

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

In the matter of an application for Special
Leave to Appeal in terms of Article 128(2)
of the Constitution of the Democratic
Socialist Republic of Sri Lanka.

SC APPEAL No.133/2025

SC/SPL/ LA No: 97/2022

CA No. 1/2008/BOR

Board of Review

No. BR/130/2001/RT

1. A. A. Manel Perera
2. B. A. Chanaka Perera
3. B. A. Ranmith Perera

All of No.81, Rosmead Place, Colombo 07.

Appellants

Vs.

Acquiring Officer and Divisional Secretary
Kahawatte,
Divisional Secretariat,
Kahawatte.

Respondents

AND

In the matter of an Appeal to the Court of
Appeal of the Democratic Socialist Republic
of Sri Lanka under Section 28 of the Land
Acquisition Board of Review on 31st March
2008

1. A. A. Manel Perera
2. B. A. Chanaka Perera
3. B. A. Ranmith Perera

All of No.81, Rosmead Place, Colombo 07.

Appellants-Appellants

Vs.

1. L. H. G. Weerasekara
2. H. M. Prematilake
3. K. C. Kularajadeva
4. Acquiring Officer and Divisional
Secretary, Kahawatte, Divisional
Secretariat, Kahawatte.

Respondent-Respondents

AND NOW BETWEEN

Divisional Secretary,
Kahawatte,
Divisional Secretariat,
Kahawatte.

Respondent-Respondent-Petitioner

Vs.

1. A. A. Manel Perera
2. B. A. Chanaka Perera
3. B. A. Ranmith Perera

All of No. 81, Rosmead Place, Colombo 07.

Appellants-Appellants-Respondents

1. L. H. G. Weerasekara
2. H. M. Prematilake
3. K. C. Kularajadeva

Respondents-Respondents

Before : Mahinda Samayawardhena, J
Menaka Wijesundera, J
M. Sampath K. B. Wijeratne, J

Counsel : Vicum De Abrew, PC, ASG with Nayomi Kahawita, SSC for
the Respondent-Respondent-Appellant.

Manohara de Silva, PC with Ms. Nadeeshani Lankathilleka
instructed by Ms. Anusha Perusinghe for the Appellant-
Appellant-Respondents.

Written
Submissions : Latest written submission filed on behalf of Respondent-
Respondent-Appellant on 06.01.2026.

Latest written submission filed on behalf of Appellant-
Respondent-Respondent on 20.07.2026.

Argued on : 14.05.2026

Decided on : 18.09.2026

MENAKA WIJESUNDERA J.

The instant appeal has been filed to set aside the judgment dated 18.02.2022 of the Court of Appeal.

When this matter was supported for leave, leave was granted on the following questions of law,

- i) *Did the Court of Appeal err in law in considering whether the order of the Board of Review is justifiable or not, rather than right or wrong?*
- ii) *Did the Court of Appeal err in allowing the appeal of the Respondents without analyzing whether there was evidence on record that a sum of Rs.189,000,000 should be paid by the State as compensation for the land acquired?*

- iii) *Did the Court of Appeal err in law and in fact in allowing the appeal of the Respondents without evaluating the evidence on record before the Board of Review?*

The Respondents in the instant matter had made an application before the Land Acquisition Board of Review (hereinafter referred to as the Board), on 11.10.2001, seeking to quash the decision of the Appellant that the compensation due to the Respondents was Rs. 4,000,000 for the land acquired. The Respondents had further claimed that they are in fact due for compensation of up to 300 million rupees, upon considering the valuable trees on the land acquired.

During the Board of Review stage, the Appellants led the evidence of the Chief Valuer attached to the valuation department, who had provided substantial evidence citing past sales of land within the vicinity of the land in question (marked and produced as **R2**), where the compensation paid was similar in amount. They admitted that the value of the trees was not included in the compensation, as they claimed the trees were not of a marketable nature and that there was no clear and approved route to remove them from the land.

The Board of Review on 31.03.2008 delivered an order, affirming the order made under Section 17 by the valuer, Rs. 4,000,000 as compensation for the land acquired, to the Respondents. The Respondents, being aggrieved by the said judgment, had gone to the Court of Appeal. The Court of Appeal delivered the impugned judgment in favour of the Respondents, thereby awarding the compensation prayed for in the Petition. The Instant Appeal has been filed to set aside the said order.

The Appellant has stated in the Petition that grave and irremediable damage is caused as a result of the impugned judgment, and the matters pertaining to the instant matter are of general and public importance and are therefore fit to be reviewed by this Court.

At the time the Appeal was argued before this Court, the main submission made by the Counsel for the Appellant was that Trincowatte was acquired for the purpose of preserving the forest reservation, for the reason that the land in dispute is situated in Pannila, in the Kahawatte Divisional Secretariat within the Ratnapura District and that it is a forest land situated among the mountains, which the Appellant submitted was a densely covered forest area adjoining the Nahitiya Forest Reservation in the Wet Zone. They further submitted that there

was no proper access route to this place; hence, despite it being a lush forest, even if the trees were valuable timber, they could not be easily transported out of the forest.

Therefore, they argue that the market value of the trees is not as much as it would have been if they were in a different location. Therefore, the Appellant submitted that, when valuing the property, they had to consider the above two factors. They had relied upon the documents marked R3, R6 and R7 and had further submitted that, when the Respondents purchased the land in 1990, they had paid Rs. 300 per acre. Since the acquisition took place only approximately a decade thereafter, they submitted that it was implausible that the value of the trees on the property could have increased at such an exponential rate within that period. Having considered the evidence led in relation to these matters, they had concluded that the compensation payable should be fixed at Rs. 4,000,000.

The Respondents, on the other hand, had submitted to the Court of Appeal that when the valuation of the timber was done, the valuer had not given notice to the Respondents to be present at the site and that the Board of Review had not given due consideration to the internal communications of the State Timber Corporation (STC), which had shown interest in buying the trees on the property and had estimated the timber to be at the Price of Rs. 189 million.

The Respondent has further provided another letter stating that the State Timber Corporation had found alternate routes to transport the timber out of the reserve. The learned Court of Appeal Judge had taken note of this and had held in favor of the Respondents, as Her Ladyship had decided under S.55 of the Land Acquisition Act, the presence of the Respondent at a valuation of any land to be acquired is imperative.

Section 55 of the Land Acquisition Act states as follows,

The Chief Valuer of the Government, or any officer authorized by him in that behalf, may-

- a) Examine any such record, document or plan kept at the office of a local authority as relates to any land which is to be acquired under this Act or is comparable with any land which is to be so acquired;*
- b) Inspect any such land after giving written notice of the inspection of the owner or occupier of the land; and*

- c) *Require any person who is or was at any time the owner or occupier of land to render him, on or before the date specified in the requisition (such date not being earlier than the fourteenth day after the date of the requisition) , a return, on such forms as he may supply to that person, setting out particulars in respect of such prescribed matters within the knowledge of that person as may be specified in the form.*

Considering the submissions of both sides, the fundamental basis of the appeal is that the compensation payable to the Respondents should include the value of trees/timber on the land, as it is the accepted practice to include the value of trees, plantations, and constructions in calculating the quantum of compensation payable by the Land Acquisition Board of Review.

The Land Acquisition Board of Review, by its determination dated 31.02.2008, affirmed the award made under Section 17 and upheld the compensation of Rs. 4,000,000 determined by the Chief Valuer. The Board concluded that there was no evidence to support the claim that the land contained timber valued at Rs. 189,000,000.

The Board arrived at this conclusion based on the non-marketable nature of the timber, having regard to the fact that the land is situated adjacent to a forest reserve and that the timber could not therefore be harvested. The Board further observed that there was no proper access road to the land and that, even if the timber were harvested, it could not be transported.

The main contention of the Respondents was that the land acquired was undervalued and that they were not included in the valuation process of the land. The learned Justices of the Court of Appeal also held that the Respondents should have been served with proper notice of the valuation and cited Section 55 of the relevant Act, which is cited above.

According to the section quoted above, the valuer has to give notice to the owners or the claimants of the land to be acquired, and they should provide him or her with all the documentation available which would be necessary for the purpose of valuing the land.

On perusal of the documents placed before this court and the evidence of the Chief Valuation Officer himself, it is clear that the valuer has not followed the procedure established in law with regard to acquiring land and the compensation payable. This is made abundantly clear by the evidence of the Chief Valuation

Officer himself, who, during cross-examination, stated that the procedure followed by the Department did not require notice to be given to the parties whose lands were being acquired regarding the Department's visit to the property for the purpose of assessing the land and the items thereon to determine the amount of compensation payable. He further stated that this was the standard practice followed by the Department.

Therefore, I have no hesitation in agreeing with the learned Justices of the Court of Appeal that there was a violation of the Respondents' rights arising from the failure to give them notice of the inquiry conducted to assess compensation. The rule of Audi Alteram Partem is a cornerstone of natural justice, requiring procedural fairness and the right to be heard. The Land Acquisition Act itself calls for a hearing and notice given to the parties affected by the acquisition of land, and therefore, I am satisfied that there was a violation of the Respondents' rights when it came to following procedure with regard to the assessment of compensation for the land in question.

However, where I fundamentally disagree with the learned Judge of the Court of Appeal is the basis upon which a sum of Rs. 189 million was awarded as compensation. It is abundantly clear from the judgment that the failure to follow the proper procedure was, in itself, considered sufficient to automatically award the compensation claimed by the Respondents, which is absurd and contrary to the facts of the case as well.

The sum of Rs. 189 million claimed by the Respondents was based purely on internal letters of the State Timber Corporation and not on an independent valuation obtained by the Respondents. The Respondents' own valuer, Mr. De Alwis, in his evidence, assessed the value of the land at Rs. 48,871,400/-, which was substantially less than the sum claimed by the Respondents. Although, in my opinion, Mr. De Alwis had not provided any concrete factual basis or evidence to substantiate the manner in which he arrived at that valuation, his assessment nevertheless demonstrates that the sum of Rs. 189 million claimed by the Respondents was not a realistic valuation of the land.

Furthermore, during the cross-examination of the Deputy Secretary of the State Timber Corporation, Mr. Leslie Gunaratne, at the stage of the Board of Review proceedings, he conceded that the State Timber Corporation had still been unable to obtain the necessary approval from the Divisional Secretariat to fell and transport the trees. This, in my view, renders baseless the internal valuation contained in the relevant letters, as well as the representations made therein

regarding the felling of the trees and the availability of a route to transport the trees out of the reserve, thereby further strengthening the position of the Appellant. Further, the Appellants also made a very valid claim which was brought to light by the Chief Valuer, Mr. Wijerathne, with regard to the fact that the Respondents only acquired the land a decade prior to the acquisition and had only paid Rs. 300 per acre, and it makes absolutely no sense for the value of the land to rise at such an exponential rate during that time period.

Therefore, it is my considered opinion that the Respondents had no factual or evidence-based basis to substantiate their claim that the property and the trees thereon were valued at Rs. 189 million. Apart from the internal letters of the State Timber Corporation, no evidence, such as records of timber sales or any other material demonstrating the value of the trees or any other assets on the land, was produced in support of that claim. This position is further undermined by the fact that the Respondents' own valuer assessed the value of the land at approximately Rs. 48 million, although that valuation too was unsupported by any independent or concrete evidence. While the Appellants erred in failing to follow the proper procedure and thereby violated the Respondents' rights, their valuation was nevertheless supported by evidence.

As such, I agree with the judgment of the Court of Appeal; however, I am not able to agree on the compensation awarded. Therefore, I am of the opinion that, although compensation for the violation of the Respondents' rights arising from a breach of natural justice, particularly the Audi Alteram Partem rule, is warranted, the compensation claimed by the Respondents cannot be awarded in the absence of a proper factual and evidentiary basis.

A procedural error should not, by itself, result in the automatic award of the sum claimed by the party alleging the infringement. To do so would risk setting a dangerous precedent whereby compensation is awarded merely on the basis of the amount claimed, without such claim being substantiated by evidence. There should be a balance struck between the injured party's rights violation and computation of compensation for violation of such rights. In my opinion, the compensation of Rs. 4 million awarded by the Chief Valuer in respect of the acquisition of the land, and subsequently affirmed by the Board of Review, is just and reasonable.

In answering the questions of law stated above, the first is answered as irrelevant, the second and the third are answered in the negative. As such, the

impugned judgment of the Court of Appeal dated 18.02.2022 is affirmed, subject to the variation that the compensation payable shall be Rs. 4 million.

JUDGE OF THE SUPREME COURT

Mahinda Samayawardhena, J.

I agree.

JUDGE OF THE SUPREME COURT

M. Sampath K. B. Wijeratne, J.

I agree.

JUDGE OF THE SUPREME COURT