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 Writ of Certiorari and Writ of Mandamus in terms of Article 140 of the Constitution.

H. M. Martin Appuhamy
No. 59, Boragodawatte, Minuwangoda.

Petitioner

Vs.

Case No. C. A. (Writ) Application 2560/2004

1. Honourable Minister of Lands
   Ministry of Lands,
   'Govijana Mandiraya',
   No. 80/5, Rajamalwatte Road, Battaramulla.

2. Divisional Secretary
   Divisional Secretariat, Minuwangoda.

3. Minuwangoda Urban Council
   Minuwangoda.

4. Happuarachchige Seetha Rathnalatha
   Secretary,
   Minuwangoda Urban Council,
   Minuwangoda.

5. Mohanmadu Musim Mohamadu Rasfi
   No. 21, Newham Road, Minuwangoda.

6. Mohamadu Nazeer Sithy Rahuma
   No. 22, Newham Road, Minuwangoda.

7. Mohamad Nazeer Mohamed Faisz
   No. 22, Newham Road, Minuwangoda.

8. Abdulla Lebbe Mohamadu Nasim Rahamathul Hasariya
   No. 08, 40 Acre, Kopiwatte, Minuwangoda.

9. Mohamed Mowfeek Fathima Mufliha
   No. 124/B/16, Kopiwatte, Minuwangoda.

10. Mohamadu Mowfeek Mohamed
    No. 124/B/16/A, Kopiwatte, Minuwangoda.

11. Tithalapitage Priyantha Pieris
    No. 54/02, Pieris Picture,
    Negombo Road, Minuwangoda.

12. Mohamed Naseer Nona Farina
    No. 216/1, Naranmala, Polgahayaya.

13. Mohamathu Nazeer Mohamathu Rizwan
    No. 54/02,22, Newham Road, Minuwangoda.

Respondents

Before: Janak De Silva J.

Counsel:

Faiz Musthapha P.C. with Thushani Machado for the Petitioner

Suranga Wimalasena SSC for 1st and 2nd Respondents

Manohara De Silva P.C. with Pubudini Wickramaratne for 3rd and 4th Respondents

Janaprith Fernando for 5th to 12th Respondents

Written Submissions tendered on:

Petitioner on 29.05.2019 (Out of time)

1st and 2nd Respondents on 30.04.2019

3rd and 4th Respondents on 13.05.2019

5th to 12th Respondents on 24.06.2019

Argued on: 15.02.2019

Decided on: 29.08.2019

Janak De Silva J.

The Petitioner was the owner of lot 25 in village plan no. Gam/Minu/98/024. The Chairman of the 3rd Respondent by notice dated 17.06.1998 (P2) informed the Petitioner of the proposed acquisition of the said land.

Thereafter a section 2 notice under the Land Acquisition Act as amended (Act) dated 19.05.1999 was published (P3). Afterwards an Order made under section 38 proviso (a) of the Act was published in respect of the Petitioner's land and other lands specified therein in the Gazette Extraordinary No. 1089/18 dated 22.07.1999 stating that it has become necessary to take immediate possession of the said land due to urgency.

The Divisional Secretary, Minuwangoda requested the Petitioner by letter dated 19.11.1999 (P5) to hand over possession of the said land. The Petitioner states that to the best of his knowledge, actual possession of the said land has not been taken over [paragraph 17 of the petition].

Notices under sections 5 and 7 of the Act were published in 2000 and 2001 (P6 and P7).

Around June 2004 the Petitioner requested the 1st and 2nd Respondents to immediately divest the said land or revoke the vesting order (P11). The Petitioner states that up to the time of filing the petition the said land has not been used for any lawful public purpose and that no lawful improvements to the said land have been made even though a period of over five years has lapsed since the publication of the notice in terms of section 38 proviso (a) of the Act. He also states that no compensation has been paid.

The Petitioner sought inter alia the following relief:

(b) Order in the nature of Certiorari quashing the acquisition of the Petitioner's land being Lot No. 13 of Plan No. 3072, as set out in the Gazette Extraordinary No. 1089/18 dated 22.07.1999;

(c) Order in the nature of Certiorari quashing the acquisition of the Petitioner's land;

(d) Order in the nature of a Mandamus compelling the Respondents to revoke the said acquisition order of the Petitioner's land;

(e) Order in the nature of a Mandamus compelling the Respondents to divest the Petitioner's land;

(f) Order in the nature of a Mandamus compelling the Respondents to proceed with the inquiry in terms of the Land Acquisition Act and to take necessary steps to pay compensation in terms of the Land Acquisition Act to the Petitioner expeditiously for the acquisition of the Petitioner's land.

Certiorari

The Petitioner has sought a writ of certiorari quashing the acquisition of the Petitioner's land being Lot No. 13 of Plan No. 3072, as set out in the Gazette Extraordinary No. 1089/18 dated 22.07.1999. This is an Order made under section 38 proviso (a) of the Act.

The 1st Respondent has issued a declaration under section 5 of the Act that the land in dispute is required for a public purpose (P6). Hence the question of whether the land in dispute is required for a public purpose cannot be questioned by this Court. Section 5(2) of the Act makes it conclusive and takes it out of the scope of judicial review. [*Gunasekera v. Minister of Lands and Agriculture* (65 N.L.R. 119), *Gamage v. Minister of Agriculture* (76 N.L.R. 25), *Fernandopulle vs. Minister of Lands and Agriculture* (79(II) N.L.R. 115), *Urban Development Authority v. Abeyratne and Others* (S.C. Appeal No. 85/2008 and 101/2008; S.C.M. 01.06.2009 at page 11, 12].

The only question this Court can inquire into is whether there was an "urgency" compelling immediate possession being taken of the land forming the subject matter of this application. In *Fernandopulle v. Minister of Lands and Agriculture* (supra) the Supreme Court held that while an order by the Minister under the proviso to section 38 of the Act can be made only in cases of urgency, **it is however a matter for a Petitioner who seeks the remedy by way of Certiorari, to satisfy the Court that there was in fact no urgency and his application cannot succeed should he fail to do so.** (emphasis added).

Hence the burden of proof was on the Petitioner to adduce evidence that there was no urgency and if he fails to do so, his application for certiorari must be denied.

The learned President's Counsel for the Petitioner relied on the decision of the Supreme Court in *Horana Plantations Ltd. v. Minister of Agriculture* [(2012) 1 Sri.L.R. 327] where it was held that the proviso to section 38 of the Act is based on the urgency regarding a proposed acquisition and therefore the burden of establishing urgency is on the acquiring authority. I am not convinced that the interpretation placed on the proviso to section 38 of the Act in that case displaces the approach taken by our Courts in the earlier cases.

However, in *Horana Plantations Ltd. v. Minister of Agriculture* (supra., page 334) Sureshchandra J. approached the issue by considering the affidavit of the Minister of Lands and concluded that it did not "*effectively establish the urgency for such acquisition*". In the instant case the acquisition was done in 1999 whereas it was challenged in 2004 by which time the Minister who made the Order was no longer in office. The incumbent Minister has filed an affidavit and stated that the then Minister "*been satisfied that the land acquired for the development of the Minuwangoda Town was a project which had to be implemented on an urgent basis*" had made the impugned order. The Petitioner has not in the petition claimed that there was no urgency in making the Order under section 38 proviso (a) of the Act. In these circumstances I am of the view that the Petitioner has failed to establish that there was no urgency.

The Petitioner further sought to impugn the Order under section 38 proviso (a) of the Act on the basis that section 2 notice under the Act did not specify the public purpose. He relied on *Manel Fernando v. D.M. Jayaratne, Minister of Lands* [(2000) 1 Sri.L.R. 112] where it was held that the section 2 notice must state the public purpose. However, in *Seneviratne and Others v. Urban Council of Kegalla and Others* [(2001) 3 Sri.L.R. 105] J.A.N. De Silva J. (as he was then) held that the failure to specify the public purpose in the section 2 notice is not fatal if the petitioner was aware before that notice the public purpose for which his land is proposed to be acquired. In this case, the Chairman of the 3rd Respondent by notice dated 17.06.1998 (P2) informed the Petitioner of the proposed acquisition of the said land. In the circumstances, I see no merit in this submission of the Petitioner.

The Petitioner has sought to raise a new ground in the written submissions. He claims that in view of the provisions in the Agrarian Services Act, Agrarian Development Act and the Sri Lanka Land Reclamation and Development Corporation Act the land in dispute being a paddy field cannot be acquired for the purpose for which it is said to be acquired. This is not a ground set out in the petition and accordingly cannot be relied on by the Petitioner as this is not the case which was pleaded, notice obtained which the Respondents were called upon to answer [*Culasubadhra v. The University of Colombo and Others* (1985) 1 Sri. L. R. 244].

For the foregoing reasons, I reject the application for a writ of certiorari.

Revocation

The Petitioner has in the written submissions (page 6) informed that he is not pursuing the relief sought under paragraph (d) of the prayer to the petition. However, he supported the petition and obtained notice with the petition that included this relief. The Respondents were called upon to answer to this position. It appears to Court that this position is submitted for the first time in the written submissions as the Petitioner is guilty of suppression and/or misrepresentation of material facts in relation to this prayer as explained more fully below.

Section 39(1) of the Act reads:

> "Notwithstanding that by virtue of an Order under section 38 (hereinafter in this section referred to as a " vesting order ") any land has vested absolutely in the State, the Minister may, if possession of the land has not actually been taken for and on behalf of the State in pursuance of that Order, by subsequent Order published in the Gazette revoke the vesting order."

These provisions clearly establish that a revocation of an order made under section 38 of the Act can only be made if possession of the land has not actually been taken for and on behalf of the State in pursuance of that Order. Hence whether possession of the land in dispute has been taken over by the State is a material fact in relation to this relief.

The Petitioner states that to the best of his knowledge, actual possession of the said land has not been taken over [paragraph 17 of the petition]. This is a very unusual formulation for if the land is owned by the Petitioner, he should be aware whether or not possession thereof has been taken by the State. This careful formulation leaving room for the Petitioner to change his position is in my view an attempt to suppress and/or misrepresent material facts since 2R1 submitted with the objections of the 1st and 2nd Respondents, with the signature of the Petitioner, is proof that vacant possession of the land in dispute was taken over by the State on 29.11.1999.

It is established law that discretionary relief will be refused by Court without going into the merits if there has been suppression and/or misrepresentation of material facts. It is necessary in this context to refer to the following passage from the judgment of Pathirana J in *W. S. Alphonso Appuhamy v. Hettiarachchi* [77 N.L.R. 131 at 135,6]:

> "The necessity of a full and fair disclosure of all the material facts to be placed before the Court when, an application for a writ or injunction, is made and the process of the Court is invoked is laid down in the case of the *King v. The* General Commissioner for the Purpose of the Income Tax Acts for the *District of Kensington-Ex-parte Princess Edmorbd de Poigns* Although this case deals with a writ of prohibition the principles enunciated are applicable to all cases of writs or injunctions. In this case a Divisional Court without dealing with the merits of the case discharged the rule on the ground that the applicant had suppressed or misrepresented the facts material to her application. The Court of Appeal affirmed the decision of the Divisional Court that there had been a suppression of material facts by the applicant in her affidavit and therefore it was justified in refusing a writ of prohibition without going into the merits of the case. In other words, so rigorous is the necessity for a full and truthful disclosure of all material facts that the Court would not go into the merits of the application, but will dismiss it without further examination".

This principle has been consistently applied by courts in writ applications as well. [*Hulangamuwa v. Siriwardena* [(1986) 1 Sri.L.R.275], *Collettes Ltd.* v. Commissioner of Labour [(1989) 2 Sri.L.R. 6], *Laub v. Attorney General* [(1995) 2 Sri.L.R. 88], *Blanca Diamonds (Pvt) Ltd. v. Wilfred Van Els* [(1997) 1 Sri.L.R. 360], *Jaysinghe v. The National Institute of Fisheries* [(2002) 1 Sri.L.R. 277] and *Lt. Commander Ruwan Pathirana v. Commodore Dharmasiriwardene & Others* [(2007) 1 Sri.L.R. 24].

In fact, in *Dahanayake and Others v. Sri Lanka Insurance Corporation Ltd. and Others* [(2005) 1 Sri.L.R. 67] this Court held that if there is no full and truthful disclosure of all material facts, the Court would not go into the merits of the application but will dismiss it without further examination.

Accordingly, the application of the Petitioner is liable to be dismissed in limine for suppression and/or misrepresentation of material facts.

Divesting

In terms of section 39A of the Act divesting can take place only if the four conditions specified in sub-section (2) therein are satisfied.

Before considering whether the conditions have been satisfied, I will consider whether a writ of mandamus will lie in the first place to compel divesting under section 39A of the Act.

S.N. Silva J. (as he was then) in *Kingsley Fernando v. Dayaratne and Others* [(1991) 2 Sri.L.R. 129] held that section 39A of the Act does not give a right to the former owner to seek a divesting order even where the pre-conditions are satisfied but only vests a discretionary power in the Minister to make a divesting order provided the pre-conditions are satisfied. However, there is a divergence in the approach of the Supreme Court to this issue.

In *De Silva v. Atukorale, Minister of Lands, Irrigation and Mahaweli Development and Another* [(1993) 1 Sri.L.R. 283] Fernando J. held that a writ of mandamus will issue directing the Minister to divest land acquired by the State if the four conditions in section 39A of the Act are fulfilled. This was quoted with approval and followed by the Supreme Court in *Rashid v. Rajitha Senaratne,*

Minister of Lands and Others [(2004) 1 Sri.L.R. 312] and *Mahinda Katugaha v. Minister of Lands and Land Development and Others* [(2008) 1 Sri.L.R. 285].

However, the Supreme Court in *Urban Development Authority v. Abeyratne and Others* [S.C. Appeal No. 85/2008 & 101/2008; S.C.M. 01.06.2009] took a different view and held that the exercise of discretionary power vested with the Minister by section 39A of the Act is not amenable to judicial review in an application for a writ of mandamus.

Similar line of thinking is found in *Wijewardena v. Minister of Lands and Others* [S.C. Appeal 56/2008; S.C.M. 24.11.2015] where the Supreme Court again took the view that section 39A of the Act merely vests a discretionary power in the Minister to make a divesting order in a case where the pre-conditions referred to in that section are satisfied and that a former owner cannot demand exercise of such power.

I have closely examined the different reasons given by the Supreme Court in the above cases and hold that the reasoning in *Urban Development Authority v. Abeyratne and Others* (supra) is logical and compelling since in *De Silva v. Atukorale, Minister of Lands, Irrigation and Mahaweli Development and Another* (supra) the Supreme Court failed to consider:

a. the provisions and the scheme of the Act,
b. the judgment in *Gunasekera v. Minister of Lands & Agriculture* (65 N.L.R. 119),
c. that a writ of mandamus covers a situation where there has been no exercise of power and compels the exercise of power,
d. that mandamus would lie when a statutory duty is cast upon a public authority with a correlative right to demand its discharge,
e. that section 39A (1) of the Act uses the word "may" which categorically implies a discretionary power in the Minister,
f. that a writ of mandamus has nothing to do with abuse of discretion.

Furthermore, the reasoning in *De Silva v. Atukorale, Minister of Lands, Irrigation and Mahaweli Development and Another* (supra. page 293) is in any event inconsistent per se for on one hand the court held that a writ of mandamus will issue if the four pre-conditions are satisfied while on the other hand it held that even in that situation it would be legitimate for the Minister to decline to divest if there is some good reason - for instance, that there is now a new public purpose for which the land is required.

The learned President's Counsel for the Appellant referred Court to the Supreme Court judgment in *Nadaraja v. Abdul Majeed and Others* [SC Appeal 177/2015, S.C.M. 31.08.2018] where the Court held (page 20):

> "The discretion vested in the Minister in this regard does not mean that he is empowered to withhold issuing the order as he pleases. Where circumstances warrant, in particular where the premises have been used for a period far exceeding the time frame contemplated in the enactment, the law imposes a duty to exercise that discretion in a particular manner – which in the present case is a derequisitioning order."

Th Supreme Court was considering a derequisition of a requisition order made under section 10(1) of the Co-operative Societies Act No. 35 of 1970. Furthermore, in *De Silva v. Atukorale, Minister of Lands, Irrigation and Mahaweli Development and Another* [(1993) 1 Sri.L.R. 283 at 293] Fernando J. held:

> "If compensation has been paid or improvements have been made, then despite the inadequacy of justification, divesting is not permitted. The purpose and the policy of the amendment is to enable the justification for the original acquisition, as well as for the continued retention of acquired lands, to be reviewed; if the four conditions are satisfied, the Minister is empowered to divest. **Of course, even in such a case it would be legitimate for the Minister to decline to divest if there is some good reason - for instance, that there is now a new public purpose for which the land is required.** In such a case it would be unreasonable to divest the land; and then to proceed to acquire it again for such new supervening public purpose."

I therefore hold that the writ of mandamus prayed for by the Petitioner cannot be granted in law.

In any event, the Petitioner has failed to satisfy Court that the conditions precedent to such divesting have been fulfilled. The four conditions are:

> (a) no compensation has been paid under this Act to any person or persons interested in the land in relation to which the said divesting Order is to be made;
> (b) the said land has not been used for a public purpose after possession of such land has been taken by the State under the provisions of paragraph (a) of section 40;
> (c) no improvements to the said land have been effected after the Order for possession under paragraph (a) of section 40 had been made; and
>
> (c) the person or persons interested in the said land have consented in writing to take possession of such land immediately after the divesting Order is published in the Gazette.

In so far as the land in dispute is concerned, at least two conditions have not been satisfied.

There is evidence that the said land has been used for a public purpose. Land belonging to the 5th to 13th Respondents were also acquired as part of the development of the Minuwangoda town. They handed over vacant possession of the said lands to the State. Thereafter they were provided with temporary business premises on part of the land acquired for the development of the Minuwangoda town. At the compensation inquiry they agreed to accept alternative land in lieu of compensation. They were provided with alternative lands out of the land acquired from the Petitioner [4R1 to 4R7].

In my view this amounts to the use of the land for a public purpose as relocation of persons displaced by the acquisitions made for the development of Minuwangoda town is itself part of the development of the Minuwangoda town.

Learned President's counsel for the Appellant relied on the judgment of Fernando J. in *Rashid v. Rajitha Senaratna, Minister of Lands* [(2004) 1 Sri.L.R. 312 at 320] where it was held:

> "I therefore hold that the acquisition was only for the purpose of the particular shopping-cum-residential complex proposed by the 2nd respondent; that no steps whatsoever had been taken to implement that project; that the mere use of the land as a car park in the meantime cannot in the circumstances be regarded as "use" for that public purpose; that the use of the land by the 2nd respondent for a "car park and public square" was not a purpose contemplated or authorised by the State; that even if the vesting certificate did pass title to the 2nd respondent, a "car park and public square" was nevertheless an unauthorised and unlawful purpose, and not for a public purpose within the meaning of section 39A of the Act; that construction activities for the purpose were not "improvement" within the meaning of section 39A; and that in any event construction activities commenced after divesting had been demanded should not, save in very exceptional circumstances, be treated as improvements."

The facts are different as in that case the land was acquired for the purpose of putting up a particular shopping-cum-residential complex but that project was never implemented. Furthermore, there was a vesting certificate issued in terms of section 44 of the Act specifying the purpose for which the land can be used. In the instant case there is no dispute that there was in fact a development program of the Minuwangoda town and that several of the lands acquired was used for that purpose.

There is also evidence that improvements have been made to the land in dispute. In the written submissions (page 10) the Petitioner admits that the land acquired was a paddy land. Photographs marked 4R1 show that at least the land has been filled and a drainage system constructed.

For the reasons set out above, a writ of mandamus directing divesting cannot be issued.

Compensation

The Petitioner also seeks an Order in the nature of a mandamus compelling the Respondents to proceed with the inquiry in terms of the Act and to take necessary steps to pay compensation to the Petitioner expeditiously for the acquisition of his land.

A writ of mandamus would lie when a statutory duty is cast upon a public authority with a correlative right to demand its discharge [*Urban Development Authority v. Abeyratne and Others* (supra)]. There is no statutory duty under the Act on any of the Respondents except the acquiring officer to pay the compensation.

However, the acquiring officer, namely the 2nd Respondent has been made a respondent nominee officii. The 2nd Respondent is neither a natural or legal person.

In *Haniffa v. The Chairman, Urban Council, Nawalapitiya* (66 N.L.R. 48) Thambiah J. stated that mandamus can only issue against a natural person, who holds a public office. In *Samarasinghe v. De Mel and Another* [(1982) 1 Sri.L.R.. 123 at 128] this Court quoted with approval *Haniffa's* judgment as follows:

> "The petitioner's application is beset with other difficulties as well. The petitioner has made W. L. P. de Mel, Commissioner of Labour, the respondent to his application. It is common ground that he has now ceased to hold this post and is presently the Secretary, Ministry of Trade. The petitioner has not sought to substitute the present holder of the office. A Mandamus can only issue against a natural person, who holds a public office. If such a person fails to perform a duty after he has been ordered by Court, he can be punished for contempt of Court. (*See, Haniffa v. The Chairman, U. C. Nawalapitiya, 66 NLR 48*). **Before this Court issues a Mandamus, it must be satisfied that the respondent will in fact be able to comply with the order and that in the event of non-compliance, the Court is in a position to enforce obedience to its order.** Mandamus will not, in general, issue to compel a respondent to do what is impossible in law or in fact. Thus, it will not issue ..... to require one who is functus officio to do what he was formally

obliged to do." (*de Smith, 2nd Edn. 581*). So it seems to me, that even if the petitioner's application succeeded, the issue of a Mandamus would be futile." (emphasis added)

Haniffa v. The Chairman, Urban Council, Nawalapitiya (supra) was again quoted with approval by this Court in *Abayadeera and 162 Others v. Dr. Stanely Wijesundera, Vice Chancellor, University of Colombo and Another* [(1983) 2 Sri.L.R. 267]. In *Dayaratne v. Rajitha Senaratne, Minister of Lands and Others* [(2006) 1 Sri.L.R. 7] the Petitioner sought to rely on the Court of Appeal (Appellate Procedure) Rules 1990 to support his argument that an application for writ of mandamus can be maintained against a public office without naming the holder of the office. Marsoof J. (at page 17) disagreed with this contention and said that "...**this being an application for mandamus, relief can only be obtained against a natural person who holds a public office as was decided by the Supreme Court in Haniffa v. Chairman, Urban Council, Nawalapitiya**" (emphasis added).

It is also to be noted that the Court of Appeal (Appellate Procedure) Rules 1990 applies to **all** applications under Articles 140 and 141 of the Constitution and therefore is general in nature. The rule that in an application for a writ of mandamus the respondent should be either a natural or a legal person is specific in nature.

The difference between the remedies of certiorari and mandamus was adverted to in *Shums v. People's Bank and others* [(1985) 1 Sri.L.R. 197 at 204] by this Court as follows:

"The other cases relied on by learned State Counsel were all cases where writs of Mandamus had been applied for. In A. C. M. Haniffa v. Chairman, Urban Council, Nawalapitiya (8), it was held that "A Mandamus can only issue against a natural person who holds a public office: Accordingly in an application for a writ of Mandamus against the Chairman, Urban Council, the petitioner must name the individual person against whom the writ can issue". The judgment in that case gives a reason why a Mandamus can only issue against a natural person, who holds a public office when it says that "If such a person fails to perform a duty after he has been ordered by Court, he can be punished for contempt of Court". On, the other hand in the case of a writ of Certiorari, what this court

does is to bring up a decision or determination of a statutory. Tribunal. or a functionary and quash it. Once such a decision or determination is quashed, it ceases to exist and a fresh decision or determination would have to be made if the matter is again proceeded with. The tribunal or functionary is not enjoined to do anything or desist from doing anything, the question of non-compliance with such Orders resulting in contempt of court does not arise. Therefore, it would be seen that the remedy by way of writ of Certiorari could not be equated to one of Mandamus as far as the effect on the parties is concerned."

In *Chandana v. Commissioner General of Examinations and Others* [C.A. (Writ) Application No. 1/2008, C.A.M. 06.06.2014] Nalin Perera J. (as he was then) held that a writ of mandamus will not issue against a person sued nominee officii.

The Supreme Court in *Gnanasambanthan v. Rear Admiral Perera and Others* [(1998) 3 Sri.L.R. 169] was called upon to consider the necessary parties to an application for writs of certiorari and mandamus and Amerasinghe J. held (at page 171):

> "In any event the question before us is not whether the Chairman of REPIA **could be cited nominee officii**, which perhaps was possible in respect of the application for Certiorari **but not in respect of the application of Mandamus**..." (emphasis added)

For the above reasons, a writ of mandamus directing payment of compensation cannot be issued against the 2nd Respondent.

The above principle is also applicable to the other writs of mandamus sought by the Petitioner in addition to the other reasons set out earlier.

For all the reasons set out above, the application is dismissed without costs.

However, I note that the State having acquired the land in 1999 is yet to award compensation to the Petitioner under the Act. Therefore, Court requests the Hon. Attorney General to consider giving necessary directions to the relevant acquiring officer directing him to take steps to make an award of compensation under the Act to the Petitioner within six (6) months from the date of this judgment.

Judge of the Court of Appeal