

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

*In the matter of an appeal in terms of Article  
128 of the Constitution of the Democratic  
Socialist Republic of Sri Lanka, against an order  
of the Court of Appeal.*

(1) Chitra Weerakkoon

No. 10, Swarnadisi Pedesa

Koswatte, Nawala.

(2) D.M.W. Kannangara

No.12, Waragodawatte

Waragoda, Kelaniya.

**SC APPEAL NO. 166/2012**

**SC (SPECIAL LA) APPLICATION No.**

**232/2011**

**PETITIONERS**

**VS**

(1) Hon. Jeewan Kumaratunga'

Minister of Lands

Ministry of Lands,

'Govijana Mandiraya'

No. 80/05, Rajamalwatte Road,

Battaramulla.

(2) Divisional Secretary,  
Bandaragama Divisional Secretariat,  
Bandaragama.

(3) Secretary,  
Ministry of Lands,  
'Govijana Mandiraya',  
No. 80/05, Rajamalwatte Road,  
Battaramulla.

**RESPONDENTS**

**AND THEN BETWEEN**

Bandaragama Pradeshiya Sabhawa,  
Bandaragama

**INTERVENIENT PETITIONER**

**VS**

(1) Chitra Weerakkoon

No. 10, Swarnadisi Pedesa,  
Koswatta, Nawala.

- (2) D.M.W. Kannangara  
No.12, Waragodawatte,  
Waragoda, Kelaniya.

**PETITIONER-RESPONDENTS**

- (1) Hon. Jeewan Kumaratunga  
Minister of Lands  
Ministry of Lands,  
'Govijana Mandiraya',  
No. 80/05, Rajamalwatte Road,  
Battaramulla.

- (2) Divisional Secretary,  
Bandaragama Divisional Secretariat,  
Bandaragama.

- (3) Secretary,

Ministry of Lands,  
'Govijana Mandiraya',  
No. 80/05, Rajamalwatte Road,  
Battaramulla..

**RESPONDENT-RESPONDENTS**

**AND NOW BETWEEN**

Bandaragama Pradeshiya Sabhawa,  
Bandaragama

**INTERVENIENT PETITIONER-  
APPELLANT.**

VS

(1) Chitra Weerakkoon  
No. 10, Swarnadisi Pedesa,  
Koswatte, Nawala.

(2) D.M.W. Kannangara  
No.12, Waragodawatte,  
Waragoda, Kelaniya.

**PETITIONER-RESPONDENT-  
RESPONDENTS.**

(1) Hon. Jeewan Kumaratunga

Minister of Lands, Ministry of Lands

‘Govijana Mandiraya’,

No. 80/05, Rajamalwatte Road,  
Battaramulla.

(1A) Hon. M.K.A.D.S. Gunawardene,

Minister of Lands

“Mihikatha Medura” , Land  
Secretariat

No. 1200/6, Rajamalwatta Avenue  
Battaramulla.

(1B) Hon. T.B. Ekanayake

Minister of Lands and Land  
Development,

“Mihikatha Medura”, Land  
Secretariat,

No. 1200/6, Rajamalwatta Avenue  
Battaramulla.

(1C) Hon. John Amarathunga

Minister of Lands and Land  
Development,

“Mihikatha Medura”, Land  
Secretariat,

No. 1200/6, Rajamalwatta Avenue,  
Battaramulla.

(2) Divisional Secretary  
Bandaragama Divisional Secretariat,  
Bandaragama.

(3) Secretary  
Ministry of Lands,  
“Mihikatha Medura” , Land  
Secretariat,

No. 1200/6, Rajamalwatta Avenue,  
Battaramulla.

**RESPONDENT-RESPONDENT-  
RESPONDENTS**

**BEFORE** : **P. PADMAN SURASENA J.**

**JANAK DE SILVA J.**

**ACHALA WENGAPPULI J.**

**COUNSEL** : Mr. Kamran Aziz with Ms. F. Latheef instructed by  
Sivanathan Associates for the Interventient Petitioner-  
Appellant.

K.V.S. Ganesharajan with M. Mangaleswary Shanker  
for the Petitioner-Respondent-Respondents.

Vikum De Abrew, PC, ASG for the 1<sup>st</sup> -3<sup>rd</sup> Respondent-Respondent.

**ARGUED &**

**DECIDED ON** : 17-01-2024.

**P. PADMAN SURASENA J.**

Court heard the submissions of the learned Counsel for the Intervient Petitioner-Appellant, submissions of the learned Counsel for the Petitioner-Respondent-Respondents, and the submission of the learned Additional Solicitor General appearing for the 1<sup>st</sup> -3<sup>rd</sup> Respondent- Respondent-Respondents.

The Petitioner- Respondent- Respondents have filed the Writ Application relevant to this case in the Court of Appeal against the Respondent- Respondent-Respondents.

During the pendency of the said Application before the Court of Appeal, the Intervient Petitioner-Appellant had sought to intervene as a party to the said Writ Application.

The Petitioner-Respondent-Respondents had objected to the said application for intervention made by the intervened Petitioner-Appellant in the Court of Appeal.

Thereafter, a divisional bench of the Court of Appeal, having considered the submissions made by the learned Counsel who appeared for the Petitioner-Respondent-Respondents as well as the submissions made by the learned Counsel who appeared for the Intervient Petitioner-Appellant, by its order dated 22-11-2011, had refused the application of the Intervient Petitioner-Appellant to intervene as a party to the said Writ Application.

Being aggrieved by the said decision dated 22-11-2011 pronounced by the Court of Appeal, the intervenient Petitioner- Appellant has filed this appeal.

When the case was taken up for argument in this Court today, the learned Counsel who appeared for the Petitioner-Respondent-Respondents informed this Court that the Petitioner- Respondent- Respondents would no longer maintain the objection raised against the intervention sought by the intervenient Petitioner- Appellant.

The learned Counsel for the Petitioner- Respondent- Respondents then proceeded to inform us that the intervention sought by the Intervenient Petitioner- Appellant- can be allowed and the order dated 22-11-2021 pronounced by the Court to Appeal refusing permission for the Intervenient Petitioner- Appellant to intervene as a party can be pro-forma set-aside.

Mr. Ganesharajan appearing for the Petitioner-Respondent-Respondents also consented to take the proposed course of action in this appeal by this Court.

Mr. Vikum De Abrew, PC, ASG brings to the notice of this Court that the 1<sup>st</sup> - 3<sup>rd</sup> Respondent- Respondent-Respondents have not filed written submissions to resist the application for intervention made by the Intervenient Petitioner-Appellant.

The Order dated 22-11-2021 pronounced by the Court of Appeal does not show that the 1<sup>st</sup> - 3<sup>rd</sup> Respondent-Respondent-Respondents have resisted the application made by the Intervenient Petitioner- Appellant for intervention as a party in the Court of Appeal.

The order dated 22-11-2021 pronounced by the Court of Appeal which is the order impugned in this appeal, is just an order refusing permission for the Intervenient Petitioner-Appellant for Intervention. We have also taken into consideration that this order has been made by the Court of Appeal on 22-11-2021.



This Court was told by the learned Counsel that the argument of the Writ Application is yet to be taken up before the Court of Appeal.

Indeed, that is the primary reason as to why Mr. Ganesharajan had decided to consent for the application for the intervention made by the Interventient Petitioner-Appellant. This was done with a view to facilitate the speedy disposal of the relevant Writ Application pending for a long time in the Court of Appeal.

We note that when this case came up before this Court on 07-07-2023, the learned counsel for the Interventient Petitioner-Appellant as well as the learned counsel for the Petitioner-Respondent-Respondents had informed this Court that they would inform this position to the Court of Appeal and have the matter relating to the application for intervention settled in the Court of Appeal.

However, today Mr. Ganesharajan brought to our notice, the journal entry dated 21-07-2020 made by the Court of Appeal in the relevant Writ Application. The said journal entry also shows that the learned counsel appearing for the parties had undertaken in the Court of Appeal to inform this settlement to this Court.

In view of the above, we are also of the view that this is the best course of action to be taken in this case at this stage.

Thus, with the concurrence of the learned Counsel for the Interventient Petitioner-Appellant and the learned Counsel for the Petitioner-Respondent-Respondents, we pro forma set aside the order dated 22-11-2021 pronounced by the Court of Appeal. The Interventient Petitioner-Appellant is allowed to intervene as a Respondent to the relevant Writ Application.

Mr. Ganesharajan informs this Court that he has no objection for the Interventient Petitioner-Appellant filing a statement of objections in the Court of Appeal in the relevant Writ Application.

**JUDGE OF THE SUPREME COURT**

**JANAK DE SILVA J.**

I agree

**JUDGE OF THE SUPREME COURT**

**ACHALA WENGAPPULI J.**

I agree

**JUDGE OF THE SUPREME COURT**

**AG/-**