

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

In the matter of an application for
Mandates in the nature of a Writ
of Certiorari and Writ of
Mandamus under Article 140 of
the Constitution of the
Democratic Socialist Republic of
Sri Lanka.

C.A. No. 463/2013 (Writ).

1. Pali Hewage Kithsiri Jayathilake
No. 52/1, Pannala Road,
Meegahakotuwa, Kuliya Pitiya.
2. Bomiriye Neal Alex Fernando,
No. 559, Pannala Road,
Meegahakotuwa, Kuliya Pitiya.
3. Hulpe Midiyanselage
Piyathilake, Hulpe, Ambawa,
Kuliya Pitiya

Petitioners.

Vs.

1. Road Development Authority,
9th Floor . Sethsiripaya,
Battaramulla.
2. Mr. R.W. Ranjith Pemasiri,
2A. Prof. Saman Bandara
2B. Mr. Nihal Ranjan
Sooriyaarachchi, Chairman,
Road Development Authority,
9th Floor, Sethsiripaya,
Battaramulla.
3. Mrs. Mangala Marasinghe
Provincial Director, Road
Development Authority,
Kurunegala.
4. Mr. P. Suriyabandara,
Project Engineer, Road
Development Authority,
Kurunegala.

5. Urban Development Authority
6. Mr. Gotabhaya Rajapakse,
- 6A. Mr. Ranjith Fenando
The Chairman, Urban
Development Authority, 6th and
7th Floor, Sethsiripaya,
Battaramulla
7. North Western Provincial
Council, Kurunegala
8. Hon. Dayasiri Jayasekara,
- 8A. Darmasiri Dasanayake, Chief
Minister, North Western
province, Office of the Chief
Minister, Kurunegala.
9. Mr. Hitisekara
- 9A. Mr. Jayantha Wijerathna,
District Secretary, Kurunegala
District, Office of the District
Secretary, Kurunegala.
- 9B. Mr. Gamini Ilangarathna
District Secretary, Kurunegala
District, Office of the District
Secretary, Kurunegala.
10. Mrs. N.M.J. Fernando,
Divisional Secretary,
Kuliyapitiya West, Vidyala
Mawatha, Meegahakotuwa,
Kuliyapitiya.

10A. Mr. K.G.S.J De Soyza
Divisional Secretary,
Kuliyapitiya West, Vidyala
Mawatha, Meegahakotuwa,
Kuliyapitiya.

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

Respondents-Respondents.

C.A.No.463/2013 (writ)

Before : Padman Surasena,J. IP/CA) and
A.L.Shiran Gooneratne,J.

Counsel : K.G.Jinasena with Mithiri Kolambage for
the Petitioners.

H.Withanachchi for the 1st to 4th
Respondents.

Nayomi Kahawita S.C. for A.G.

Argued and

Decided on : 12/03/2018

P.Padman Surasena,J.(P/CA)

Learned Counsel for all the parties agree that the applications bearing Nos. C.A.Writ No.462/2013, C.A.Writ No.463/2013, C.A. Writ No.04/2014 and C.A. Writ No.09/2014 are cases revolve around one issue. Therefore, they agree that pronouncement of one judgment from this Court would suffice in all the above cases.

The Petitioner in these applications are owners of lands situated just by the side of Kuliypitiya Madampe road which has been widen.

Parties do not controvert the following facts;

- 01.** The interest of the petitioners in these applications is to get the state authorities to acquire the remaining

portions of their lands after the rest of the each land was utilized for the purpose of widening the road up to 33 feet.

02. The respondents never acquired any of the lands of any of the petitioners in these applications.

03. The respondents with the consent of the petitioners had used the said portions of the lands to widen the relevant road up to 33 feet without any opposition by any one of them.

04. The widening of the road up to 33 feet has been completed.

05. Most of these remaining portions of the lands are comparatively small portions.

It is the submissions of the learned counsel for the petitioner that his expectation by filing these applications is to compel the state to acquire these remaining portions of the lands of the petitioners by the state.

Petitioner relies on two main prayers. Those prayers are ' b ' and ' c ' in the petition.

Para 'b' is for a writ of certiorari to quash the decision taken by the 1st to 10th respondents to widen the Kuliypitiya Madampe road up to 42 feet width.

The prayer 'c ' is for a writ of mandamus to compel the 1st to 10 respondents to take necessary steps as stipulated in the Urban Development Authority Act and the Land Acquisition Act.

Although, it is the position of the learned counsel for the petitioner that his expectation from prayer 'c' is to compel the state to acquire his lands, this Court observes that there is no purpose for the state to acquire the said lands if it cannot carry out the decision to widen the road. This is because the pray 'b' of the petition seeks to quash the relevant decision to widen the road. It that sense, it is the observation of this Court that these two prayers are contradictory to each other.

However, learned counsel for the petitioner informs Court today that he is not pursuing prayer 'b' of the petition namely, the writ of certiorari.

This Court observes that prayer 'c' has not prayed for a mandamus to compel the state to acquire his land. All what it says is to compel the respondents to take necessary steps as

stipulated in the Urban Development Authority Act and Land Acquisition Act.

It is the view of this Court that these two Acts contain so many provisions and the petitioner has failed to specify the particular Act which he wants this Court to compel the respondent to do. Since the petitioner is only pursuing prayer 'c' in the petition as at today, the above position is sufficient for this Court to dispose this application.

Learned Senior Deputy Solicitor General submits that the state is not interested in acquiring these lands at the moment. Therefore, in any case this Court is not in a position to compel the state to acquire any land which the state is not interested. In these circumstances, this Court sees no merits in this application. Therefore, all the applications bearing numbers

Nos. C.A.Writ No.462/2013, C.A. Writ No.463/2013, C.A. Writ No.04/2014 and C.A. Writ No.09/2014 (mentioned above) are dismissed without costs.

PRESIDENT OF THE COURT OF APPEAL.

A.L.SHIRAN GOONERATNE,J.

I agree.

JUDGE OF THE COURT OF APPEAL

WC/-