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

In the matter of an Appeal from the Judgment of the Court of Appeal dated 31/05/2016 under and in terms of Article 128 (2) of The Constitution.

S.C. Appeal No: 212/2017

S.C. (Spl.L.A.) Application No: 125/2016

C.A. Writ No: 2084/2004

The Ampara Multipurpose Co-Operative Society Limited,
D.S. Senanayake Veediya,
Ampara.

PETITIONER

Vs.

1. H.M. Herath Abeyweera,
   District Secretary,
   District Secretariat,
   Ampara.
2. B.M.M.M. Basnayake,
   Divisional Secretary,
   Divisional Secretariat,
   Ampara.
3. L.S.C. Siriwardene,
   No. 40, Samanbedda,
   Palm Kadavura,
   Uhana.

4. The Commissioner of Lands,
   Land Commissioner's
   Department,
   Colombo.
5. Illan Gamage Piyadasa of
   D/675, Pandukabhaya
   Mawatha,
   Ampara.

5A. Madura Illan Gamage
   No. 28, Pandukabhaya
   Mawatha,
   Ampara.

6. Sunil Kannangara,
   District Secretary,
   District Secretariat,
   Ampara.

RESPONDENTS

AND NOW BETWEEN

The Ampara Multipurpose Co-Operative Society Limited,

D.S. Senanayake Veediya,

Ampara.

PETITIONER-APPELLANT

Vs.

1. H.M. Herath Abeyweera,
   District Secretary,
   District Secretariat,
   Ampara.
2. B.M.M.M. Basnayake,
   Divisional Secretary,
   Divisional Secretariat,
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   No. 28, Pandukabhaya
   Mawatha,
   Ampara.

6. Sunil Kannangara,
   District Secretary,
   District Secretariat,
   Ampara.

RESPONDENT-RESPONDENTS

Before	: Kumudini Wickremasinghe, J.
	: Menaka Wijesundera, J.
	: Sampath B. Abayakoon, J.
Counsel	: Ronald Perera, P.C. for the Petitioner-Appellant.
	: Kuvera De Zoysa, P.C. with Pasindu Bandara for the 5A Respondent-Respondent.
	: Ms. Yuresha De Silva, DSG for the 1st to 4th and 6th Respondent-Respondents.
Argued on	: 21-02-2025
Written Submissions	: 16-11-2022 (By the 5A Respondent-Respondent)
	: 26-09-2018 (By the Petitioner-Appellant)
	: 21-06-2018 (By the 1st to 4th and 6th Respondent-Respondents)
Decided on	: 28-05-2025

Sampath B. Abayakoon, J.

This is an appeal preferred by the petitioner-appellant (hereinafter referred to as the appellant) having obtained Special Leave to Appeal from this Court in order to challenge the judgment pronounced by the Court of Appeal in Writ Application No. CA/2084/2004 on 31-05-2016.

When this matter was supported for Special Leave to Appeal, this Court allowed the application on 07-11-2017, based on the questions of law set out in paragraphs 7(a), (b), (d), and (e) of the petition dated 08-07-2016.

The questions of law upon which Special Leave to Appeal was granted reads as follows;

a. The Court of Appeal misdirected itself and/or erred in law by failing to appreciate that the doctrine of *Res Judicata* does not apply to the instant case.
b. The Court of Appeal misdirected itself and/or erred in law by holding that the documents marked P-16 and P-17 to the petition of the petitioner are not amenable for the issuance of Writs of Certiorari.
d. The Court of Appeal has failed to properly evaluate the arguments presented on behalf of the petitioner such as the argument that the 2nd respondent has surreptitiously granted the entire portion of 24 perches of the land in dispute to the 5th respondent although the extent of the land claimed by the 5th respondent is 17.6 perches under the purported permit relied on by the 5th respondent; and
e. The said judgment dated 31-05-2016 is contrary to law and material placed before the Court of Appeal and the Honourable Judge of the Court of Appeal has misdirected herself in law.

The Facts: -

The matters that led to the appeal preferred before this Court can be summarized in the following manner.

The appellant, Ampara Multipurpose Co-operative Society Limited, has instituted an application before the Court of Appeal seeking Writs in the nature of Certiorari as well as Mandamus seeking an order to quash an alleged decision made by the 3rd respondent mentioned in the application, and also to quash a decision allegedly made by the 2nd respondent named in the application.

The alleged decision made by the 3rd respondent named in the petition has been marked as P-16, and the alleged decision made by the 2nd respondent named in the petition has been marked as P-17, and submitted along with the petition.

A Writ of Mandamus has been sought seeking a direction to the 1st and/or 2nd and/or 4th respondents named in the petition to issue a permit under the State Lands Ordinance in favour of the appellant.

The appellant has averred that he is the successor in law to the rights and obligations of Gal Oya Valley Multipurpose Co-operative Societies Union Ltd in Ampara District upon its dissolution with proclamation of the Cooperative Societies (Special Provision) Act No. 35 of 1970. It has been claimed that for the purpose of the re-organization of the earlier mentioned Society, five Multipurpose Co-Operative Societies were established, and the appellant is one such Multipurpose Co-Operative Society. It has been averred that the liquidator appointed for the purposes of the dissolution transferred all the properties belonging to Gal Oya Valley Multipurpose Co-operative Societies Union Ltd within the town limits of Ampara to the appellant.

The position of the appellant has been that River Valleys Development Board, which was established by Act No. 51 of 1949, by virtue of its powers, leased a property in extent of 24 perches by the indenture of lease dated 07-10-1969 to Gal Oya Valley Multipurpose Co-operative Societies Union Ltd. The allotment of land bearing No. 03, Sector IX of Sammanthurai Pattu, Ampara District, Eastern Province, bounded on the North by lot 10, South by Ampara Kalmunai Main Road H03, East by Gal-Oya Traders, and West by Access Road was the said land.

It has been claimed that being the successor of the above-mentioned Gal Oya Valley Multipurpose Co-operative Societies Union Ltd, the appellant is entitled to hold the said portion of land. It had been the position of the appellant that the 5th respondent named in the petition entered the land belonging to the appellant illegally and attempted to carry out unauthorized constructions.

The appellant has mentioned the events which took place thereafter, and the number of actions initiated by both parties which led to the determination marked P-16, which was a letter dated 10-04-2003 sent by the 3rd respondent named in the petition in his capacity as the Government Agent of Ampara to

the Attorney General as per a direction given in the Court of Appeal Case No. 781/2000.

The letter marked P-17 is a letter dated 07-09-2004 sent by the Divisional Secretary of Ampara addressed to the Deputy Minister of Agriculture, Animal Production, Land and Irrigation, where the said Divisional Secretary has informed that it has been determined to issue a permit to the 5th respondent mentioned in the petition for the full extent of 24 perches of land, rather than the previously given extent of 17.6 perches on a permit to him, due to the practical issues relating to the allocating of the remaining portion to another purpose.

The appellant has challenged the documents marked P-16 and P-17 seeking a Writ of Certiorari to quash the said documents, claiming that the disputed portion of land should actually be allocated to the appellant.

When this application was taken up before Their Lordships of the Court of Appeal for consideration, apart from the objections raised by the learned President's Counsel who represented the 5th respondent, the learned State Counsel who represented the 1st to 4th respondents and the 6th respondent named in the petition has taken up the position that the letters marked as P-16 and P-17 before the Court of Appeal for which a Writ of Certiorari is sought are not decisions or determinations awarding rights to either party, and thereby, they are not amenable for the issuance of a Writ of Certiorari. It had been contended that the appellant is not entitled to a Writ of Mandamus as well, as it has failed to demonstrate any public duty or legal or statutory basis for which a Writ of Mandamus could be sought. It has also been contended that the matter before the Court of Appeal stands *Res Judicata* between the parties.

Their Lordships of the Court of Appeal, having considered the matters contained in the petition filed by the appellant and the submissions made before the Court in that regard and the objections raised by the respondents, has primarily determined that the matter stands *Res Judicata* between the parties, and the two contended documents do not come within the purview of

a matter amenable for the issuance of a Writ of Certiorari or a Writ of Mandamus.

Apart from the above conclusions, the Court of Appeal has gone into the facts of the matter as well and has determined that although the appellant before the Court had been the successor of Gal Oya Valley Multipurpose Co-operative Societies Union Ltd, the appellant has not taken proper legal steps to obtain a lease from the River Valleys Development Board for the land under dispute, despite several reminders by the liquidator appointed for the purpose of supervising the dissolution of the above mentioned Gal Oya Valley Multipurpose Co-operative Societies Union Ltd.

It has been observed that as a result of that, the 5th respondent mentioned in the petition before the Court of Appeal has been issued with an annual permit for an extent of 17.6 perches of the land now claimed by the appellant as far back as 1982.

Having considered the several litigations that has taken place between the parties over this issue, the Court of Appeal held that the 3rd respondent has held a due inquiry as directed by the Court of Appeal in Case No. 781/2000.

This was a case where the appellant has challenged, by way of a Writ Application, a previous determination issued in terms of another Writ Application filed before the Court of Appeal in Case No. 488/97. The Court of Appeal at that instant has ordered a fresh inquiry in relation to the same matter now before this Court, to be conducted by the 3rd respondent who was the Government Agent of Ampara, and for the parties to abide by his decision. It needs to be noted that this was an order made with consent of all the parties before the Court in relation to the said case.

It is manifestly clear that the letter marked P-16 is a letter sent by the 3rd respondent in the case before the Court of Appeal informing the outcome of the said inquiry.

Having considered the factual matters in relation to the Writ Application before the Court of Appeal, it has been determined that the appellant has no basis to seek the Writs as sought. It was on the basis of the questions of law considered before the Court as well as having considered the factual matters in that relation, the Court of Appeal has decided to dismiss the application filed before the Court.

The Submissions: -

At the hearing of this application, it was the contention of the learned President's Counsel who represented the appellant, who was the petitioner before the Court of Appeal, that the documents marked P-16 and P-17 are actually administrative decisions which are amenable for the issuance of a Writ of Certiorari, and the Court of Appeal has erred in that regard. It was also submitted that the Court of Appeal has failed to properly consider the illegality of granting the 5th respondent a permit for 24 perches of land, although his claim has been only for 17.6 perches under the permit granted to him.

He argued that the doctrine of *Res Judicata* does not apply to the instant case as determined by the Court of Appeal, since the basis upon which the appellant went before the Court of Appeal was on a new cause of action accrued to them as a result of the determination made by the 3rd respondent named in the application, and hence, the Court of Appeal erred in law in that regard as well. He submitted several judicial decisions for the consideration of the Court in that regard.

The submission of the learned President's Counsel who represented the substituted 5A respondent-respondent (hereinafter referred to as the 5th respondent) was that the application preferred before the Court of Appeal by the appellant was misconceived in law from its very outset, and the Court of Appeal was correct in dismissing the said Writ Application. He submitted that the application before the Court of Appeal comes within the concept of *Res Judicata* and the appellant was also guilty of laches due to the belatedness of the application preferred before the Court of Appeal. It was also contended

that there is no basis to consider that the appellant's predecessor was the Gal Oya Valley Multipurpose Co-operative Societies Union Ltd, and it has no basis to claim any rights based on the said Societies' alleged rights.

The learned Deputy Solicitor General (DSG) who represented the 1st to 4th respondent-respondent as well the 6th respondent-respondent was of the same view as above. Elaborating on the history of litigation between the parties in relation to the same cause of action, it was her view that if such applications should be entertained in this manner, there would be no end for litigation. It was submitted that the inquiry held by the 3rd respondent-respondent as the Government Agent of Ampara and his determination should be considered as a final and conclusive end to the litigation, and the matter is clearly *Res Judicata* between the parties.

The Conclusion

In order to determine the questions of law under which the Leave to Appeal was granted, I find it appropriate to draw my attention to the factual matters adduced and the connected legal issues raised before the Court.

The appellant claims that when the Gal Oya Valley Multipurpose Co-operative Societies Union Ltd was dissolved, the rights, obligations, and all the properties belonging to the said Society within the town limits of Ampara were transferred to the appellant.

Admittedly, the land, which is the subject matter of this litigation with an extent of 24 perches is a land belonging to the State, which has been leased to the earlier mentioned Gal Oya Valley Multipurpose Co-operative Societies Union Ltd. Hence, it is clear that with the liquidation of the said society, the said lease has come to an end. This is the very reason why the liquidator appointed to supervise the dissolution of the said society has repeatedly informed the appellant to obtain a new lease for the property from the State, which the appellant has failed or neglected.

However, it appears that the appellant has come to know at least by the year 1997 that the Divisional Secretary of the area has granted an annual permit to the 5th respondent for an extent of 17.6 perches as far back as 1982 in relation to the same land.

This clearly shows that the appellant has slept over its alleged rights to have possession of the land even if it had any right as claimed over a considerable period of time. I find no basis to the claim of the appellant that it was on or about 04-03-1997, the 5th respondent entered into the possession of the land and attempted to carry out unauthorized constructions. I am unable to comprehend the position that a person who received an annual permit in the year 1982 waiting until the year 1997 to come into the possession of it.

It is clear that the appellant has filed the Writ Application No. 488/97 before the Court of Appeal seeking a Writ of Certiorari to quash the permit issued to the said respondent in the year 1982, and for a Writ of Mandamus compelling an issuance of a permit to the appellant.

As a result of the said Writ Application, the Divisional Secretary of Ampara has informed the 5th respondent that he should cease all development activities on the land, which has resulted in the 5th respondent filing the Writ Application No. 213/97 before the Court of Appeal for the quashing of the said order made by the Divisional Secretary by way of a Writ of Certiorari. Both the matters have been settled as the parties have agreed to make fresh representations to the Divisional Secretary of Ampara as to their respective claims to the land in question.

The Divisional Secretary after conducting an inquiry has decided that the said allotment of land should be given to the appellant and the 5th respondent will be given an alternative land.

Having being aggrieved by the said determination, the 5th respondent has filed the Writ Application No. 781/2000 seeking to quash the above-mentioned order by the Divisional Secretary.

It was after considering the said Writ Application, the parties have again agreed for a fresh inquiry relating to this matter by the Government Agent of Ampara and to abide by his determination.

After a due inquiry held in that regard, the Government Agent has determined that it is the 5th respondent who is entitled to have a permit for the questioned land, and the appellant cannot have any claim based on a previous lease agreement which was in favour of Gal Oya Valley Multipurpose Co-operative Societies Union Ltd, which has not been renewed, and since the appellant has not taken due steps to obtain a new lease agreement or a permit.

Our Superior Courts have consistently held what constitutes *Res Judicata* between parties.

In the case of **Nandawathi and Others Vs. Tikiri Banda Mudalali (2003) 2 SLR 347**, it was held;

> "*The principle of Res Judicata to apply, the second action must be*
>
> a. *Between the same parties;*
> b. *Same subject matter; and*
> c. *Same cause of action.*"

Having considered the Roman-Dutch Law principles regarding *Res Judicata*, **Dissanayake, J.** observed as follows:

> "Under Roman-Dutch Law, *Res Judicata* has been described as a matter in which an end has been put to disputes in a declaration of a Judge by absolution or discharge or adverse judgement. Vide page 297 **Voet, Commentary on the Pandects by Percival Gane Vol VI**. It is stated that by *Res Judicata* it is meant termination of controversy by the judgment of a Court. This is accomplished either by an adverse decision or by discharge from liberty. As enunciated by Voet, for the doctrine of *Res Judicata* to operate, there should be three requisites, namely, a. same person b. same thing and c. same cause. The rational of this doctrine is based on the maxim that it is in the interests of the State to

have an end to litigation. The maxim that no man should be vexed twice for the same cause of action is based on this principle."

Section 207 of the Civil Procedure Code, which has embodied the principle of *Res Judicata*, reads as follows.

> **207. All decrees passed by the Court shall, subject to appeal, when an appeal is allowed, be final between the parties, and no plaintiff shall hereafter be non-suited.**

It is trite law that consent judgments and decrees are nevertheless *Res Judicata*, for, although no judicial decision is pronounced. The Court gives its judicial sanction and coercive authority to what the parties have settled. See **Cohen Vs. Fonesco (1926) 1 K.B. 119**; **Kinch Vs. Walcott 1929 A.C. 482**.

In the case of **Sinniah Vs. Eliakutty (1932) 34 NLR 37**, it was laid down that a judgment by consent is as effective by way of estoppel as a judgment whereby the Court exercised its mind in a contested case and has the full effect of a *Res Judicata* between the parties.

In **Re South American and Mexican Co (1895) Ch. 37, 50, Lord Herschell** said,

> "*The truth in a judgment by consent is intended to put a stop to litigation between the parties just as much as is a judgment which results from the decision of the Court after the matter has been fought out to the end. And I think it would be very mischievous if one were not to give a fair and reasonable interpretation to such judgments and were to allow questions that were really involved in the action to be fought over again in a subsequent action.*"

In the case of **Rajah Kumaru Venkata Perumal Rajah Bahador Vs. Thutha Ramasamy Chetty (1912) 35 Madras 75**, it was held;

> "*What then is the test for determining whether there is an estoppel in any particular case in consequence of a decree passed on a compromise? In our opinion the answer must depend on the answer to the question, did the parties decide for themselves the particular matter in dispute by the*

compromise, and was the matter expressly embodied in the decree of the Court passed on the compromise or was it necessarily involved in, or was it the basis of what was embodied in the decree?"

It is abundantly clear from the judgment dated 29.08.2002 pronounced in C.A. Writ Application No. 781/2000, which led to the inquiry held by the Government Agent of Ampara, that the Court of Appeal has not only pronounced the judgment based on consent of the parties, but also after having considered the relevant facts as well.

The Court of Appeal has considered the previous Writ Applications between the parties and the contested legal standing of the Gal Oya Valley Multipurpose Co-operative Societies Union Ltd and the appellant, in pronouncing its judgment. It was stated at page 3 (page 292 of the brief),

> "No material is made available before this Court nor before any of the inquiring officers as to the impact of either the liquidation or the reorganization and of the original lease agreement that has been entered into with the Gal Oya Valley Multipurpose Co-operative Societies Union Ltd. This matter has not even investigated into by any of the inquiring officers.
>
> At the hearing of this case, significantly all parties agreed that they place absolute credibility on the powers of the 3rd respondent, the Government Agent to hold inquiry. In fact, the State Counsel in his negotiations in this case contacted the Government Agent, who has agreed by letter dated 25.09.2001 to hold a fresh inquiry into this matter. In these circumstances, to hold a fresh inquiry into this matter considering the impacts of the Co-operative Societies Law No. 5 of 1972 and the Co-operative Societies (Special Provisions) Act No. 35 of 1970 and also specially the lease agreement that had been pending in 1969 between the Gal Oya Valley Multipurpose Co-operative Societies Union Ltd and the River Valleys Development Board.
>
> For these reasons, the application is allowed in terms of prayer (d) only with relation to the inquiry by the 3rd respondent. Even though the

prayer itself only seeks an inquiry by the 1st to 2nd respondent, in view of the other salient matters that have been mentioned both in Court as well as in application, it appears that all parties accept the credibility of the 3rd respondent in this case. The inquiry is to be completed within 6 months of the receipt of this order. The Registrar is to take all steps to communicate this order to the 3rd respondent forthwith."

It is manifestly clear from the Court of Appeal judgment that the intention of all the relevant parties had been to bring their litigation to an end with the inquiry to be held by the Government Agent of Ampara. It is clear that all parties had agreed to abide by the decision of the Government Agent of Ampara in relation to this dispute when the matter was finally concluded before the Court of Appeal.

It is based on this judgment that the Government Agent of Ampara has conducted the inquiry, proceedings of which has been produced marked P-15 (page 240 of the brief).

It is clear that the Government Agent has conducted a thorough inquiry as to the dispute, allowing all the necessary parties to make their representations including cross-examination of the persons who came before the inquiry through the respective Attorneys-at-Law of the parties. It is upon the conclusion of the said inquiry, the Government Agent of Ampara, namely the 3rd respondent named in this Writ Application, has forwarded his findings to the Hon. Attorney General by way of the letter dated 04.10.2003 (document marked P-16 at page 260 of the brief).

In the said letter, the Government Agent has given a comprehensive analysis of the evidence placed before him at the inquiry, and has informed his final conclusions which reads thus;

"පැමිණිල්ලේ හරස් ප්‍රශ්න වලට පිළිතුරු දීමේදී අම්පාර විවිධ සේවා සමූපකාර සමිතියත් ගල් ඔය මිටියාවත විවිධ සේවා සමූපකාර සමිති සංගමයත් දෙකක් බව ඇය පිළිගෙන ඇත. මේ කරුණු අනුව බලන විට අම්පාර විවිධ සේවා සමූපකාර සමිතිය, ගල් ඔය මිටියාවත විවිධ සේවා සමූපකාර සංගමයේ අනුප්‍රාප්තිකයා නොවන බවය.

ඉහත කරුණු අනුව සලකා බැලීමේදී පහත සඳහන් කරුණු, එනම් ;

1. ගල් ඔය මිටියාවත විවිධ සේවා සමූපකාර සමිති සංගමයේ ලියාපදිංචිය **1970** අංක **35** දරන සමූපකාර සමිති විශේෂ විධිවිධාන පනතේ **3(1)** වගන්තිය අනුව **1971** වර්ෂයේදී අවලංගු කල බවද, එම පනතේ **4(1)** වගන්තිය යටතේ පත් කරන ලද ඇවර කරුගේ ඇවර කිරීම් කටයුතු **1983.11.03** දින අවසන් වූ බවත්,

2. ඇවර කරු විසින් ප්‍රශ්නයට අදාළ ඉඩම පවරාගන්නා ලෙස, අම්පාර විවිධ සේවා සමූපකාර සමිතියට දන්වා සිටියද, ඉඩම පැවරීම කල යුතු අම්පාර දිසාපති වරයා විසින් ඉඩම සමූපකාර සමිතිය වෙත පවරා නැති බවත්,

3. අම්පාර දිසාපති වරයා විසින් **1982** වර්ෂයේදී පැමිණිලිකරු වන අයි. ජී. පියදාස මහතාට ඉඩම සඳහා නිකුත් කර ඇති බලපත්‍රය, ගල් ඔය මිටියාවත විවිධ සේවා සමූපකාර සමිති සංගමයේ ඇවර කටුයුතු සියල්ල අවසන් වූ **1983.11.03** දිනෙන් පසුව අහෝසි වේ, **2000** වර්ෂය දක්වා බදු අයකර වලංගු කර ඇති බැවින්, **1984** වර්ෂයෙන් පසු බලපත්‍රය නීත්‍යානුකූලව වලංගු වන බවත්,

4. සීමාසහිත අම්පාර විවිධ සේවා සමූපකාර සමිතිය, ගල් ඔය මිටියාවත විවිධ සේවා සමූපකාර සංගමයේ අනුප්‍රාප්තිකයා ලෙස සැලකිය නොහැකි බව ද අනාවරණය වේ.

මේ අනුව පැමිණිලිකරු වන අයි. ජී. පියදාස මහතාට, අම්පාර දිසා පතිවරයා විසින් මෙම ඉඩම සඳහා නිකුත් කරන ලද බලපත්‍රය අනුව, මෙම ඉඩම පැමිණිලිකරු වන අයි. ජී. පියදාස මහතාට අයත් බව ද, **2000** වර්ෂයේ සිට බදු මුදල් අය කර, එම බලපත්‍රය අයි. ජී. පියදාස මහතාට නිකුත් කල යුතු බව ද ප්‍රකාශ කරමි.”

The above determination clearly shows that the purpose of the inquiry, as ordered by the Court of Appeal, has been to finally determine all the disputes the parties had between them in relation to the question who should be held entitled to have a permit to the disputed portion of land.

Therefore, it is my view that, since the determination of the Government Agent of Ampara has been the result of the judgment pronounced by the Court of Appeal in that regard, the said judgment and its result operates as an estoppel under the principle of estoppel *per rem judicatam*.

Spencer Bower and Turner 2nd Edition, Section 9, pp.9-10 states the principle of estoppel by *Res Judicata* in the following manner.

> "The rule of estoppel by *res judicata* which like that of estoppel by representation, is a rule of evidence may thus be stated: where a final judicial decision has been pronounced by either an English, (or with certain exemptions) a foreign judicial tribunal of competent jurisdiction over the parties to, and the subject matter of, the litigation, any party or privy to such litigation, as against any other party or privy thereto, and, in the case of a decision *in rem*, any person whatsoever, as against any other person, is estopped in any subsequent litigation from disputing or questioning such decision on the merits, whether it be used as the foundation of an action, or relied upon as a bar to a claim, indictment or complaint, or to any affirmative defence, case, or allegation, if, but not unless, the party interested raises the point of estoppel at the proper time and in the proper manner." (See the **Law of Evidence, Volume I page 524 by E.R.S.R. Coomaraswamy**)

For the reasons as considered above, I am of the view that the judgment pronounced by the Court of Appeal in Writ Application No. 781/2000 stands *Res Judicata* as against the Writ Application No. C.A. 2084/2004 initiated by the appellant in relation to the same dispute between the parties correctly determined by Their Lordships of the Court of Appeal, as otherwise, there would be no end to litigation.

When it comes to the contention that although the 5th respondent's claim was for a permit given to him for an extent of 17.6 perches, the recommendation by the 2nd respondent named in the Writ Application to issue him with a permit for 24 perches of land was a determination made surreptitiously, I find no basis to agree with such a contention.

It is abundantly clear that an extent of 24 perches of land has been previously leased out to the Gal Oya Valley Multipurpose Co-operative Societies Union Ltd, which is a piece of land situated between lands that had been similarly leased out to other parties by the State. As considered before, with the

liquidation of the said Gal Oya Valley Multipurpose Co-operative Societies Union Ltd, the appellant cannot claim any right to the said portion of land unless it had obtained a new lease or an annual permit according to the law, which the appellant has failed to obtain.

Since it is a land belonging to the State for which the authority to issue a permit lies with the relevant Government Agent or the Divisional Secretary for that matter, it is my considered view that the appellant has no *status quo* to object as to the manner such a permit should be issued.

Although the initial permit issued to the 5th respondent has been for an extent of 17.6 perches only, having considered the location of the entire 24 perches of land and the impracticability of allocating the balance portion of the same to another party, it appears that the 2nd respondent, being the Divisional Secretary of Ampara, has recommended that the entire piece of land should be given on a permit to the 5th respondent, which I find the most appropriate decision in relation to the land under dispute.

Hence, I find nothing surreptitious in the recommendation made by the Divisional Secretary of Ampara, which has been communicated to the relevant Subject Minister by the letter marked P-17 (page 272 of the brief).

For the reasons as considered above, I find no basis to disagree with the judgment pronounced by the Court of Appeal in Case No. 2084/2004 on 31.05.2016, where the Writ Application filed by the appellant was dismissed with costs.

In view of the above findings, I answer the questions of law set out in paragraph 7(a), (d) and (e) in the negative.

In view of the answers provided as earlier, I am of the view that considering the question of law set out in paragraph 7(b) would not be necessary for the purpose of determining this appeal.

Accordingly, the appeal is dismissed. The judgment dated 31.05.2016 is hereby affirmed.

The appellant shall pay Rs. 50,000/- as costs to the 5th respondent and Rs. 50,000/- as costs to the State, who represented the 1st, 2nd, 3rd, 4th, and 6th respondent-respondents named in the petition.

Judge of the Supreme Court

Kumudini Wickremasinghe, J.

I agree.

Judge of the Supreme Court

Menaka Wijesundera, J.

I agree.

Judge of the Supreme Court