

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

In the matter of an appeal made in terms of Article 154P in the 13<sup>th</sup> amendment to the Constitution read with Section 7 of the High Court of the Provinces (Special Provisions) Act No.19 of 1990 to set aside the Judgment of the Honourable High Court Judge dated 17.08.2011 made in the application for a Writ of Certiorari to quash the Order of eviction issued by the Assistant Commissioner- Agrarian Development of Hambantota dated 30.01.2009 in the inquiry of 42/පොදු/2004/26 exercising his jurisdiction under Section 7(10) of Agrarian Development Act, No.46 of 2000.

Court of Appeal Case No.

CA/PHC/129/2011

HC Hambantota Application

No.HCWA 03/2009

Agrarian Service Inquiry

No. 42/පොදු/2004/26

Sidni Pradeep Ratnayake,

Somagiri,

Opposite Agrarian Service Centre,

Lunama,

Ambalanthota.

1<sup>st</sup> Respondent-Petitioner-appellant

Vs.

1. Anil Manjula Abeysinghe Weerawarna

169/1, Malee Niwasa,

Kiwula, Hungama.

Plaintiff-Respondent-Respondent

2. Loku Kavani Hendige Sirisena

Dilukgahahena

Kiwula, Hungama.

2<sup>nd</sup> Respondent-Respondent-Respondent

3. Assistant Commissioner of Agrarian  
Development,

District Office- Agrarian Development,

Hambantota,

3<sup>rd</sup> Respondent-Respondent

BEFORE : A.W.A. SALAM, J. (P/CA)

SUNIL RAJAPAKSHE, J.

COUNSEL : Ranil Samarasooriya with Chandana Dias for  
the appellant.

Lasitha Kanuwanaarachchi with Dail

Jayawardena for the plaintiff-respondent

ARGUED ON : 12.02.2014.

DECIDED ON : 03.09.2014.

**SUNIL RAJAPAKSHE, J.**

This is an appeal from the judgment of the High Court of  
Hambantota refusing to quash by way of a writ of certiorari the order

made by the Commissioner of Agrarian Services ejecting the appellant together with the 2<sup>nd</sup> respondent (sub tenant) from the paddy land in dispute.

Appellant instituted an action in the High Court of Hambantota seeking for a writ of certiorari to quash the decision of the 3<sup>rd</sup> respondent-respondent above named made under Section 7(10) of the Agrarian Development Act No.46 of 2000. The learned High Court Judge of Hambantota on 17<sup>th</sup> August 2011 dismissed the appellant's application. Being aggrieved by the learned High Court Judge's decision the appellant preferred this appeal to the Court of Appeal.

When this case was taken up for the argument appellant's main contention was purpose of Section 7(10) of the Agrarian Development Act is to eject the sub tenant and not the original tenant. Further the appellant urged the provisions of this section 7(10) of the Act does not provide provisions to eject the original tenant.

Section 7(10) of the Agrarian Development Act No.46 of 2000 states as follows:-

“The Commissioner General, after inquiry shall in writing order that the sub tenant cultivator shall vacate such extent of paddy land and or before such date as shall be specified in that order and if such tenant cultivator fails to comply with said order he shall be evicted from such extent in accordance with the provisions of section 8 and the land lord shall be entitled to cultivate such extent of paddy land.”

According to Section 7(10) 3<sup>rd</sup> respondent has correctly held that the possession of the paddy land has been handed over to the 2<sup>nd</sup> respondent-respondent without prior consent of complainant – respondent .

I am of the opinion that the 3<sup>rd</sup> respondent made his order within the scope of Section 7 (10) of the said Act. I have gone through the proceedings before the High Court and note that the appellant has failed to prove his argument in the High Court. The learned High Court Judge has properly considered this matter and dismissed the appellant's writ application. In these circumstances, I am of the opinion there is no reason to interfere with the learned High Court Judge's judgment dated 17.08.2011.

For the aforesaid reasons I hold the learned High Court Judge was correct in dismissing the application of the appellant. Therefore, I dismiss the appellant's application and affirm the learned High Court Judge's order dated 17.08.2011.

Appeal is dismissed without costs.

JUDGE OF THE COURT OF APPEAL

**A.W.A. SALAM, J. (P/CA)**

I agree.

PRESIDENT OF THE COURT OF APPEAL

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