

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

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

SC/ FRA/272/2024

1. Ekanayakage Chamara Sudharshana
Ekanayaka
2. Rajaguru Mudiyansele Sinesha Rajaguru

Both at

No. 5/4, Southern Circular Road,
Kurunegala

presently at

Plot 999A, Danmole Street, Off Idejo,
Adeola Odeku, Victoria Island,
Lagos,
Nigeria.

Appearing through their Power of Attorney
holder

Rajaguru Mudiyansele Dharmatissa Herath
No, 5/4, Southern Circular Road,
Kurunegala.

PETITIONERS

Vs.

1. Urban Development Authority
6th, 7th and 9th Floors
Sethsiripaya, Battaramulla
2. Mr. Mahinda Withanaarachchi
Director General
Urban Development Authority,
6th, 7th and 9th Floors,
Sethsiripaya, Battaramulla

3. Mrs. Priyanthi Nawarathna
Director (North Western Province)
Urban Development Authority,
Office of North Western Province,
No 310 D, Negombo Road,
Kurunegala.
4. Mr. R M J B Rathnayaka
Deputy Director (Planning)
Urban Development Authority,
Office of North Western Province,
No 310 D, Negombo Road,
Kurunegala.
5. Hon. Attorney General
Attorney General's Department
Colombo 12.

RESPONDENTS

Before: Janak De Silva, J
Dr Sobhitha Rajakaruna, J
Sampath K.B. Wijeratne, J

Counsel: Sapumal Bandara with Vishmi Yapa Abeywardena for the Petitioner.
Navodi De Zoysa, SC for all Respondents

Written Submissions: Petitioners – 16 December 2025, 23 March 2026.

Argued on: 29 January 2026

Decided on: 01 June 2026

Dr Sobhitha Rajakaruna, J

The Petitioner, while seeking a declaration that his fundamental rights guaranteed under Articles 12(1) and 14(1)(h) of the Constitution have been infringed, prays for an order quashing the decisions of the Urban Development Authority (UDA) reflected in letters dated 22 September 2022 ('P11'), 02 December 2022 ('P12b'), 27 September 2023 ('P13'),

and 06 September 2024 ('P19b'). However, this Court granted leave to proceed with the instant Application only in respect of the alleged infringement of Article 12(1) of the Constitution.

Summary of the Petitioner's Case

The Petitioner states that he made an application to the Department of Agrarian Development under Sections 32(1), 33(1) and 34(1) of the Agrarian Development Act No. 46 of 2000, seeking permission to use the paddy land owned by him for a non-agricultural purpose. The Petitioner's intention was to construct his residence on pillars without filling the paddy land or obstructing its water retention capacity. He asserts that a plan was prepared for the construction of the house on pillars without causing any disturbance to the environment.

The Petitioner further contends that although the land was originally paddy land, it has since become barren and is no longer suitable for paddy cultivation.

Upon receipt of the Petitioner's application, the Assistant Commissioner of the Department of Agrarian Development, Kurunegala, called for observations from the Central Environmental Authority (CEA), the Provincial Department of Agriculture, Kurunegala, the Municipal Council of Kurunegala, and the Sri Lanka Land Development Corporation (SLLDC).

The Petitioner submits that several competent authorities, including the Assistant Director of Agriculture, Kurunegala, the Municipal Council of Kurunegala, and the CEA, have determined that the subject land is unsuitable for paddy cultivation and that the proposed construction on pillars, without filling the land, would not adversely affect water retention capacity. Acting on the recommendations of these authorities, the Petitioner submitted the necessary applications, plans, and payments to the UDA.

The Petitioner complains that despite the above, the Respondents repeatedly rejected his applications and appeals solely on the ground that the land falls within an Agricultural and Water Retention Zone under the Kurunegala Town Development Plan, without giving due consideration to the fact that the proposed construction would not involve filling the land and would not obstruct flood retention capacity. He further submits that the impugned decisions are inconsistent with Chapter 8.11 of the Kurunegala Town

Development Plan 2021–2030, which permits innovative constructions and special projects that preserve flood retention capacity and comply with green building concepts, subject to institutional recommendations.

The Petitioner also contends that the 3rd Respondent’s reliance on the suspension of Circular 07/2018 (‘R1’) is misconceived, as the competent authorities had already determined that the land was unsuitable for paddy cultivation. He maintains that the persistent refusal to grant approval, despite favourable findings and recommendations by expert authorities, is arbitrary, unreasonable, and constitutes a continuing infringement of his fundamental rights.

The Petitioner further relies on documents marked ‘X1’, ‘X2’, and ‘X4’ to show that adjoining blocks of land have been permitted to be filled, and relies on the letter dated 29 September 2020 (‘P6’) issued by the Deputy Director of Agriculture, which states that the subject land is not suitable for paddy cultivation.

The Position of the Respondents

The Director General (covering) of the UDA, in his affidavit, states that Circular No. 07/2018 dated 27 April 2018 (‘R1’), issued by the Commissioner General of Agrarian Services, prescribed the procedure for granting approval for the use of paddy lands for purposes other than paddy cultivation. He further states that the operation of the said Circular was suspended with effect from 8 March 2023, and that this suspension was communicated to all relevant officers by letter dated 8 March 2023 (‘R2’).

The Director General states that upon receipt of the Petitioner’s application, the Assistant Commissioner of the Department of Agrarian Development, Kurunegala, sought observations from several State authorities, including the UDA. The Petitioner’s request was thereafter placed before the District Planning Committee of the UDA. At the said meeting, it was observed that the Petitioner’s land falls within an Agricultural Land and Wetland Agricultural Zone as per Chapter 8.1.1 of the Kurunegala Development Plan 2021–2030, and that lands in such zones can be utilised only for the purposes specified therein. The area had also been identified as a low-lying, water-retention area.

Accordingly, the District Planning Committee, at its meeting held on 14 September 2022, decided ('R3') not to grant approval for the Petitioner's request. The relevant extracts of the Kurunegala Development Plan 2021–2030 ('R4'), a Google Map image showing the location of the land ('R5'), and photographs of the land ('R6') have been annexed to the affidavit. The Petitioner's subsequent appeal was also rejected by letters marked 'P13' and 'P14'.

The Respondents submit that the Petitioner has failed to establish any violation of his fundamental rights under Article 12(1) or 14(1)(h) of the Constitution and that the application is misconceived in law.

Analysis and the Findings

The Petitioners contend that they are entitled to obtain permission to construct their house, in view of the fact that the Deputy Director of Agriculture, by letter dated 29 September 2020 ('P6'), has declared that the subject land is not suitable to be properly maintained for paddy cultivation. The other principal argument advanced by the Petitioners is founded upon the letter dated 08 March 2023 ('R2'), addressed by the Commissioner General of Agrarian Development to all Deputy and Assistant Commissioners in charge of the respective Districts. Referring to the contents of the said letter, the Petitioners contend that "R2" applies only to new applications, and that the Department of Agrarian Development remains bound to entertain applications, such as that of the Petitioners, which had been received prior to the decision reflected therein.

In considering the aforesaid contention of the Petitioners, it is necessary to examine the underlying essence of the letter marked "R2". The said communication expressly states that, pursuant to the decision of the Parliamentary Consultative Committee on Agriculture held on 07 March 2023, the process of granting permission to utilise paddy lands for purposes other than paddy cultivation was suspended with immediate effect. The operative part of the said letter further directs that no new applications for permission to use paddy lands for alternative purposes should be issued until further notice.

The contents of the said letter marked “R2” can be translated to English as below:

“As per the decision of the Parliamentary Consultative Committee on Agriculture held on 07 March 2023, you are informed that the process of granting permission to use paddy lands for purposes other than paddy cultivation is temporarily suspended with immediate effect. Accordingly, from the date of this letter, no new applications for permission to use paddy land for other purposes will be issued until further notice and further your subordinate officers as well as external applicants should be kept informed about this”.

The Petitioners seek to place a narrow interpretation upon the expression “new applications” and contend that applications submitted prior to 08 March 2023 continue to remain capable of being processed and approved notwithstanding the suspension reflected in “R2”. I am unable to accept this contention. In my view, the direction contained in “R2” must be construed in light of the underlying decision to suspend, with immediate effect, the entire process of granting approval for the use of paddy lands for non-agricultural purposes. The mere reference to “new applications” cannot be interpreted to mean that applications already submitted prior to the issuance of “R2” were exempted from the operation of the said suspension.

If such an interpretation were to be accepted, it would defeat the very purpose of the decision taken by the Parliamentary Consultative Committee on Agriculture and communicated through ‘R2’. No material has been placed before this Court to demonstrate that any saving provision or exception was made in respect of pending applications. In the absence of any express provision preserving applications already submitted, this Court cannot infer that such applications remained entitled to consideration notwithstanding the suspension of the approval process itself.

Furthermore, the fact that the Deputy Director of Agriculture had, by letter marked “P6”, expressed the view that the subject land was not suitable for paddy cultivation does not, by itself, confer upon the Petitioners a vested right to obtain approval for the proposed construction. The grant of such approval remains subject to the applicable statutory and regulatory framework, including the planning and environmental considerations identified by the relevant authorities.

In the circumstances, I find no basis to interfere with the decision of the Respondents refusing to grant approval for the Petitioners’ request. Accordingly, I hold that the

Respondents have not violated the fundamental rights of the Petitioners as alleged by the Petitioners. Thus, I proceed to dismiss the instant Application.

Judge of the Supreme Court

Janak De Silva, J

I agree.

Judge of the Supreme Court

Sampath K.B. Wijeratne, J.

I agree.

Judge of the Supreme Court