

**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 Socialist Republic of
Sri Lanka

Case No. Writ Application

No: 352/2018

R. S. Roland Genedius Karunaratne
No 314, Havelock Road,
Colombo 05.

PETITIONER

Vs.

Janatha Estate Development Board
(JEDB) No. 55, Vauxhall Street,
Colombo 02 and five others.

RESPONDENTS

Before: Hon. D.N. Samarakoon, J.

Hon. Niel Iddawala J.

Counsel: Upul Jayasuriya P.C. with Sampath Wijewardena for the petitioner.

Senelan Senadhipathi with Charitha Minipuraarachichi for the 01st and 02nd respondents.

Thisath Wijegunewardane, P. C., with Gihan Liyanage instructed by Mallawaarachchi Associates for the 04th and 05th respondents.

Awanti Weerakoon S.C. for the 06th respondent.

Supported on: 25.07.2023

Written submission tendered on: Not tendered

Decided on: 11.08.2023

D.N. Samarakoon, J

Aquilaria agollocha being the Botanical name, which is also known as Aquilaria malaccensis alias “Walla Patta”, or Agar Wood, is the plant which the petitioner prepared a 66 acre portion of “Mount Pearl Estate” at Mathugama to cultivate having taken a lease of the said land on Lease agreement No. 552 dated 23.02.2018, from the 01st respondent Janatha Estate Development Board.

The petitioner states that with great difficulty and proving the prospect of the proposed investment before the Seed Act Implementation Unit, the petitioner was able to obtain the Seed Handler Certificate as an Importer and Merchant of Agarwood Plants.

On 18.06.2018 he received a letter from the 04th respondent Land Reforms Commission, addressed to the 01st respondent and copied to him to say that, the said land belongs to the LRC, requesting to cancel the above Lease agreement.

The petitioner states, that, on making inquiries he came to know that the land belonged to the LRC, which has transferred possession and management to JEDB on 01st March 1983 by agreement marked as P.10.

On 02.08.2018 a Quit notice under section 03 of State Lands (Recovery of Possession) Act No. 07 of 1979 had been affixed on the land by the LRC.

The 05th respondent being the Chairman, LRC, the 06th respondent is The Secretary, Ministry of Lands and Parliamentary Reforms. The 02nd respondent being the Chairman of JEDB, the 03rd respondent is the Secretary, Ministry of Public Enterprise Development and Kandy City Development.

The petitioner instituted this application on 12th November 2018.

Upon informing that there is no settlement, the learned President's Counsel for the petitioner supported for notice and interim relief on 25th July 2023. Although parties were allowed to file Written Submissions, no Written Submissions have been received and the 06th respondent has filed a motion that it will not file Written Submissions.

This Court, on perusal of journal entries, finds, that,

- (01) From the very inception up to 14.10.2020 there were indications about a possible settlement,
- (02) On 14.10.2020, the 04th and 05th respondents (LRC) informing that they cannot maintain status quo any longer, upon suggestion by Court they agreed for the issuing of formal notice,
- (03) Hence already formal notice have been issued on the contesting respondents,
- (04) On that day the Court giving dates for objections and Counter Objections, fixed the matter for argument for 16.11.2020,
- (05) It was refixed, again and again, for argument up to 08.02.2023, on which date the 04th, 05th and 06th respondents again indicated about a possibility of a settlement,
- (06) As there was no settlement, this Court, by its present Bench fixed the matter for support for 25.07.2023

Upon the oral submissions made by learned Counsel who were present and on the petition, affidavit and documents, this Court is satisfied on a prima facie basis that there is a question to be looked into by this Court.

As notices have already been formally issued on the 04th and 05th respondents and they having been filed statement of objections on 13.01.2021 with documents 04R.01 to 04 R.02, this Court issues formal notice on 01st,02nd,03rd and 06th respondents.

This Court also issues interim orders,

- (i) Staying the implementation of the decision/order dated 18.06.2018 and
- (ii) Staying the implementation of the Quit Notice dated 02.08.2018,

until the final determination of this case.

Judge of the Court of Appeal

Hon. Niel Iddawala

I Agree.

Judge of the Court of Appeal.