

In the Court of Appeal of the Democratic
Socialist Republic of Sri Lanka

C A. PHC 19/08

PHC Avisswella 27/2005

M.C Kaduwela 39432

K W WEERASINGHA

130/15, Kahanthotota Road,

Pittugala,

Malabe

Respondent-petitioner-appellant

Vs

Urban Development Authority,

No 27 D R Wijewardana Mawatha,

Sri Jayawardenapura, Kotte

Battaramulla

Petitioner-Respondent Responded

Honourable Attorney General

Colombo 12

Respondent

BEFORE: A.W.A.SALAM, J

COUNSEL: PRADEEP KUMARASINGHA FOR THE
RESPONDENT-PETITIONER-APPELLANT AND
YURESHA FERNANDO, SC FOR THE PETITIONER-
RESPONDENT-RESPONDENT.

ARGUED ON: 20. 11. 2013

DECIDED ON: 22.01.2014

A.W.A.Salam, J

This is an appeal preferred against the judgment of the High Court judge in the exercise of the its revisionary powers, refusing to set aside an order made by the learned Magistrate under and in terms of section 28 (5) (A) of the Urban Development Authority Act directing the demolition of certain unauthorised structures put up by the respondent-petitioner-appellant (hereinafter referred to as the "appellant"). The application has been made by the Urban Development Authority to the relevant Magistrate's Court seeking an order of demolition the buildings put up at premises No 130/15, Kahantota Rd, Pittugala.

Even though the appellant has raised the question of the identity of the land on which the unauthorised construction has been put up, in relation to Local Government area, he has failed to take up this position in the Magistrate's Court. The learned Magistrate having inquired into the application has considered every aspect relevant to make an order of demolition and had allowed the application of the Urban Development Authority. The learned High Court Judge having examined the order of the learned Magistrate has come to the conclusion that there are no exceptional grounds urged in the application warranting his intervention to vary the order of the learned Magistrate.

The decision in the case of Jayasingha Vs Seethawakapura Urban Council 203 3 SLR 40 has no application to the present dispute as the application in question before the Magistrate has been made by the Urban Development Authority itself.

In the circumstances, I am of the opinion that the appeal preferred by the appellant merits no favourable consideration.

As such, this appeal stands dismissed.

Judge of the Court of Appeal

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