

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 of the Democratic
Socialist Republic of Sri Lanka in terms of Article
128(2) of the Constitution.*

Anoma Nilmini Senarathna
No. 08B,
3rd Mawatha,
Ampara.

SC Appeal No. 185/2025

S.C. S.P.L. (LA) 68/2024

CA/WRIT/0391/2020

PETITIONER

Vs.

1. M. G. Loku Hamine alias K. Karunapali
Siwmini Se' Viharaya,
Ampara Nawagampura,
08th Mawatha,
Nawagampura,
Ampara.
2. D. M. L. Bandaranayake
District Secretary,
District Secretariat,
Ampara.
3. R. M. C. M. Herath
Commissioner General of Lands,
Land Commissioner General's
Department
"Mihikatha Medura"
Land Secretariat,
No. 1200/6,
Rajamalwatta Road,
Battaramulla.

4. Thakshila Gunarathna
Deputy Commissioner General of Land,
Ampara
Deputy Land Commissioner's Office
District Secretariat,
Ampara.
5. H. S. N. De Soyza Siriwardana
Divisional Secretary of Ampara,
Divisional Secretariat,
Dammaraathana Road,
Indrasarapura,
Ampara.
6. R. A. A. K. Ranawake
Secretary to the Ministry of Lands and
Land Development
Land Commissioner General's
Department
"Mihikatha Medura"
Land Secretariat
No. 1200/6,
Rajamalwatta Road,
Battaramulla.
7. S. M. Chandrasena
Minister of Lands and Land
Development
Land Commissioner General's
Department
"Mihikatha Medura",
Land Secretariat,
No. 1200/6,
Rajamalwatta Road,
Battaramulla.

RESPONDENTS

AND NOW BETWEEN

Anoma Nilmini Senarathna
No. 08B,
3rd Mawatha,
Ampara.

PETITIONER-APPELLANT

Vs.

1. M. G. Loku Hamine alias K. Karunapali
Siwmini Se' Viharaya
Ampara Nawagampura,
08th Mawatha,
Nawagampura,
Ampara.
2. D. M. L. Bandaranayake
District Secretary,
District Secretariat,
Ampara.
- 2A. Chinthaka Abeywickrama
District Secretary,
District Secretariat,
Ampara.
3. R. M. C. M. Herath
Commissioner General of Lands,
Land Commissioner General's
Department
"Mihikatha Medura"
Land Secretariat,
No. 1200/6,
Rajamalwatta Road,

Battaramulla.

- 3A. Bandula Jayasinghe
Commissioner General of Lands,
Land Commissioner General's
Department
"Mihikatha Medura"
Land Secretariat,
No. 1200/6,
Rajamalwatta Road,
Battaramulla.
- 3B. Chandana Ranaweera Arachchi
Commissioner General of Lands,
Land Commissioner General's
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Land Secretariat
No. 1200/6,
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4. Thakshila Gunarathna
Deputy Commissioner General of Land,
Ampara
Deputy Land Commissioner's Office
District Secretariat,
Ampara.
- 4A. Mrs. A. L. I. Banu
Deputy Commissioner General of Land,
Ampara,
Deputy Land Commissioner's Office
District Secretariat,
Ampara.
5. H. S. N. De Soyza Siriwardana
Divisional Secretary of Ampara,
Divisional Secretariat,

Dammarathana Road,
Indrasarapura,
Ampara.

5A. Indika Anuruddha
Divisional Secretary of Ampara,
Divisional Secretariat
Dammarathana Road,
Indrasarapura,
Ampara.

5B. Sadaruwan Anuruddha
Divisional Secretary of Ampara,
Divisional Secretariat
Dammarathana Road,
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6. R. A. A. K. Ranawake
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6A. H. M. B. P. Herath
Secretary to the Ministry of Lands and
Land Development
Land Commissioner General's
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6B.D. P. Wickramasinghe

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7. S. M. Chandrasena

Minister of Lands and Land
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Land Commissioner General's
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7A. Harin Fernando

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7B.K. D. Lalkantha

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Land Commissioner General's
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Land Secretariat
No. 1200/6,
Rajamalwatta Road,
Battaramulla.

RESPONDENTS-RESPONDENTS

BEFORE : **P. PADMAN SURASENA, CJ.**
A. L. SHIRAN GOONERATNE, J.
K. M. G. H. KULATUNGA, J.

COUNSEL : Manohara de Silva with Boopathy Kahathuduwa instructed by
Lilanthi Silva for the Petitioner-Appellant.

K.G. Jinasena with Dulari Kahawaththa, Udyomi Kariyawasam
and Imalika Dissanayake instructed by Buddhika Serasinghe
for the 1st Respondent-Respondent.

Navodi De Soysa, SC for the 2nd to 7th Respondent-
Respondents.

ARGUED &
DECIDED ON : 05-05-2026

P. PADMAN SURASENA, CJ.

Court heard the submissions of the learned President's Counsel for the Petitioner-Appellant, the submissions of the learned Counsel for the 1st Respondent-Respondent and the submissions of the learned State Counsel and then concluded the argument of this case.

In this case, the Petitioner-Appellant has filed a Writ Application in the Court of Appeal praying inter-alia for:

- a) a mandate in the nature of a Writ of Certiorari against the 3rd Respondent to quash the decisions contained in the document marked **P-34** to allow the 1st Respondent-Respondent to continue with her lease and not to grant a lease to the Petitioner-Appellant with regard to the land referred to in the petition;
- b) a mandate in the nature of a Writ of Certiorari against the 5th Respondent-Respondent to quash the decision contained in the document marked **P-35**;
- c) a mandate in the nature of a Writ of Certiorari against the 7th Respondent-Respondent to quash the decision contained in the document marked **P-36** more fully, the decision to conduct a fresh inquiry;
- d) a mandate in the nature of a Writ of Certiorari against the 1st to 7th Respondent-Respondent and/or anyone or more of them to quash any decision or action taken by anyone or more of them consequent to **P-34**, **P-35** to give effect to the granting of a long-term lease to the 1st Respondent-Respondent;
- e) a mandate in the nature of a Writ of Mandamus directing the 1st and/or 2nd and/or 3rd and/or 4th and/or 5th and/or 6th and/or 7th Respondent-Respondent and/or anyone or more of them to issue a long-term lease to the Petitioner-Appellant;
- f) a Mandate in the nature of a Writ of Mandamus to direct the 2nd and/or 3rd and/or 4th and/or 5th and/or 6th and/or 7th Respondent-Respondent and/or anyone or more of them to implement and/or carry out the decision contained in the document marked **P-15**;
- g) a Mandate in the nature of a writ of Mandamus to direct the 2nd and/or 3rd and/or 4th and/or 5th and/or 6th and/or 7th Respondent-Respondent or anyone or more of them to implement the decision of the 'Land Kachcheri' as contained in **P-18 (a)** and **P-18 (b)** and to grant a lease and/or permit and/or grant to the Petitioner-Appellant;

- h) a Mandate in the nature of a Writ of Prohibition against the 2nd and/or 3rd and/or 4th and/or 5th and/or 6th and/or 7th Respondent-Respondent to prohibit them from granting a lease and/or license and/or grant and/or permit to the 1st Respondent-Respondent or any other person other than the Petitioner-Appellant with regard to the subject matter of this case;
- i) In the event a lease or any other disposition of property has been granted in favour of the 1st Respondent-Respondent with regard to the subject matter of this case, then, a Mandate in the nature of a Writ of Prohibition against the 1st and/or 2nd and/or 3rd and/or 4th and/or 5th and/or 6th and/or 7th Respondent-Respondent to prohibit them from alienating and/or handing over the property and/or dealing with the property in any other way in favour of any 3rd Party other than the Petitioner-Appellant;

Upon the said Writ Application being supported, the Court of Appeal by its Order dated 22-03-2021, being satisfied that there is a matter to be looked into, has decided to issue formal notices on the Respondent-Respondents.

When this case came up before the Court of Appeal on 13-12-2023, the learned State Counsel appearing for all the Respondents other than the 1st Respondent, had informed Court that the State did not have any objections for the granting of relief as prayed for, in the prayers in the Petition in favour of the Petitioner-Appellant. The learned State Counsel has also proceeded to inform Court that on the said basis, she would not take steps to file any Statement of Objections in the case. Upon that submission being made, all parties had agreed that the Court of Appeal could dispose the case, after considering the written submissions. Moreover, the learned State Counsel has informed Court on the same day that "in view of the fact that the Petitioner has been nominated in the 'Land Kachcheri' and that the permit issued to the deceased spouse of the 1st Respondent has lapsed, the State does not wish to contest the case of the Petitioner." Accordingly, the Court of Appeal has fixed the case for the pronouncement of the judgment. Thereafter, the Court of Appeal delivering its judgment dated 20-02-2024, for the reasons set out

therein, has proceeded to dismiss the Petitioner-Appellant's Application primarily on the basis that the documents marked **P-34**, **P-35** and **P-36** are not illegal and/or arbitrary. It is to be noted that these three documents are the documents which the Petitioner-Appellant sought to quash in this case before the Court of Appeal.

The documents produced by the Petitioner-Appellant marked **P-1**, **P-2** and **P-3** clearly show that the land relevant to this case was to be allocated to R. M. P. Piyadasa Costa who is the husband of the 1st Respondent (M.G. Lokuhamine); this was during the period somewhere in 1995. **P-2** bears the date 08-11-1995.

The Land Commissioner has decided to allocate this block of land to said R. M. P. Piyadasa to be used only for commercial purposes. This is mentioned in the document marked **P-5**. The said document, i.e., the document marked **P-5** also shows that said R. M. P. Piyadasa has passed away on 19-04-2010 and thereafter the 1st Respondent-Respondent being the wife of said R. M. P. Piyadasa has made an application to obtain a long-term-lease in respect of the same block of land. In the same document the 1st Respondent-Respondent has also stated that all her children also have consented for the issuance of the afore-said long-term lease in her favour.

The affidavits marked **P-8**, **P-9** and **P-10** are affidavits affirmed by three children of the 1st Respondent-Respondent who have specifically given their consent for this block of land to be allocated to the 1st Respondent-Respondent.

Thereafter, the 1st Respondent-Respondent has entered into an agreement with the Petitioner-Appellant. This is the Agreement produced by the Petitioner marked **P-7**. According to this Agreement, the 1st Respondent-Respondent has undertaken to do everything possible to get this land allocated in the name of the Petitioner for a consideration of Rs. 19 million. In particular, the 1st Respondent-Respondent has undertaken in Clause 7 of the Agreement, to assist in every way, to get the possession of the Petitioner-Appellant legalized in accordance with law, before the Divisional

Secretary of Ampara. Most importantly, the 1st Respondent-Respondent does not deny this Agreement.

There is another important observation we have made. That is the fact that the 1st Respondent has not produced any affidavit in this case. The affidavit filed on behalf of the 1st Respondent-Respondent has been presented to the Court of Appeal as an affidavit by one Attorney-at-law who appears to have relied on a Special Power of Attorney No. 635 marked **P-37**. Admittedly, the said Special Power of Attorney holder Rajamanthri Manamendra Patabendige Keerthi Nilakshana is a son of the 1st Respondent-Respondent. This Special Power of Attorney holder himself has also given an affidavit (**P-10**) expressing his consent for his mother's interest in this land to be transferred to the 1st Respondent-Respondent. We also observe that the said Special Power of Attorney holder has also stood as a witness (the 2nd Witness) to the Agreement marked **P-7**. In the affidavit dated 06-12-2021 filed by the said Special Power of Attorney holder, he also has not denied this Agreement marked **P-7**.

The document dated 25-10-2011 produced by the 1st Respondent-Respondent marked **1R-(2)** clearly shows that the Land Commissioner has made a specific decision to allocate this land to the 1st Respondent-Respondent to be used exclusively for commercial purposes. While there are several other conditions also in the document marked **1R-(2)**, one such condition is to develop this land in that way to the satisfaction of the Divisional Secretary.

Thereafter, the 1st Respondent-Respondent has taken steps to handover the possession of the land to the Petitioner-Appellant in accordance with the Agreement (**P-7**) she has entered into, with the 1st Respondent-Respondent.

Subsequent to the above, the Petitioner-Appellant has taken steps to have the water supply connection and the electricity connection transferred in her name. This is evident by the documents marked **P-12**, **P-13 (a)**, **P-13 (b)**, **P-14 (a)** and **P-14 (b)**.

It is to be noted that the 1st Respondent-Respondent later on, at one point of time, has taken to the robes. This is evident from her name in the Caption of the Petition as she has also been identified as K. Karunapali. This is also evident from the Special Power of Attorney **P-37**.

It appears that the pursuant to the above Agreement between the Petitioner and the 1st Respondent-Respondent, the Land Commissioner General's Department has been moved to have the earlier decision to give this land on lease to the 1st Respondent-Respondent cancelled and to take steps to issue a lease in the name of the Petitioner-Appellant. This decision is reflected in the Letter dated 01-02-2013 produced by the Petitioner marked **P-15**. Pursuant to the said decision, the Divisional Secretariat of Ampara has held a 'Land Kachcheri'. The notice of this 'Land Kachcheri' is **P-17** dated 28-10-2013. Twenty one persons were selected subsequent to holding this 'Land Kachcheri'. Their names appear in the document marked **P-18 (b)**. The 6th person in the list is the Petitioner-Appellant. The documents show that the Petitioner-Appellant has thereafter proceeded to construct a permanent building on this land and has started engaging in business thereby using the land for commercial purpose. This is reflected in the Letter dated 18-07-2017 marked **P-26**. The Land Commissioner has made a decision to cancel the earlier decision to give this land on lease to the 1st Respondent-Respondent and execute a lease in the name of the Petitioner-Appellant. These are reflected in the documents marked **P-26** and **P-28**.

Thereafter, the Land Commissioner by the letter dated 16-09-2020 marked **P-34**, has suddenly taken a deferent turn. In the said letter (**P-34**) the Land Commissioner appears to be taking up a position that the decision to lease out this land to the Petitioner-Appellant is illegal. This is the complete opposite of the previous decision. The land Commissioner in the same Letter has also proposed to regularize and continue the earlier decision to give this land on lease to the 1st Respondent-Respondent. The fallacy of this decision is clearly discernible from the same Letter. That is because the last paragraph (paragraph 06) of the said Letter. That paragraph is reproduced below:

“එසේම අනෙක් පාර්ශවය වන අනෝමා නිල්මිණි සේනාරත්න යන අය විධිමත්ව පවත්වන ලද ඉඩම් කඩවේරියකින් තොරාගෙන ඇත්නම් එම අයට විකල්ප ඉඩමක් ලබාදීමට සලකා බැලීම සුදුසු බවද කාරුණිකව දන්වමි.”

We observe that the decision in paragraph 06 of the said Letter and the decision in paragraph 04 thereof cannot co-exist.

The letter marked **P-36** is a short letter and hence is re-produced below.

“02. සිතියම් අංක 280007හි කැබලි අංක 681 දරණ ඉඩම සම්බන්ධයෙන් හටගෙන ඇති ආරවුල පිළිබඳව ගරු ඇමතිතුමාගේ උපදෙස් පරිදි පරීක්ෂණයක් සිදු කිරීමට නියමිතව ඇති බැවින් එම පරීක්ෂණය සිදු කර අවසන් වන තුරු මෙම ඉඩම සම්බන්ධයෙන් ඉදිරි කටයුතු සිදු කිරීම නාවකාලිකව අත්හිටුවන මෙන් කාරුණිකව දන්වා සිටිමි.”

Thus, the above letter reveals the involvement of the Minister in this decision.

As opposed to the case presented by the Petitioner-Appellant in the Court of Appeal, we observe that there is no counter case advanced before Court by the 1st Respondent-Respondent. This is primarily because of two reasons. Firstly, the first Respondent-Respondent has not filed an acceptable affidavit to counter the positions taken by the Petitioner-Appellant. Secondly, the 1st Respondent-Respondent has to be prevented from taking up the position he is said to have taken in the affidavit filed by the Special Power of Attorney holder as neither the 1st Respondent-Respondent nor her Special Power of Attorney holder has denied the decision and action taken as per the Agreement marked **P-7**. Therefore, we are of the view that the Petitioner-Appellant has clearly made out a case before the Court of Appeal. We are also of the view that the Court of Appeal should have granted the reliefs as prayed for, in favour of the Petitioner-Appellant. Indeed this has been the consistent position of all the Respondents other than the 1st Respondent-Respondent throughout the case. The said position has been specifically stated to Court by the learned State Counsel.

Upon the Special Leave to Appeal Application being supported, this Court by its order dated 23-09-2025 has decided to grant Special Leave to Appeal on the following two questions:

1. Has the Court of Appeal erred in holding that the recommendation of the 'Land Kachcheri' is illegal?
2. Has the Court of Appeal misdirected itself in holding that the Lease Agreement in favour of the 1st Respondent has not been revoked and therefore the Petitioner was not entitled to relief?

We have perused the judgment pronounced by the Court of Appeal. The Court of Appeal in the said judgment has held as follows:

"Having scrutinised the documents marked P-34, P-35 and P-36, it is abundantly clear that these documents are in accordance with the provisions of the said Ordinance and are not illegal and/or arbitrary. Therefore, the aforementioned documents are not liable to be quashed."

However, we are unable to find any acceptable basis upon which the Court of Appeal would have come to the above finding. Having regard to the facts and circumstances of this case, which we have already adverted to above, we take the view that it is unreasonable and unjustifiable for the Court of Appeal to have come to that conclusion. The earlier line of decisions taken by the Land Commissioner was to give this land on a lease to the Petitioner-Appellant. From the material produced before Court, no reason or justification is discernible for the sudden subsequent change of the said decision to abandon the move to give this land on a lease to the Petitioner-Appellant. Thus, the said decision to abandon the move to give this land on a lease to the Petitioner-Appellant would be an arbitrary decision. The said decision is without justification. For the above reasons, we decide to answer both questions of law in the affirmative. Therefore, we proceed to set aside the judgment dated 20-02-2024 pronounced by the Court of Appeal.

We decide to issue the following Writs:

- (i) a mandate in the nature of Writ of Certiorari to quash the decision contained in the document marked **P-34** to allow the 1st Respondent-Respondent to continue with her lease and not to grant a lease to the Petitioner-Appellant in respect of the relevant land;
- (ii) a mandate in the nature of a Writ of Certiorari to quash the decision contained in the document marked **P-35**;
- (iii) a mandate in the nature of a Writ of Certiorari to quash the decision contained in the document marked **P-36**;
- (iv) a mandate in the nature of a Writ of mandamus directing the first and/or second and / or third and /or fourth and /or fifth and /or sixth and /or seventh Respondents to regularize the possession of the Petitioner-Appellant of the relevant land as per the decision held subsequent to the 'Land Kachcheri' as per the documents **P-17**, **P-18(a)**, **P-18 (b)** and **P-28**.

Appeal is allowed.

CHIEF JUSTICE

A. L. SHIRAN GOONERATNE, J.

I agree.

JUDGE OF THE SUPREME COURT

K. M. G. H. KULATUNGA, J.

I agree.

JUDGE OF THE SUPREME COURT