

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

CA (PHC) Revision Application No:101/2012

1. The Municipal Council,
Anuradhapura.

2. Sampath Rohana Dharmadasa,
Municipal Commissioner,
Municipal Council,
Anuradhapura.

1st and 2nd Respondents-Petitioners

Vs.

Sanath Banduma Meddekanda,
388/48, Harischandra Mawatha,
Anuradhapura.

Petitioner-Respondent

S.K. Hettiarachchi alias 'Chandi Malli',
No. 10, 'Indunil',
Nuwarawewa Mawatha,
Airport Road,
Anuradhapura.

3rd Respondent-Respondent

C.A. (PHC) APN.101/2012 - HCCA Anuradhapura
PHC (NCP) Writ Application No.16/2011

BEFORE : K.T. CHITRASIRI, J. &
MALINIE GUNARATNE, J.

COUNSEL : Shantha Jayawardane with Dinesh de Silva
for the 1st and 2nd Respondent-Petitioners.
Chandrasiri Wanigapura for the Petitioner-Respondent.

ARGUED &
DECIDED ON : 24.09.2014.

K.T. CHITRASIRI, J.

Heard both counsel in support their respective cases.

This is an application seeking inter alia to revise and/or set aside the judgment dated 29.05.2012 of the learned Provincial High Court Judge of Anuradhapura wherein he has made order issuing a writ of certiorari and a mandamus, compelling the respondent-petitioners to extend the period as referred to in the agreement dated 09.05.2001. (Vide at pages 94 and 95 in the appeal brief) Accordingly, having issued writs of mandamus and certiorari, the two petitioners were directed by the learned High Court Judge to extend the period of lease in respect of the land referred to in the aforesaid agreement.

Learned Counsel for the petitioners submitted that the law does not provide issuing prerogative writs when it comes to agreements between two parties. Accordingly, he contends that the learned High Court Judge has misdirected himself when he issued the two writs in this instance.

Admittedly, the application by the petitioner-respondent to the Provincial High Court is to have a writ of mandamus and a certiorari to have the period of lease referred to in the aforesaid agreement dated 09.05.2001, extended. Therefore, it is clear that there was no evidence to show that there had been a public duty which arises from a statute, cast upon the two petitioners in this instance. This issue had been dealt with in the following two cases. In the case of **Jayaweera vs Wijeratne** [1985 2 SLR at page 413] G.P.S. de Silva, J. (as he then was) has held that –

“where the relationship between the parties is a purely contractual one of a commercial nature neither certiorari nor mandamus will lie to remedy grievances arising from an alleged breach of contract or failure to observe the principles of natural justice even if one of the parties is a public authority.”

In the case of **Jayawardena vs The People's Bank** [2002 3 SLR at page 17] Jayasinghe, J. has held thus-

“ I am unable to accept the submission that the Circular issued by the Bank regulating the transfer of personnel from one station to another can be equated to an exercise of statutory power or discharge of a public duty to attract the writ jurisdiction of this Court.

Contract of employment is solely a matter within the purview of private law and not a matter for judicial review.”

The foregoing authorities show that no prerogative writs would lie to remedy a breach of the terms in a contract between two parties even though one party in that contract is a public body. In this instance, it is clear that the respondent has filed the application in the Provincial High Court for relief upon a breach of a contractual obligation had, between the parties to this action. Clearly, there is no public duty that has arisen from a statute in this instance. This issue has not been addressed by the learned High Court Judge even though this

question of law had been raised in the paragraph 14(3) in the objections as well as in the written submissions of the petitioners filed in the High Court.

In the circumstances, we are of the view that the learned High Court Judge has misdirected himself when he issued a writ of mandamus and a writ of certiorari in favour of the respondent. Accordingly, we set aside the judgment dated 29.05.2012 of the learned Provincial High Court Judge of Anuradhapura. For the aforesaid reasons, this application is allowed. There will be no costs.

Application allowed.

JUDGE OF THE COURT OF APPEAL

MALINIE GUNARATNE, J.

I agree.

JUDGE OF THE COURT OF APPEAL

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