

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

CA (PHC) 98/2005

PHC- Hambantota 101/2002

Mirissa Ganitage Saimon
Mini Aniliya,
Hatha Gala,
Hungama.

Appellant

Vs.

Add. Commissioner of Agrarian Development
Agrarian Development Office

Respondent

Before : Rohini Marasinghe, J &
Deepali Wijesundera, J.

Counsel : Gamini Hettiarachchi for the Petitioner-Appellant.

Decided on : 14.02.2013.

Rohini Marasinghe, J.

The Petitioner has sought a writ of certiorari to quash the decision contained in the document marked as P7, and for a writ of mandamus directing the 1st respondent to hold an inquiry to determine his rights as the *ande* cultivator to the land in dispute.

In the impugned judgment the learned High Court Judge had issued a writ of mandamus directing the 1st respondent commissioner to hold an inquiry. However, the learned trial judge in the said judgment had issued the writ of mandamus subject to a certain condition. The Petitioner's grievance is about this condition. The condition mentioned in the judgment was that the petitioner should deposit the rents of the paddy land in issue to the owner of the paddy land within two months of the impugned judgment. Whilst setting aside condition mentioned in the

judgment in regard to the payment of the rent, we affirm the judgment in regard to the issue of writ of certiorari to quash the document P7. We also issue of writ of mandamus directing the 1st respondent to hold an inquiry to determine the person who is entitled to be declared as the *ande* cultivator of the paddy land in issue. However, the 1st commissioner is not precluded from determining the question in regard to the rent payable, if that, is an issue.

Proceedings are terminated.

JUDGE OF THE COURT OF APPEAL.

Deepali Wijesundera, J.

I agree.

JUDGE OF THE COURT OF APPEAL.

Mm/-.