

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

**CA (Writ) Application 291/2016**

K.H.M. Appuhamy Piyarapana  
Bubulapitiya , Uraniya ,  
Ridimaliyedde

K.H.M. Sudu Menika  
12<sup>th</sup> Mile Post,  
Uraniya,  
Mahiyanganaya.

**Petitioners**

**Vs.**

Commissioner of Land Settlement  
Land Title Settlement Department,  
No. 1200 / 6 , Mihikatha Medura ,  
Rajamalwatta Road, Battaramulla

K.H. M. Dharmasena  
Bogahakumbura ,Uraniya

Superintendent of Survey  
Survey Department of Sri Lanka,  
District Survey Office,  
Badulla.

Hon. Attorney General  
Attorney General's Department ,  
Colombo 12.

**CA (Writ) 291/2016**

**Before:** Vijith K. Malalgoda P.C. J (P/CA)

**Counsel:** Upul Ranga Hewage with Mrs. Gothami Weerasekara for the  
Petitioner.

**Argued &  
Decided on:** 15.09.2016.

**Vijith K. Malalgoda P.C. J (P/CA)**

The accused-petitioners have come before this Court against a land settlement order made in the year 2008. The petitioner's position before this Court is that the land they were in occupation was settled by the Department of Land Settlement against one K.H.M. Dharmasena. The said land settlement certificate is produced by the petitioners marked P10 and I observed that the said settlement was first made on 23.07.2008. As revealed before us the said Dharmasena had filed action in the District Court and during the said action the land settlement certificate referred to in P10 had been produced as far back as in 2012. As observed by this Court the 2<sup>nd</sup> Petitioner's son who was in occupation of the land has litigated this matter and they have finally gone up to the Supreme Court where the Supreme Court had refused Special Leave. Failing their efforts in the said action the 2<sup>nd</sup> petitioner the mother of <sup>the</sup> person<sup>g</sup> who was a party to the said District Court action and the 1<sup>st</sup> petitioner who is the brother of the 2<sup>nd</sup> petitioner are now coming before this Court challenging

the basic document under which the said actions were decided, i.e. the land settlement certificate. It is further observed by this Court that the said land settlement certificate was issued far back as year 2008 but the petitioner submit that they were only aware of this certificate since 2012. The petitioners have taken four years to come before this Court to challenge this certificate. The petitioners failed to explain their delay before this Court. I further observed that the Land Commissioners Department in the year 2015 had made the final settlement order under Section 5(5) of the Land Settlement Ordinance.

Considering the fact that the Petitioners had failed to explain the delay before this Court and the final settlement order had now been made under Section 5(5) of the Land Settlement Ordinance, this Court is not inclined to interfere with the said order and therefore I refuse the notice in this application. Application is accordingly dismissed. No cost is ordered.

*Application dismissed.*

**PRESIDENT OF THE COURT OF APPEAL**

Mm/-.