5<sup>th</sup> Respondent as her successor in terms of the Ordinance. Therefore, Court can conclude that the Respondents following the provisions of the Ordinance the Grant marked as P5 has been issued to Nandawathi and after it was issued Nandawathi, has nominated the 5<sup>th</sup> Respondent as her successor. Under the said circumstances, the Petitioner is not entitled to the reliefs sought in the Writ Application. Therefore, I dismiss the writ Application without costs.

*Application dismissed.*

**JUDGE OF THE COURT OF APPEAL**

**M.T. MOHAMMED LAFFAR, J.**

**I agree.**

**JUDGE OF THE COURT OF APPEAL**