

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

In the matter of an application for
Writs of Prohibition and Mandamus
under and in terms of Article 140 of
the Constitution.

1. Kandagamage Karunawathie
2. Kandaranasinghege Jayalath
Wimalasiri,
No. 121, Ratiyala, Govinna.

Petitioners

Court of Appeal Writ
Application No. 481/2011

- Vs -

1. Divisional Secretary,
Divisional Secretariat,
Bulathsinhala.
2. The Hon. Minister of Land,
And Land Development,
No. 80/5, Rajamalwatta
Avenue, Baththaramulla.
3. The Secretary,
Ministry of Land and Land
Development, 80/5,
Rajamalwatta Avenue,
Baththaramulla.

4. Commissioner General of Lands,
No. 7, Gregory's Avenue,
Land Commissioner General's Department, Colombo 07.
5. Kandagamage Adlin Nona,
'Isuruwimana', Munagama,
Horana.
6. Hon. Attorney General,
Attorney General's Department,
Colombo 12.

Respondents

Before : K.T. Chitrasiri, J. &
L.T.B. Dehideniya, J.

Counsel : Razik Zarook PC with Rohana Deashapriya, Sanjaya
Kannangara & Chanakya Liyanage for the petitioner.
Anusha Samaranayake SSC for the 1st – 4th & 6th
respondents.
5th respondent is absent and unrepresented.

Argued &

Decided on : 27.03.2015

K.T. Chitrasiri, J.

Two petitioners have filed this application seeking *inter alia* for a mandate in the nature of a writ of mandamus against the 1st respondent directing him to hold an inquiry to ascertain the manner in which the succession should take place and then to decide the person who is entitled to the

permit subjected to in this application. The petitioners also have sought for a mandate in the nature of a writ of mandamus against the 1st – 4th respondents directing them to grant a permit to the 1st petitioner or to her nominee for the land referred to in the document marked P 1 filed with the petition.

Originally, a permit under the provisions contained in the Land Development Ordinance had been issued to Kandagamage Lihinis Singho who is the father of the 1st petitioner and the 5th respondent. They are the daughters of Lihinis Singho. Lihinis Singho died leaving his wife and the children. Lihinis Singho has nominated his wife as his successor to the land to which the permit was issued. The wife of Lihinis Singho who is the mother of the 1st petitioner as well as the 5th respondent has nominated the 5th respondent namely Kandegamage Adlin Nona as the successor entitled to the land subjected to in this case. It is evident by the ledger entry marked **1R1** filed with the objection of the respondent. Furthermore, in the document marked **1R4**, the 1st petitioner Karunawathie, on 07.08.2009 has stated that she has no objection whatsoever to grant the ownership to the 5th respondent Adlin Nona. In that document the 1st petitioner has also stated that she did not intend claiming damages awarded in the case bearing No. 838 as well.

Learned Senior State Counsel referring to those documents submit that the 1st respondent has considered those material and then only he has decided to grant the permit in favour of the 5th respondent.

The statement in 1R4 and the document 1R1 has not been disputed. Therefore, it is clear that the 1st respondent having considered those material namely,

1. the nomination as to the successor entitled made by the mother of the 1st petitioner and the 5th respondent;
 2. the statement (1R4) of the 1st petitioner stating that she has no objection to grant the permit to her sister, the 5th respondent;
- has decided to issue the permit in favour of the 5th respondent.

In view of the above circumstances, we do not see any reasons to hold an inquiry a fresh in this connection. We also do not find any material as opposed to the nomination in the document 1R1 to support the claim of the petitioners to have a writ of mandamus in order to obtain a permit in their favour in respect of the land in dispute.

For the aforesaid reasons, this application is dismissed. No costs.

Application dismissed.

JUDGE OF THE COURT OF APPEAL

L.T.B. Dehideniya, J.

I agree.

JUDGE OF THE COURT OF APPEAL

KRL/-