

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

CA Writ Application No.31/20 17

1. Kumari Nirmali Corea,
Sinhapura Walawwa, Sinhapura Road, Chilaw.

2. Shanthi Lilani Corea Dharmaratne,
No.185, Alakeshwara Road, Kotte.

PETITIONERS

Vs.

1. Ceylon Electricity Board,
No.50, Sir Chittampalam A.Gardiner Mawatha,
Colombo-2.

2. Y.M.Samarasinghe,
General Manager, Ceylon Electricity Board,
No.50, Sir Chittampalam A.Gardiner Mawatha,
Colombo-2.

3. S.A.P .C. Siriwardena,
Chief Engineer,
(Laying of Electricity lines and maintenance),
Ceylon Electricity Board, No.288, Kandy Road,
Kurunaegala.

4. Public Utilities Commission of Sri Lanka,
Level 06, BOC Merchant Tower,
No.28, St. Michaels Road, Colombo -03.

5. U.S.N.Fernando,
Divisional Secretary, Divisional Secretariat, Chilaw.

6.D. W.M.M.S.Bandara,
Assistant Divisional Secretary,
Divisional Secretariat, Chilaw.

7.Headquarters Inspector,
Police Station, Chilaw.

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

RESPONDENTS

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Before : Vijith K. Malalgoda, P.C., J (P/CA) &
S. Thurairajah, P.C., J.

Counsel : Jacob Joseph for the Petitioners.
Romesh de Silva, P.C., with N.R. Sivendran for
the Intervenant-Petitioners.
Chaya Sri Nammuni, S.C., for A.G.

Argued &

Decided on : 14.02.2017.

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

Heard the learned Counsel for the petitioner and the learned State Counsel representing the Respondents. The petitioner has come before this Court against the action of the Ceylon Electricity Board and Divisional Secretary, Divisional Secretariat of Chilaw with regard to the way leave drawn across the petitioner's land. However when going through the submissions made by the learned Counsel and also the State Counsel we observed that the way leave referred to in this application was an existing way leave and what the

Respondents have done was to upgrade it in reconstructing two larger towers instead of the three smaller towers which were in the said land. As observed by this Court the relevant legislation including the Electricity Act provides for the Electricity Board to give notice to the owners with regard to their intention and as revealed from the documents submitted by the learned State Counsel the said notice had been properly given to the petitioners. Since the petitioners have continuously objected for the construction of the new towers, after the removal of the earlier small towers, the Respondents have gone before the Magistrate under the provisions of the Act to obtain permission. However they had a difficulty in obtaining permission from the Magistrate's Court but later they have gone before the High Court of Chilaw and obtained a Court order. Based on the said Court order the Electricity Board had entered the land occupied by petitioners and according to the learned State Counsel the construction of two towers had now been completed and the power lines too had been laid. When considering this position we observed that this Court will not be able to grant any relief as prayed by the petitioner in the prayer to this petition, since the work challenged before this Court had now been completed. We further observed that while constructing the said

way leave the Respondents have followed the necessary provisions of the Electricity Act and the other relevant legislation and therefore prayer "d" prayed by the petitioner too cannot be granted by this Court. In the said circumstances we are not inclined to issue notices. Application of the petitioner is dismissed. Notice refused. No cost is ordered.

PRESIDENT OF THE COURT OF APPEAL

S. Thuraiajah, P.C., J.

I agree.

JUDGE OF THE COURT OF APPEAL

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