

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

CA. Writ 613/2011

W.D. Deepal Mendis
No. 38 /11,
Ratnapura Road,
Horana.

PETITIONER

Vs

Commissioner ,Department of Housing (WP)
204, Denzil Kobbakaduwa Mawatha,
Battaramulla.

2. M.Z.M. Rinzarm
No. 38, Ratnapura Road,
Horana.

3. Chairman, Urban Council, Horana.

4. G.M.N. Wasantha Kumara,
40, Sisira Saloon, Ratnapura Road, Horana.

5. G.M. Dayaratne,
No.40A,
Ratnapura Road, Horana.

RESPONDENTS

C.A.(Writ) No. 613/2011

BEFORE : W. M. M. MALINIE GUNARATNE, J.

COUNSEL : Philip Chandraratne for the petitioner
Anusha Samaranayake SSC for the 1st
respondent.

Rohana Jayawardane for the 2nd respondent

ARGUED AND

DECIDED ON : 20th January, 2015

W. M. M. MALINIE GUNARATNE, J.

Counsel appears for the 1st respondent who is the Commissioner Housing submits that the petitioner in his petition seeks to challenge the orders made by the 1st respondent which had been marked as P14 and P5. The crux of the petitioner's case is that the application made by the 2nd respondent under Section 18(A) of the Rent Act No. 7 of 1972 as amended by Act No.55 of 1980 and 26 of 2002 for the demolition and reconstruction of premises No.38 1/1 on the basis that it is in violation of UDA Regulation published in gazette 392 of 10th March 1986 on the basis that the development related to an extent of approximately 3 perches of land whereas the regulation require a

minimum extent of 6 perches of land. It would appear from the proceedings that this matter had not been raised by the petitioner before the 1st respondent. The inquiry before the 1st respondent had been conducted ex-parte due to the absence of the petitioner. However, in order to settle this matter the 1st respondent is willing to reconsider the issue with regard to the extent of the premises pertained in the application P2 having regard to the UDA Regulations and to make an order on that issue alone.

Counsel for the petitioner submits that the 2nd respondent has made an application marked P2 to demolish the assessment No. 38 1/1. However, he has placed before the Commissioner, the 1st respondent plans P3A, P3B, P3C and P3D including assessment Nos.40 and 40 1/1. This has been admitted by the 2nd respondent in his objections as well. The Section 18(A)(1) of the Rent Act requires the applicant be the owner of the premises and hence this application is faulty and also it is evident that the 2nd respondent had deliberately misled the 1st respondent. Counsel for the petitioner agrees to agitate this issue before the 1st respondent and inquiry may be confined only to the extent of the premises.

Counsel for the 2nd respondent also moves to refer the relevant issue, back to the Commissioner, the 1st respondent to rectify the error.

Accordingly, the Court directs the 1st respondent to consider whether there has been a violation of the UDA Regulation in making the orders P5 and P14. In the above circumstances, the proceedings of this case terminated .

Proceedings terminated.

JUDGE OF THE COURT OF APPEAL

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