

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

In the matter of an application under and
in terms of Article 126 read with Article
17 of the Constitution of The Democratic
Socialist Republic of Sri Lanka

1. D.H. Liyanage,
No. 654/1, Balagolla,
Kengalle.
2. M. Asarudeen,
No. 668/1A, Balagolla,
Kengalle.
3. I.M. Kaleel,
No. 668B, Balagolla,
Kengalle.

PETITIONERS

SC/FR Application No. 338/2011

-Vs-

1. Mahaweli Authority of Sri Lanka.
2. D.M.C. Dissanayake, Director
General
- 2A. Keerthi B. Kotagama, Director
General.
3. Director-Lands

The 1st to 3rd Respondents of;
Mahaweli Authority of Sri Lanka,
No. 500, T.B. Jayah Mawatha,
Colombo 10.

4. Resident Project Manager – Victoria
Project,
Mahaweli Authority of Sri Lanka,
Victoria Resident Project Manager's

Office,
Digana-Nilagama.

5. S.R.K. Aruppola,
Engineer in Charge,
Head Works Administration Operation
& Maintenance Division,
Mahaweli Authority of Sri Lanka,
Victoria, Gonagantenna,
Adhikarigama.
6. Janaka Bandara Tennekoon,
Hon. Minister of Lands and Land
Development,
“Govijana Mandiraya”,
No. 80/5, Rajamalwatta Lane,
Battaramulla.
- 6A. S.M. Chandrasena,
Hon. Minister of Land,
“Mihikatha Medura”,
Land Secretariat,
No. 1200/6, Rajamalwatta Avenue,
Battaramulla.
- 6B. Harin Fernando,
Hon. Minister of Tourism and Land,
“Mihikatha Medura”,
Land Secretariat,
No. 1200/6, Rajamalwatta Avenue,
Battaramulla.
7. Hon. Attorney General,
Attorney General’s Department,
Hulftsdorp,
Colombo 12.

RESPONDENTS

BEFORE: Hon. Buwaneka Aluwihare, PC, J.
Hon. Kumudini Wickremasinghe, J.
Hon. Janak De Silva, J.

COUNSEL: Pulasthi Hewamanna with Ms. Fadhila Faroze for the Petitioners.

Ms. Yuresha De Silva, DSG for the Respondents.

ARGUED ON: 02.12.2022.

WRITTEN SUBMISSIONS: 13th January 2023 for the Petitioners.
28th April 2023 for the Respondents.

DECIDED ON: 31.10.2023.

Judgement

Aluwihare, PC, J,

The Facts

- 1) The 1st, 2nd and the 3rd Petitioners took up temporary residence at No. 654/1, Balagolla, Kengalle, No. 668/1A, Balagolla, Kengalle and No. 668B, Balagolla, Kengalle respectively between the years 1992 and 1994. They have not relocated to any other residence since then and are currently residing in the same. All of the aforementioned dwellings are situated in State lands belonging to the Victoria Reservoir Project, adjacent to the Reservoir. This fact is admitted and forms the basis of contention for the detailed submissions made by all parties in this case.
- 2) The Balagolla Division had been initially used for settling persons whose houses were acquired for the purpose of constructing the Victoria Reservoir. The Petitioners are 3, among 55 other Occupants of settlements which were added to the Balagolla settlement area and permitted to reside in the vicinity of the Division. The Petitioners annexed a map titled “Blocking Out Diagram – Pallekalle Estate – Balagolla Division”, and this map demarcates the lots allocated to the Petitioners.
- 3) At various points of time, the Petitioners had made several pleas and requests to the 1st Respondent Authority (hereinafter referred to as the ‘Mahaweli Authority)

seeking a plot of land to construct permanent housing. In response, the Mahaweli Authority informed the Petitioners by letter dated 30th May 2005 ('P1' in the brief), that they were requested to be present for an inquiry to regularise their residencies.

- 4) Pursuant to the above letter, a Land Kachcheri had been held on 17th June 2005 and on the same day, lands had been allocated to 298 individuals including the Petitioners. A separate list titled “අනවසර නියමානුකූල කිරීමේ නිදේර්ශිත නාම ලේඛණය” [Recommended list of unsanctioned dwellings to be Regularised] ('P2' in the brief) was prepared and displayed around the Petitioners' neighbourhood. The list, comprising in total 55 individuals' names had also included the Petitioners' names. Per the list, the Petitioners had been granted the lots they were already in occupation.
- 5) In 2006, the Petitioners had constructed permanent houses in the lots granted and had made substantive improvements to the lands by obtaining electricity and water lines. The petitioners had also had lands they occupied surveyed in 2007 and the maps issued, with the specific demarcations and extent (20 Perches) of the plots have been produced ('P5(a)-(c)' in the brief). By letters dated April 2007, the Licensed Surveyor informed the Mahaweli Authorities that the survey conducted on the instructions of the Petitioners was completed ('P4' in the brief). Although the Petitioners had thereafter repeatedly inquired from the Respondent Authority regarding the regularisation of lands they occupied, no further steps had been taken by the Authority.
- 6) On or around the same time, the Petitioners became aware of the regularisation of other lands and residences which were published in P2. The Petitioners claimed to be aware that several officers of the Respondent Mahaweli Authority have taken up residence in lots of the Division. Specifically, the Petitioners claimed that the 2nd Respondent is living in one of those lands, and was, at the time of the application, constructing a large house therein. The petitioners also claimed to be aware that one of the lands in the Division was granted without a Land Kachcheri to a 'Police Constable Costa' who is related to a 'Linton Wijesinghe', a member of the Central Provincial Council.

- 7) On 23rd July 2008, by way of a letter ('P7'), the Petitioners were informed that;
- they had been selected for regularisation of their residences;
 - they were required to contract the services of a Licensed Surveyor to survey the lands in order to facilitate an issuance of relevant permits; and
 - that the surveying of the lands had been delayed due to a shortage of surveyors on the part of the Authority.

The Petitioners then informed the Authority that lands they occupied had already been surveyed.

- 8) Thereafter, on or around January 2011, an 'Application for Ejectment' had been filed in the Magistrate's Court of Kandy by the 5th Respondent, the Engineer in Charge, under Section 5 of the State Lands (Recovery of Possession) Act, No. 07 of 1979 in respect of the Petitioners. The relevant Case references are as follows;
- Case No. 35033/11 against the 1st Petitioner
 - Case No. 35028/11 against the 2nd Petitioner
 - Case No. 33069/11 against the 3rd Petitioner

In June and July 2011, the Magistrate's Court of Kandy issued Orders to eject the 2nd and 3rd Petitioners from their residences and at the time of this application, the 1st Petitioner stated that he bore a reasonable apprehension that an order for ejectment would be issued against him too.

- 9) On 7th August 2011, the Petitioners filed a petitioner in this Court, alleging the violation of their Fundamental Rights Guaranteed under Articles 12(1) and 14(1)(h) of the Constitution. This Court granted leave to proceed under Article 12(1) on 23rd September 2011 and *vide* Supreme Court Minutes dated 23.09.2011, cases instituted against the Petitioners were stayed until the determination of this case.

- 10) During the pendency of proceedings before this Court, the Respondents appraised the Court and the Petitioners of the possibility of offering alternative land in the Ambakote area, pursuant to the 'alternative relief' sought in the Petition. However, the Petitioners declined this offer [vide Journal Entries dated 10.11.2021 and 28.07.2021].

The Position of the Petitioners

- 11) The Petitioners contended that the Petitioners bore a legitimate expectation due to repeated assurances of the Mahaweli Authority that their residences would be regularised and acting on such expectation, the Petitioners set up permanent residence and made substantial improvements to their respective houses and lands. In such context, the Petitioners argued that the attempt to evict or eject the Petitioners was arbitrary, done for collateral purposes such as offering those lands to favoured individuals, and in a manner contrary to principles of natural justice. The Petitioners submitted that the conduct of the Respondents so impugned violated the Petitioners Fundamental Right to equal protection of the Law guaranteed under Article 12(1).

- 12) Moreover, the learned Counsel for the Petitioners argued that the right to be adequately housed, including having secure tenure, right to respect for home and family life are crucial to the dignity of the Petitioners and are therefore rights which would fall within the ambit of rights to be safeguarded by Article 12(1).

- 13) The Petitioners contended that the move to eject the Petitioners from their residences was contrary to principles of natural justice and the legitimate expectation borne by the Petitioners due to repeated and consistent assurances of the Mahaweli Authority, and if allowed, would cause great injustice to the Petitioners and also (relying on the judgement of *Dayarathna v. Minister of Health and Indigenous Medicine* [1999] 1 SLR 393) amount to a violation of their Fundamental Right to equal protection of Law guaranteed under Article 12(1).

- 14) Adverting to the jurisprudential evolution of the concept of ‘equal protection’, and relying on the decisions of *Karunathilaka v. Jayalath de Silva* [2003] 1 SLR 35 and *Wijerathna v. Sri Lanka Ports Authority*, S.C F.R 256/2017, S.C Minutes of 11.12.2020, the learned Counsel noted that it is now understood that reasonableness and fairness are conceptual elements the court may take cognizance of when considering an alleged violation of Article 12(1).

15) It was the submission of the Petitioners therefore that, in considering this application, the Court would be mindful of the injustice caused to the Petitioners by the Respondents and also that relief could be granted in respect of any arbitrary or mala fide exercise of power vide *Rajavarothiam Sampanthan & Others v. The Attorney General & Others*, SC FR 351-361/2018, S.C Minutes of 13.12.2018.

The Position of the Respondents

16) The Respondents submitted that the Petitioners were and continue to remain in unauthorised occupation of State Land and the Petitioners have converted the temporary residences into permanent residences prior to them being issued with any Permit, Grant or Document permitting such occupation.

17) The Respondents contend that the said residences were illegal as the construction of houses on private lands adjacent to Reservoirs is monitored and are subject to guidelines ('4R3') and in terms of the Regulations promulgated under Section 54 of the Mahaweli Authority Act of Sri Lanka ('4R1') vide Section 7.7(b), construction of buildings and structures in and around a Reservoir without prior approval is prohibited.

18) It is also the position of the Respondents that although a Land Kachcheri was held, and a List was prepared, no steps were taken to issue 'Permits, Grants or any written authority' regularising the unauthorised occupation of the Petitioners.

19) The Respondents claimed that the move to eject the Petitioners was taken pursuant to, and in deference to a judgement of this Court. The said judgement being *Environmental Foundation Limited & Others v. Mahaweli Authority of Sri Lanka & Others* [2010] 1 SLR 1. This Fundamental Rights Application was filed in the Public Interest complaining of a violation of Article 12(1) of the Constitution by the alienation of the lands and the granting of permission for construction of buildings on lands in an arbitrary and ad hoc manner in violation of the applicable legal provisions and guidelines. The said lands were within the

“Special Area” declared in terms of Section 3(1) of the Mahaweli Authority Act No. 23 of 1979 and also fell within the 100-metre reservation from the full supply level of the Victoria Reservoir. In this case, having upheld a violation of Article 12(1) on the part of the Mahaweli Authority, the Court made the directions listed below.

“(b) Court directs that a proper investigation be conducted by the 2nd Respondent and suitable action be taken against the officials responsible for the unauthorized alienations and the granting of permission to construct buildings in violation of the applicable legal provisions,

(c) Court holds that no further allocation of lands in the subject area be made without following the procedure laid down under Part IV C of the National Environmental Act No. 47 of 1980, and the regulations made thereunder,

(d) Court also holds that the guidelines contained in the document annexed marked as “P12” to the petition be followed in the future when granting permission for the construction of residential buildings”.

20) In the same judgement [supra], this Court had also observed that the Mahaweli Authority had failed to comply with Guidelines issued on 18.06.1997 for the Construction of Houses in Private Lands [4R3] formulated by a Special Committee appointed by the Director General of the Mahaweli Authority. Per the Guidelines, there should be a minimum land area of around 20 meters between two houses. It was also observed in the judgement that the Hon. Attorney General had advised the Director General of the Mahaweli Authority that the Director General has no legal authority to permit any construction in derogation of these guidelines and that the alienation of lands and the granting of permission to construct housing as it pertained to that case, had been done in violation of the guidelines.

21) Another matter which was addressed by this Court in the aforementioned judgement was that the regulations promulgated in terms of Section 23Z of the National Environment Act as amended had not been complied with. The

regulations contain a schedule of projects for which approval is required under Part IV of the Act and defines the term ‘reservoir’ as follows:

“reservoir” means an expanse of water resulting from manmade constructions across a river or a stream to store or regulate water. Its “environs” will include that area extending up to a distance of 100 meters from full supply of the reservoir inclusive of all islands falling within the reservoir.

Subsequently, the regulations had been amended by Gazette No. 859/14 dated 23.12.1995 to include a 100-meter boundary from a lake as well.

“within 100 meters from the high flood level contour of, or within, a public lake as defined in the Crown Lands Ordinance including those declared under Section 71 of the said ordinance.”

22) The Respondents averred that the steps taken to evict the Petitioners were taken pursuant to cognizance of the aforementioned judgment which highlighted the failure on the part of the Mahaweli Authority to comply with the provisions of the Mahaweli Authority of Sri Lanka Act, the National Environment Act and the Regulations promulgated under the Act to alienation of State Land situated within 100-meter reservation adjacent to the Victoria Reservoir.

23) The Respondents also relied on the interpretation provided to ‘unauthorised possession or occupation’ in the State Lands (Recovery of Possession) Act to substantiate the contention that the Petitioners were residing illegally, in a manner liable to being issued a Quit Notice in terms of Section 3 of the Act, and if such notice is not complied, eviction proceedings being instituted under Section 5 of the Act. Section 18 of the Act defines ‘unauthorised possession or occupation’ as follows:

“Except possession or occupation upon a valid permit or other written authority of the State granted in accordance with any written law, and includes possession or occupation by encroachment upon State Land.”

- 24) The Respondents also submitted that per the State Lands (Recovery of Possession) Act, a person on whom the quit notice is issued bears an opportunity to appear and show cause to establish lawful possession or occupation of State Land based on a valid permit or other written authority of the State granted in accordance with any written law. Essentially, it was the submission of the learned Deputy Solicitor General that without a valid permit or other written authority, the Petitioners were in unlawful occupation of state land and were therefore liable to be ejected in the manner prescribed by the Act, and if the Petitioners wished to demonstrate a contrary position, they may do so as prescribed by the Act, before the learned Magistrate. The Respondents also relied on the judgements of *Nirmal Paper Converters (Pvt.) Ltd v. Sri Lanka Ports Authority & Another* [1993] 1 SLR 219, *Aravindakumar v. Alwis & Others* [2007] 1 SLR 316, *Senanayake v. Damunupola* [1982] 2 SLR 621 and *Muhandiram v. Chairman, Janatha Estate Development Board* [1992] 1 SLR 110 to further substantiate their position.
- 25) Furthermore, responding to the Petitioners' claim that while they were not issued permanent permits, other persons, one 'Police Constable Costa' who is related to a 'Linton Wijesinghe', a member of the Central Provincial Council and the 2nd Respondent, the Director General of the Mahaweli Authority, the 4th Respondent, in his affidavit, states that the Petitioners were not issued with temporary permits, the Petitioners were 'squatters' and that the permits issued to the 2nd Respondent and Police Constable Costa were by way of the Crown Lands Ordinance and the State Lands Ordinance respectively.

Determination

- 26) The Petitioners' complaint is primarily twofold. First, the Petitioners complain that despite repeated, consistent assurances, both verbal and written, the Mahaweli Authority reneged on such assurances and instead, attempted to evict the Petitioners from their residences. Secondly, that the Petitioners were treated differently in that lands they occupied were not regularised while other the lands in the same neighbourhood were regularised, and such lands are now occupied by a 'Police Constable Costa' and an Officer of the Respondent Mahaweli Authority.

- 27) Upon examining the provisions of the State Lands (Recovery of Possession) Act, I am of the opinion that the conduct of the Respondents in attempting to evict the Petitioners was not unlawful. The petitioners were unlawful occupants of State Land per the scheme of the Act and the Respondents were lawfully entitled to seek ejectment per Section 5 of the Act.
- 28) The Learned Counsel for the Petitioners argued that Article 12(1) encompasses a fundamental right to secure housing. I do not think a fundamental right to ‘secure housing’ rests within the ambit of rights offered by Article 12(1). A qualified right to remain housed without arbitrarily, mala fide, unlawful interference or hindrance may however exist within the equal protection the law guarantees under Article 12(1) of our Constitution. In that regard, I cannot more strenuously state how greatly a person’s state of residence affects their dignity. Every person aspires to be secure in their residence devoid of compulsion to relocate. Our lives are invariably defined by where we reside, and this truth forms the core of the Petitioners’ complaint. For all intents and purposes, these families considered these lands their home. It is therefore imperative that this Court examines whether the Petitioners were sought to be evicted arbitrarily, in bad faith, unlawfully or in a manifestly unjust manner.
- 29) I must admit that the Court is placed in a difficult position. On the one hand, the Respondents have not traversed the law in attempting to evict the Petitioners, and they claim to have undertaken such action in deference to a judgement of this Court. On the other hand, despite the lawfulness of such attempt, the Petitioners’ complaint is remarkably genuine and tragic. The Petitioners were first told by way of a published list [P1] that these lands have been selected for regularisation, giving rise to the expectation that they would be able to securely reside in the lands they occupied and thereafter, upon seeking persistent clarifications, they were repeatedly assured that there would be no cause for insecurity, their residences would be regularised, and the evident delay was due to an insufficiency of resources on the part of the Authority. This is most evident in the letter dated 23rd July 2008 ‘P7’. The letter is reproduced here to demonstrate the gravity of the assurance given.

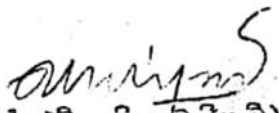
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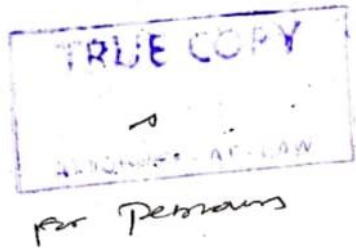
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බව විසින් අතවසරයෙන් භුක්ති විඳින ලද ආචාර්ය ආචාර්ය... ජනාවාසයේ පර: 107 15-15/20 ක් වූ බිම් කැබැල්ල සඳහා බලපත්‍රයක් ලබාදීමට 2005 ඊර්ෂයේ පැවැති අතවසර තියානුකුල කිරීමේ පරිපාටියෙන් බව තෝරාගෙන ඇත. එ අනුව බලපත්‍රය ලබාදීමට පෙර ඉඩම් මත සැලසුම් සකස් කළයුතුව ඇති නමුත් මෙම කාර්යාලයේ මිනිස්දෝරුවක් තොරවීම වැඩි වීම මෙම කාර්යය ප්‍රමාදවී තිබේ. එබැවින් බලයලත් මිනිස්දෝරුවක් මගින් ඉඩම් මත සැලසුම් සකස් කිරීමට යන විටදී බව දැරීමට එකඟ නම් එ බව මෙම ලිපිය ලැබී සතිකයන් ඇතුළත ලිපියක් මගින් දන්වා එවන මෙන් කාරුණිකව දන්වා සිටිමි.

ස්තූතියි.
මෙයට - විශ්වාසී,

(ජේ.එල්.එච්.අයි.තුමාරිහමි)
තේවාසික ව්‍යාපාර කළමනාකාර,
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ගාස/අතු.



30) Acting upon the mentioned assurances, the Petitioners took steps to enhance their quality of life by obtaining a secure supply of water and electricity and

making substantial improvements to their houses. Subsequently, without forewarning, the Petitioners were issued a Quit Notice and ordered to remove themselves from their homes.

- 31) It is of import that P7 is dated 23rd July 2008. The Judgement in *Environmental Foundation Limited & Others v. Mahaweli Authority of Sri Lanka & Others* [2010] 1 SLR 1 was delivered on 17th June 2010 (*vide* S.C Minutes of 17.06.2010), and the Petitioners were sought to be ejected from the lands they occupied in January of 2011. Therefore, I find the submission of the Respondents-that the move to eject the Petitioners was taken pursuant to and in deference to the aforementioned judgement of this Court, compelling, and considering the lack of any material impeaching the claim, on a balance of probabilities, acceptable.
- 32) However, this submission expressly admits that the Mahaweli Authority had not been complying with the law and relevant regulations until the pronouncement of the said judgement. Therefore, it logically follows that the representation made to the Petitioners by way of P7 too was ill-formed in that it was based on an illegality. Put simply, no officer of the Respondent Mahaweli Authority was legally entitled to approve or convey any assurance of such approval of the regularisation of lands or structures constructed in violation of the 100-meter reservation regulation.
- 33) A crucial point of law is to be addressed here. What requires adjudication is whether the verbal and written assurances given to the Petitioners gave rise to a legitimate expectation on the part of the Petitioners that lands they occupied would be regularised. It is the submission of the Petitioners that the assurances of the Respondents gave rise to a substantive legitimate expectation that the lands they occupied would be regularised and they would be issued permits. However, it is now settled in our law that a legitimate expectation cannot arise upon an illegality and that a representation which in itself is *ultra vires* cannot bind a public authority. His Lordship Sarath N. Silva, CJ in *Tokyo Cement (Company) Ltd Vs. Director General of Customs* [2005] BLR 24 (at p.27-28) cited the judgement of the Court of Appeal of England in *Regina Vs. Secretary of State for*

Education and Employment, Ex parte Begbie [WLR 2000 Vol. 1, p. 115] which held that “courts would not give effect to a legitimate expectation if it would require a public authority to act contrary to the terms of the statute”. This approach was subsequently followed by the Court of Appeal in *Ceylon Agro-Industries Ltd Vs. Director General of Customs* [CA Writ 622/2009] C.A Minutes 14.02.2011 at p.8, *Manufacturers (Pvt) Ltd Vs L.K.G Gunawardena & Others* [CA /Writ/242/2015] C.A Minutes 15.12.2016 at pp.6-7 and in *Pushparaja Vs. UC Of Nawalapitiya* [CA PHC No. 161/2008] C.A Minutes 15.03.2019 at p.6. Therefore, it is my considered opinion that P7 and any other verbal assurances given to the Petitioners to the effect that the lands occupied by the Petitioners would be regularized and the Petitioners would be granted permits was devoid of any force in law, as it was *ultra vires* from inception.

34) It is the bounden duty of the Court to adjudicate a matter with complete fidelity to the law and the set of facts or circumstances germane to the case before it. Assuming an authority not bestowed on me and deviating from established principles of our law in order to disseminate what I consider just per the context of the dispute, beyond the set of circumstances presented for adjudication would be most improper, and unjust. If Justice must be done, and must be seen to be done, parties to proceedings and their advocates cannot be uncertain of the law at the time they advocate their case. The success or failure of the legal arguments of Counsel irreparably affect the rights of the parties they represent, and any deviation from the settled understanding of this Court, in order to accommodate the grievances of the Petitioners beyond the scope of what was lawful would invariably lead to a debate on what may not give rise to a legitimate expectation law. Hence, in my view, I am not permitted to determine the rights and entitlements of the present parties in view of a larger social context, without regard to the confines of the law. Such a pursuit would unfailingly impede Justice. This does not however mean that the Court should restrain itself in a manner which renders itself ineffectual in the face of grave injustice.

35) It is now evident that the 1st Respondent (the Mahaweli Authority) had made several representations which were inconsistent with the laws and regulations

applicable to the subject matter. To permit such disregard for the law by public authorities, who are beneficiaries and trustees of public resources would, in my view be an abdication of this Court's duty. Therefore, while I do not hold that the Petitioners bore a legitimate expectation of being granted permits to occupy the lands they presently occupy, I hold that the Mahaweli Authority has been remiss in permitting unlawful representations to be made. These representations have led to the Petitioners harbouring hopes and expectations which, had they been clarified in the first instance, the Petitioners would not have borne.

36) The Petitioners' central grievance before this Court is that the failure on the part of the Mahaweli Authority to give effect to the assurances given, breached their legitimate expectations and that constitutes a violation of Article 12(1) of the Constitution and that the Respondents were attempting to unlawfully evict the Petitioners in violation of their Fundamental Rights. In the preceding paragraphs, I have demonstrated how a legitimate expectation cannot arise upon an *ultra vires* assurance or representation. Therefore, it follows that without a 'legitimate expectation' to be breached, the assurances of the Respondents, however misconceived, or the failure to give effect to them, could not have violated the Petitioners' fundamental rights to equal protection of the law and equality before the law guaranteed under Article 12(1). Furthermore, I observe that since the Respondents had complied with the statutory scheme imposed by the State Lands (Recovery of Possession) Act, they have not acted unlawfully in attempting to evict the Petitioners. Therefore, I hold that the Respondents have not violated the fundamental rights of the Petitioners.

37) This Court is vested with the jurisdiction to grant "such relief or make such directions as it may deem just and equitable in the circumstance" [*vide* Article 126(4)] and it is now understood that the Court is not constrained in its competence by the finding of a violation of a fundamental right in order to award such relief [*vide Noble Resources International Pte Limited Vs. Hon. Ranjith Siyambalapitiya, Minister of Power and Renewable Energy & Others, S.C F.R No. 394/2015, S.C Minutes 24.06.2016*]. What is 'just and equitable' cannot surely be interpreted to include what may be contrary to Stature, but it does include, in my view, efforts to alleviate persons from unjustly bearing the consequences of

unreasonable, arbitrary, or unlawful conduct of Public Authorities. I am conscious that the 1st Respondent authority had provided *ultra vires* assurances on a matter so significant as a person's housing.

38) In view of the above, and for or all the reasons enumerated in the preceding analysis, I direct the 1st Respondent Authority to once again offer alternative lands to the Petitioners for relocation, pursuant to the 'alternative relief' sought in the Petition. Should the Petitioners choose to accept such relief, the 1st Respondent must direct its officers and personnel to facilitate the granting of any permits lawfully, per the requirements and stipulations of the National Environmental Act and all the regulations promulgated therein. In the circumstances, I make order retracting the stay-order issued *vide* Supreme Court Minutes dated 23.09.2011 on the proceedings of the Magistrate's Court of Kandy in the following cases:

- Case No. 35033/11 against the 1st Petitioner
- Case No. 35028/11 against the 2nd Petitioner
- Case No. 33069/11 against the 3rd Petitioner.

A violation of fundamental rights has not been established.

JUDGE OF THE SUPREME COURT

KUMUDINI WICKREMASINGHE, J

I agree.

JUDGE OF THE SUPREME COURT

JANAK DE SILVA, J

I agree.

JUDGE OF THE SUPREME COURT