

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

CA (PHC) Appeal No. 82/2008

PHC/NWP/Puttalam Case No. HCW 04/07

R.A.H.M. Kusumawathie Rajakaruna,
"Kusumgiriya",
Galgamuwa Road,
Navagaththegama.

4th Respondent Appellant

Vs.

R.A.H.M. Yamuna Kumari,
Bogahawewa,
Navagaththegama.

Petitioner - Respondent

Divisional Secretary,
Divisional Secretary's Office,
Navagaththegama.

2. Land Officer,
Provincial Land Commissioner's Office,
(For Provincial Land Commissioner, NWP)
Puttalam.

3. Registrar,
Office of the Land Registry,
Puttalam.

1st 2nd and 3rd Respondent Respondents

Case No. CA(PHC) 82/2008

BEFORE : H.C.J. MADAWALA, J &

L.T.B. DEHIDENIYA, J

COUNSEL : Dr. Sunil Coory with A.W.D. Stephnie Rodrigo for the 4th Respondent-Appellant.

J.M. Wijebandara with Manori Gamage for the Petitioner-Respondent.

I. Kulasooriya, Asst.S.A. for the 1st -3rd Respondents.

DECIDED ON : 09.09.2016

H.C.J. Madawala, J

Counsel for the 4th Respondent-Appellant moves to withdraw this appeal and submits that the subject matter in respect of this case is not a subject listed under the Provincial Council list in the Constitution and that the judgment of the Supreme Court in the case of Solimuththu Rasu Vs. The Superintendent of Stafford Estate and two others reported in the Bar Association Law Journal 2013 Volume XX page 122 held that the said Provincial High Court did not have jurisdiction to issue such writs in respect of State lands. Counsel moves that the judgment of the Provincial High Court dated 11-06.2008 be set aside and moves that he may be permitted to withdraw this appeal after said judgment of the provincial High Court is set aside.

Heard all the Counsel in support.

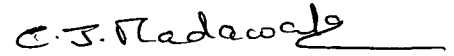
Counsel for the 1st Respondent submit that she is unable to consent for the judgment of the High Court to be set aside because she has no reason to say so. Counsel for the Petitioner-Respondent submits that he is willing to participate in a fresh inquiry before the Divisional Secretary.

Having considered the all the submissions made by the Counsels, we vary the judgment dated 11.06.2008 of the learned High Court Judge allowing the 1st Respondent to hold a fresh inquiry with

• The participation of both the Petitioner-Respondent and the 4th Respondent-Appellant and make an appropriate decision.

Accordingly the application for withdrawal is allowed without costs.

Proceedings terminated.



JUDGE OF THE COURT OF APPEAL.

L.T.B. Dehideniya, J

I agree.

JUDGE OF THE COURT OF APPEAL.

NR/-