

**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.*

SC/APPEAL/72/2024
SC/SPL/LA/136/2020
CA/WRIT/106/2012

1. S.S.A.U.S.AC. Udayar
No. G13,
Getaberiya, Aranayake.
2. S.S.A.U.S. Razik Udayar
No. G13,
Getaberiya, Aranayake.

PETITIONERS

Vs.

1. Mohamed Subair Mohamed Kiyas
Marikkar
No. 325, Dippitiya,
Aranayake.
2. People's Bank
No. 75,
Sir Chittampalam A. Gardiner Mawatha,
Colombo 02.
3. Inquiry Officer/Senior Legal Officer
Land Redemption Department,
People's Bank,
No. 220, Deans Road,
Colombo 10.

RESPONDENTS

AND NOW BETWEEN

1. S.S.A.U.S.AC. Udayar
No. G13,
Getaberiya, Aranayake.
2. S.S.A.U.S. Razik Udayar
No. G13,
Getaberiya, Aranayake.

PETITIONERS-APPELLANTS

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Land Redemption Department,
People's Bank,
No. 220, Deans Road,
Colombo 10.

RESPONDENTS-RESPONDENTS

Before: Mahinda Samayawardhena J.

Dr Sobhitha Rajakaruna J.

M. Sampath K.B. Wijeratne J.

Counsel: Mahanama De Silva with Saradi Kamalathunga for the Petitioners-Appellants.

Dr. Sunil Abeyratne with Buddhika Alagiyawanna for the 2nd and 3rd Respondents-Respondents.

Priyantha Gamage for the 1st Respondent-Respondent.

Written Submissions: Petitioners- Appellants – 13 September 2024, 14 October 2025

1st Respondent-Respondent – 15 August 2024, 08 October 2025

Argued on: 12 September 2025

Decided on: 11 May 2026

Dr Sobhitha Rajakaruna J.

The instant Application was taken up for hearing together with the case bearing No. SC/Appeal/71/2024 filed by the Petitioners-Appellants (“Appellants”) of this case.

The 1st Respondent-Respondent (‘1st Respondent’) made an application to the 2nd Respondent-Respondent, the People’s Bank, under the provisions of the Finance Act, No. 11 of 1963, for the redemption of the land described therein as *Mahalindawatte*. The 3rd Respondent-Respondent (“3rd Respondent”) was appointed by the said 2nd Respondent to conduct an inquiry into the said application. The Appellants sought a writ of certiorari in the Court of Appeal to quash the order marked ‘Y4’ delivered by the 3rd Respondent, contending that the said order is null and void and of no force or avail in law.

The 2nd and 3rd Respondents raised several preliminary objections in the Court of Appeal and moved for the dismissal of the said application in limine. The Court of Appeal considered, inter alia, the following objections:

1. that the application is futile, inasmuch as the relief sought does not finally adjudicate the rights of the Petitioners nor dispose of the matter relating to the redemption of the subject property;
2. that the writ of certiorari is sought not against a determination but merely against a recommendation, which is not amenable to Judicial Review;
3. that the Petitioners have failed to implead the necessary parties required for the adjudication of the reliefs sought.

By its Order dated 22 June 2020, the Court of Appeal upheld the preliminary objection based on futility, holding that the application was unsustainable in law since the Appellants had failed to challenge the determination made by the Board of Directors of the People's Bank, which would remain operative even if the impugned order of the 3rd Respondent were to be quashed. However, the Court of Appeal rejected the contention that the recommendation of the 3rd Respondent was not amenable to Judicial Review. Further, no specific order has been made on the objection relating to the necessary parties.

Being aggrieved by the said Order, the Appellants sought and obtained Special Leave to Appeal to this Court on the following Question of Law:

“Has the Court of Appeal erred in law in holding that the application of the Petitioners is futile since they have failed to challenge the determination made by the Board of Directors of the 2nd Respondent?”

At the hearing before this Court, it was evident that the preliminary objections raised in the instant Case are materially identical to those raised and determined in SC/Appeal/71/2024 (SC Minutes of 11 May 2026), which was heard together with this matter. In that case, this Court undertook a comprehensive analysis of the doctrine of futility in Judicial Review, emphasising that relief may be refused where it would serve no practical purpose or confer no meaningful benefit upon the applicant. The Court further underscored the necessity of

maintaining a proper balance between judicial abdication and judicial usurpation when exercising discretionary jurisdiction.

This Court in the said SC/Appeal/71/2024 held that where the impugned relief, even if granted, would not disturb the underlying operative decision or effectively resolve the dispute between the parties, such relief would be futile. It was observed that the burden rests on the Appellant to demonstrate that the relief sought would yield a tangible and enforceable benefit. On the facts of that case, it was concluded that the failure to challenge the determination of the Board of Directors of the 2nd Respondent - People's Bank rendered the application incapable of producing any meaningful result, thereby justifying its dismissal on the ground of futility.

Further, this Court clarified that, in modern administrative law, the failure to implead individual members of a Board does not necessarily constitute a fatal defect, provided that the relevant juristic entity is before the Court and no prejudice is caused. Accordingly, the objection based on non-joinder of necessary parties was rejected.

Having regard to the fact that the issues arising in the instant Application are indistinguishable in all material respects from those considered in SC/Appeal/71/2024, I am of the view that the reasoning and dicta set out therein should be adopted in the instant case. Accordingly, the principles governing futility in Judicial Review, as well as the conclusions reached in relation thereto, apply with equal force to this Appeal.

In the circumstances, it is clear that the relief sought by the Appellants in the Court of Appeal, even if granted, would not have altered the operative determination of the Board of Directors of the 2nd Respondent Bank. Consequently, such relief would not have produced any meaningful or effective outcome. The Court of Appeal was therefore correct in holding that the application is futile. Moreover, the said ultimate conclusion remains unchanged notwithstanding the objection on the necessary parties as the Appellants' application before the Court of Appeal is untenable on the ground of futility, as previously discussed.

For these reasons, adopting the dicta and findings in SC/Appeal/71/2024 *mutatis mutandis*,

the aforesaid Question of Law is answered in the negative, in favour of the Respondents-Respondents. The Appeal is accordingly dismissed to the extent mentioned above.

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