

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

In the matter of an Application for Writs of
Certiorari and *Prohibition* under Article 140 of
the Constitution of the Democratic Socialist
Republic of Sri Lanka.

Court of Appeal Case No.

CA/WRT/0357/2020

Dissanayakege Somawathie,
Pawakkulama,
Hidogama,
Anuradhapura.

Petitioner

Vs

1. R.M.C.M.Herath
Land Commissioner General
Land Commissioner Department
"Mihikatha Medura"
Land Secretariat,
1200/6, Rajamalwatta Road,
Battaramulla.
2. R.K.S.S.C.Wijesinghe
Divisional Secretary,
Divisional Secretariat,
Nachchaduwa.
3. Wijesinghe Rajapaksha
Pawakulama

Hidogama

4. R.P.D.Indra Kumari
"Bo Sewana
Pawakkulama
Hidogama.

Respondents

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

Counsel: P. B. Herath for the Petitioner.
Ms. A. Gajadeera, S.C. for the 1st and 2nd
Respondents.
Nilantha Kumarage for the 3rd Respondent.

Supported on: 10.05.2019

Decided on: 26.07.2023

MOHAMMED LAFFAR, J.

I heard the learned Counsel for the Petitioner in support of this Application. I heard the learned State Counsel appearing for the 1st and 2nd Respondents, and the learned Counsel for the 3rd Respondent as well.

According to the Petition, under the provisions of the Land Development Ordinance No.19 of 1935 (as amended), one Rajapakse Pedidurayalage Ukku was the owner of the land in dispute by virtue of the crown grant issued in accordance with the provisions of the aforementioned Ordinance, which is marked as P2.

Upon the demise of the said grantee, the certificate of ownership was issued to his son, namely R. Kiribanda, which is marked as P3. Upon the death of R. Kiribanda, the certificate of ownership was issued to Dissanayakage Seelawathi, which is marked as P4. The said Seelawathie had nominated her daughters, namely the Petitioner, 4th, and 5th Respondents as successors, which is marked as P1(b).

Upon the demise of the said Dissanayakage Seelawathie, the Petitioner is seeking a certificate of ownership/grant from the 1st and 2nd Respondents as a nominated successor. The 1st Respondent, by letter marked P11, directed the land commissioner of Anuradhapura to issue a certificate of ownership/grant to the 3rd Respondent as he is the eldest son of the original grantee, namely Ukku.

Accordingly, by P12, the certificate of ownership was granted to the 3rd Respondent. In this scenario, the Petitioner is seeking to quash P11 and P12 on the basis that she is entitled to a certificate of ownership to the land in dispute in terms of the provisions of the Land Development Ordinance.

The Petitioner is seeking a declaration of title to the land in suit and a writ of prohibition preventing the 3rd Respondent from taking any further steps with regard to the corpus of this Application.

It is pertinent to note that the Petitioner has no right to ask for a declaration of title to the land in dispute in this forum. Moreover, in terms of the provisions of the Land Development Ordinance, the nomination of successors made by the said Seelawathie in P1(b) is erroneous and misconceived in law.

I observe that, in terms of the third schedule of the Land Development Ordinance, the eldest son of the original grantee, who is the 3rd Respondent in this Application, is entitled to the subject matter. Having scrutinized the Petition, Affidavit documents, and the submissions of the learned Counsel appearing for the parties, it is the view of this Court that the decisions of the 1st and 2nd Respondents to issue a certificate of ownership/grant to the 3rd Respondent on the basis that he is the eldest son of the original grantee (Ukku) are within the purview of the provisions of the Land Development Ordinance.

In these circumstances, I see that there is no basis to issue notices on the Respondents. Thus, the notices are refused, and the Application is dismissed. No costs.

Notice refused.

JUDGE OF THE COURT OF APPEAL