

IN THE COURT OF APPEAL OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF SRI LANKA

Sigiriya Village Hotels PLC,
No.53-1/1, Sir Baron Jayatilaka
Mawatha,
Colombo 01.
Petitioner

CASE NO: CA/WRIT/434/2016

Vs.

1. W.S.K. Pathirathne,
Director General,
Department of Wildlife
Conservation,
No.811A, Jayanthipura,
Battaramulla.
2. W.M.L.K. Vasala,
Assistant Wildlife Officer,
Department of Wildlife
Conservation,
Sigiriya-bittu Office,
Pekkulama.

3. Sri Lanka Tourism,
Development Authority,
No.80, Galle Road,
Colombo 03.
4. H.P.P.A. Hewapathirana,
Divisional Secretary Dambulla,
Divisional Secretariat,
Dambulla.
5. D.P.G. Kumarasiri,
District Secretary Matale,
District Secretariat,
Matale.

Respondents

Before: Mahinda Samayawardhena, J.
Arjuna Obeyesekere, J.

Counsel: Sanjeewa Jayawardena, P.C., with Dilumi de
Alwis for the Petitioner.
Vikum de Abrew, S.D.S.G., for the
Respondents.

Argued on: 04.08.2020

Decided on: 17.09.2020

Mahinda Samayawardhena, J.

The petition runs into 34 pages. There are 78 main paragraphs in the body of the petition. The prayer to the petition alone consists of 25 reliefs from (a) to (y). Unless pleadings are concise and not prolix, Court will not see the wood for the trees. Incidentally, this is a Forest Case!

It is reassuring that the Petitioner in the first paragraph of the 36 page consolidated written submission captures the real grievance of the Petitioner in the following terms.

The Petitioner has come before Your Lordships' Court challenging the impropriety on the part of the 1st and 2nd Respondents in conducting a purported inquiry and the INSISTENCE OF THE 1ST AND 2ND RESPONDENTS TO SUMMON THE CHAIRMAN AND DIRECTORS OF THE PETITIONER COMPANY FOR THE PURPORTED INQUIRY conducted by the 1st and 2nd Respondents in respect of the Tourist Board land on which the Sigiriya Village Hotel is situated together with a further land which is one contiguous piece of land, but which is segregated, (hereinafter referred to as the 'Farm land'), which has been possessed by the Petitioner for over 35 years and challenging the purported basis of the proceedings before the Magistrate's Court of Dambulla, wherein the 1st and 2nd Respondents produced two of the employees of the Petitioner who had been engaged in farming on the Farm Land on the purported basis that the said two employees had been allegedly engaged in clearing state land.

From the above summary and the “conclusion” of the said written submission, it is clear that the main purpose of filing this application is to prevent the 1st and 2nd Respondents from calling the Chairman of the Petitioner company to make a statement in furtherance of an inquiry conducted by the 2nd Respondent. I will in a while explain what this inquiry is about and on what basis the Chairman is called to make a statement. The said Respondents did not require the directors of the Petitioner company to make statements although the Petitioner drags them also onto the scene.

The reliefs sought by the Petitioner in the prayer to the petition are as follows:

- (a) Issue Notice on the Respondents;*
- (b) Make order in terms of Article 140 of the Constitution and call for and examine the entire record of the subject matter of this application and of the purported impugned inquiry,*
- (c) Issue a mandate in the nature of a writ of certiorari, quashing the decision of the 1st and/or 2nd Respondent and/or their servants and agents and/or any one or more of them, that the Petitioner is not entitled to the possession of the land upon which the Petitioner’s Hotel is situated i.e. the Hotel Land and the Farm land and/or that the Petitioner is in illegal occupation of the same and/or that the Petitioner is in violation of the Flora and Fauna Protection Ordinance, as amended, or any other law;*

- (d) *Issue a mandate in the nature of a writ of certiorari quashing the decision of the 1st and/or 2nd Respondent and/or any one or more of them that the Petitioner is not entitled to possess and occupy the Hotel Land and the Farm land and/or that the Petitioner is in illegal occupation of the same;*
- (e) *Issue a mandate in the nature of a writ of certiorari, quashing the decision of the 1st and/or 2nd Respondent and/or their servants and agents to inquire into the matters impugned and/or to institute proceedings against the Petitioner company, subject to such terms and conditions, if any, as your Lordships' Court shall seem fit;*
- (f) *Issue a mandate in the nature of a writ of certiorari, quashing the decision to conduct the inquiry by summoning the Chairman of the Petitioner company, Mr. S.D.R. Arudpragasam and/or the board of directors and also quash the directions issued (P-26 and P31) summoning the Chairman of the Petitioner company Mr. S.D.R. Arudpragasam;*
- (g) *Strictly without any form of prejudice whatsoever to the foregoing, issue a writ of prohibition, in the event of any duly constructed inquiry, as countenanced by law, proceeding against the Petitioner, restraining the summoning of the Chairman and the members of the Board of Directors of the Petitioner company and permit the Petitioner company to appoint one or more nominees on behalf of the Petitioner company who are fully conversant*

with all matters constituting the subject matter of the inquiry, to represent the Petitioner at such duly constituted inquiry,

- (h) Issue a mandate in the nature of a writ of certiorari, quashing all consequential decisions, steps or measures taken by the 1st and 2nd Respondents and/or their servants and agents, in respect of and in pursuance of the impugned inquiry,*
- (i) In the event of a decision having been taken to institute proceedings in the Magistrate's Court against the Petitioner and/or its Chairman and/or any director, issue a writ of certiorari quashing the same,*
- (j) In the event of any proceedings having been instituted in the Magistrate's Court against the Petitioner company and/or its Chairman or directors, issue a writ of certiorari quashing all such proceedings, subject to such terms and conditions as Your Lordships' Court shall seem fit,*
- (k) Issue a mandate in the nature of a writ of prohibition, prohibiting the 2nd Respondent from proceeding with the purported, impugned inquiry, subject to such terms and conditions if any, as Your Lordships' Court shall seem fit;*
- (l) Without prejudice to the foregoing, issue a writ of prohibition restraining the 2nd and 1st Respondents and their servants and agents from inquiring or proceeding in any manner whatsoever against the Hotel Land that has*

been leased out to the Petitioner by the 3rd Respondent morefully described in the lease agreement marked P10,

- (m) Issue a mandate in the nature of a writ of mandamus compelling the 1st and 2nd Respondents and or their servants and agents to move the Magistrate's Court of Dambulla in case B 453/2016 to have the Petitioner company discharged from the proceedings, or to refrain from proceeding further against the Petitioner and/or its employees and/or its servants and agents subject to such terms and conditions, if any, as to Your Lordship's Court shall seem fit,*
- (n) Without any form of prejudice to the foregoing, issue a mandate in the nature of a writ of mandamus directing the 2nd Respondent to confine its purported inquiry to the matters reported to the Magistrate's Court of Dambulla in Case B 453/2016,*
- (o) Issue a mandate in the nature of a writ of prohibition restraining the 1st and 2nd Respondent and their servants and agents from arresting and/or detaining the Chairman or members of the board of directors or the employees of the Petitioner;*
- (p) Issue an interim order staying and suspending the purported inquiry being conducted by the 2nd Respondent, pending the final hearing and determination of this Application;*

- (q) Issue an interim order restraining the 2nd Respondent from summoning the Chairman of the Petitioner company, Mr. S.D.R. Arudpragasam and/or the members of the board of directors to present themselves at the purported inquiry impugned in these proceedings, and/or from proceeding in any manner or form against them, until the final determination of this application,*
- (r) Pending the final hearing and determination of this application, restrain the 1st and 2nd Respondents and their servants and agents from arresting any of the employees or the Chairman or the board members of the Petitioner;*
- (s) Strictly without prejudice to the foregoing, issue an interim order restraining the 2nd and 1st Respondents and their servants and agents from inquiring or proceeding in any manner whatsoever against the land that has been leased out to the Petitioner by the 3rd Respondent, morefully described in the agreement marked P10,*
- (t) Issue an interm order staying and suspending all proceedings in the Magistrate's Court of Dambulla Case B 453/2016, until the final hearing and determination of this application,*
- (u) In the event of a decision having been taken to institute proceedings in the Magistrate's Court against the Petitioner and/or its Chairman and/or any director, issue an interim order, staying the same until the final determination of this application,*

(v) In the event of any proceedings having been instituted in the Magistrate's Court against the Petitioner company and/or its Chairman or directors, issue an interim order, staying the same until the final determination of this application,

(w) Issue an interim order/directive on the Respondents, directing them to strictly maintain the status quo until the final determination of this application,

(x) For costs; and

(y) Such other and further reliefs that Your Lordships' Court shall seem meet.

Let me briefly outline the background facts.

The Petitioner was given a land in extent of 16 acres 3 roods and 7.5 perches on a long lease – *vide* P8 and P10. It appears this is where the Sigiriya Village Hotel is situated. I presume there is no contest over this Hotel Land.

The Petitioner says, subject to a formal lease agreement being executed, the then Government Agent of Matale by P13 dated 24.09.1980 placed the Petitioner in possession of another portion of land in extent of 7 acres 1 rood and 32 perches adjoining the said Hotel Land in order to run a Farm. The formal lease agreement is yet to be executed. The Petitioner does not seek relief on the basis of non-execution of the formal lease of the said Farm Land.

It is noticeable that P13 dated 24.09.1980 is addressed not to the Petitioner company but to a different company, which the Petitioner in the written submission says is the parent company of the Petitioner company. But the Petitioner company was incorporated in 1978.

The 4th Respondent Divisional Secretary of Dambulla has tendered with his statement of objections an Annual Permit marked 4R1 to say that the said permit in respect of a land in extent of 15 acres and 1 rood, situated in front of the Sigiriya Village Hotel, was given to the Sigiriya Village Hotel. The 4th Respondent says the payment receipts tendered by the Petitioner marked P16(a)-P16(d) are in relation to the said Permit Land and not in relation to the Farm Land as claimed by the Petitioner in the petition. This Annual Permit has been issued in the name of the Manager of the Sigiriya Village Hotel. Strangely, the Petitioner has neither disclosed this Annual Permit in the petition nor said a word about it in the counter affidavit. However in the consolidated written submission, the Petitioner admits that the receipts tendered as rentals paid on the Farm Land are in fact rentals paid on the Permit Land, which is different to both the Hotel Land and the Farm Land.

In a writ application, the Petitioner cannot suppress or misrepresent material facts. In my view, this Permit Land comprising 15 acres and 1 rood lying in front of the Hotel Land given on an Annual Permit is a material fact. The Petitioner is continuously paying annual rental on this land. The Petitioner could not have forgotten about it. Nor could the Petitioner have confused this 15 acre Permit Land with the Hotel Land and the

Farm Land. The Petitioner in paragraph 40 refers to its efforts *“to obtain a long term lease on the Farm Land, and the other lands in its close proximity”*. This Permit Land is important because the 4th Respondent in his statement of objections says the Government Surveyor was informed to survey the Permit Land and the Hotel Land.

As I have said above, the Petitioner’s grievance is against the 1st and 2nd Respondents, the Director General of Wildlife Conservation and the Wildlife Range Officer at Sigiriya, respectively. To be precise, the Petitioner is challenging the 2nd Respondent’s attempts to call the Chairman of the Sigiriya Village Hotel to make a statement in respect of further investigation into the matter reported to the Magistrate’s Court of Dambulla in Case No. B/453/2016.

Proceedings before the Magistrate’s Court had been initiated upon two persons being arrested whilst clearing the Sigiriya Sanctuary, allegedly on the instructions of the Manager of the Sigiriya Village Hotel. The Petitioner in paragraph 41 admits that the arrested persons are Hotel employees. The Manager of the Hotel was arrested and produced before the learned Magistrate on this basis.

The Petitioner in paragraph 13 of the petition acknowledges that the subject matter of this application came under the purview of the 1st and 2nd Respondents with the declaration of the land described in the Extraordinary Government Gazette No.594/12 dated 26.01.1990 marked P3 as the Sigiriya Sanctuary.

The first B Report filed in the Magistrate's Court dated 05.05.2016 reads as follows:

වනජීවී සංරක්ෂණ දෙපාර්තමේන්තුවේ සීගිරිය අඩවියට අයත් පේක්කුලම බිට්ටු කාර්යාලයේ වනජීවී අඩවි සහකාර ඩබ්.එම්.එල්.කේ. වාසල වන මම 1979 අංක 15 දරණ අපරාධ නඩු විධිවිධාන සංග්‍රහ පනතේ අංක 115 සහ 136(01) වගන්ති ප්‍රකාරව මෙම ගරු අධිකරණය වෙත ගෞරවයෙන් වාර්තා කර සිටින වග නම්,

මෙම අධිකරණ බල සීමාව තුල පිහිටි එනම් 1990.01.26 දිනැති අංක 594/12 අති විශේෂ ගැසට් නිවේදනයෙන් ප්‍රකාශයට පත් කරන ලද සීගිරිය අභයභූමියට අයත් මයිලක්තැව ග්‍රාම නිලධාරී වසමේ පිහිටි කුකුරු මහසියාව කැලේ නම් සීගිරිය විලේජ් හෝටලය ඉදිකර ඇති යාබද ප්‍රදේශයේ අනවසර කැලෑ එලි කිරීමක්ද අප නිලධාරීන් විසින් නිරීක්ෂණය කරන ලදී. එම ප්‍රදේශයේ අනවසර ඉදිකිරීම් සම්බන්ධයෙන් කරුණු විමර්ශනය කරමින් පවතී. මෙය 1964 අංක 44, 1970 අංක 01, 1993 අංක 49 හා 2009 අංක 22 දරණ පනත් මගින් සංශෝධිත වනසත්ව හා වෘක්ෂලතා ආඥා පනතේ (469 වන අධිකාරිය) ප්‍රකාරව දඬුවම් ලැබිය හැකි වරදවල් සිදුකොට ඇති බවට ගෞරවයෙන් වාර්තා කර සිටිමි.

අත්අඩංගුවට ගත් සැකකරුවන්ගේ නම් හා ලිපිනයන්:

01. ලියන පතිරනලාගේ සුරංග මහේෂ්පතිරනු, ඉදිගස්වැව, සීගිරිය.

02. පෝරම මරදාන ගම බන්දුල කුමාර, කායංවල, සීගිරිය.

අත්අඩංගුවට ගත් හාණ්ඩ:

පැ.01 මීට සහිත උදඵ 02

ඉල්ලා සිටින නියෝග:

01. අත්අඩංගුවට ගත සැකකරුවන් රක්ෂිත බන්ධනාගාර ගත කිරීම හෝ සුදුසු නියෝගයක් ලබාදෙන ලෙසත්,

02. අධ්‍යක්ෂ, සීගිරිය විලේජ් හොටෙල් පෞද්ගලික සමාගම, 08-02/01 යෝක් ආකේඩ් ගොඩනැගිල්ල ලේඩින් බැස්ටියන් මාවත, කොළඹ-01 යන අයට සිතාසි නිකුත් කරන ලෙසත්,

03. මේ සම්බන්ධයෙන් තවදුරටත් වැඩිදුර විමර්ශනය කර වාර්තා කිරීමට ඉදිරි දිනයක් ලබාදෙන ලෙසත්, ගෞරවයෙන් ඉල්ලා සිටිමි.

Although the Petitioner seeks to quash various purported decisions made by the Respondents, no such decisions have been tendered. In fact, there are no such decisions. The Court cannot quash purported decisions on a hypothetical basis. Apart from the uncontested Lease Agreement P10, which relates to the Hotel Land, the only two documents identified by the Petitioner in the prayer to the petition are P26 and P31 whereby the Chairman of the Petitioner company was asked to be present before the 2nd Respondent to record a statement.

P26 reads as follows:

ඩබ්.එම්.එල්.කේ. වාසල,

අඩවි සහකාර,

වනජීවී බිට්ටු කාර්යාලය,

සීගිරිය,

පේක්කුලම.

2016.07.31

ශ්‍රී දාමන් රාජේන්ද්‍රම් අරුප්ප්‍රකාශම්,
 සභාපති,
 සීගිරි විලේජ් හෝටලය,
 සීගිරිය.

B 453 / 2016 නඩුවේ විමර්ශන සඳහා ප්‍රකාශ ලබා ගැනීම

උක්ත අංක යටතේ ගොනු කර ඇති නඩුවට අදාළ සීගිරි විලේජ් හෝටලය විසින් සීගිරිය අභය භූමියට අයත් ඉඩමක් අනවරයෙන් භුක්ති විඳීමක් සම්බන්ධයෙන් විමර්ශනයක් සිදු කරමින් පවතී.

විමර්ශනයේදී අනාවරණය වූ කරුණු අනුව උක්ත හෝටලයේ සභාපතිවරයා ලෙස, ශ්‍රී දාමන් රාජේන්ද්‍රම් අරුප්ප්‍රකාශම් යන ඔබ කටයුතු කරන බවට කරුණු අනාවරණය වී ඇත.

එබැවින් උක්ත නඩුවේ විමර්ශන කටයුතු සඳහා වන සත්ත්ව හා වෘක්ෂලතා ආරක්ෂක ආඥා පනතේ 67(ඇ)(1) වගන්තිය හා 1979 අංක 15 දරණ අපරාධ නඩු විධාන සංග්‍රහ පනතේ xi වන පරිච්ඡේදයේ 109(06) වගන්තිය ප්‍රකාරව මා වෙත පැවරී ඇති බලතල අනුව සීගිරි විලේජ් හෝටලය අයත් සමාගමෙහි සභාපති ලෙස කටයුතු කරන ශ්‍රී දාමන් රාජේන්ද්‍රම් අරුප්ප්‍රකාශම් යන අයට අදාළ ඉඩමෙහි සියළු හිමිකම් සම්බන්ධ ලේඛන සහිතව 2016.08.08 වන දින පෙ. 9.30ට පමණ සීගිරිය අඩවි කාර්යාලයට පැමිණ ප්‍රකාශයක් ලබා දෙන මෙන් කාරුණිකව ඉල්ලා සිටිමි.

මෙයට,

(signed)

විමර්ශන නිලධාරී

It is significant to note from page 2 of the Magistrate's Court case record tendered by the Petitioner with the motion dated

23.06.2017 that the 2nd Respondent particularly informed the learned Magistrate about P26 by way of a further report.

P31 reads as follows:

ඩබ්.එම්.එල්.කේ. වාසල,

වනජීවී අඩවි සහකාර,

වනජීවී බිට්ටු කාර්යාලය,

පේක්කුලම, සිගිරිය,

2016.10.18

ශ්‍රී දාමන් රාජේන්ද්‍රම් අරුප්ප්‍රකාශම්,

සභාපති,

සිගිරි විලේජ් හෝටලය,

සිගිරිය.

බී453/2016 නඩුවේ විමර්ශන කටයුතු සඳහා සහය ලබා ගැනීම

උක්ත අංක දරණ නඩුවේ විමර්ශන කටයුතු නිසි ආකාරව පවත්වාගෙන යාම සඳහා සහය ලබා දෙන මෙන් 2016.07.31 දිනැති ලිපිය මගින් ඔබ වෙත දන්වන ලද අතර, ඒ සඳහා ඔබ විසින් වෙනත් නිලධාරියෙකු නම්කර එවා තිබිණි. එම නම් කළ නිලධාරියා වූ නිශාධි පෙරියප්පෙරුම යන නිලධාරියා විසින් ලබා දුන් ප්‍රකාශයන්ට අනුව තව දුරටත් විමර්ශන කටයුතු සිදු කළ යුතුව තිබූ බැවින් අදාළ ලිපි ලේඛන සහිතව 2016.08.23 නැවත එම නිලධාරියාට සිගිරිය කාර්යාලයට අදාළ ප්‍රකාශ ලබා දෙන මෙන් එදින දැනුම් දෙන ලදී.

එනමුත් එදින වන විට අවශ්‍ය ලේඛන සොයා ගැනීමට ප්‍රමාද බැවින් පැමිණීමට නොහැකි බවත්, ඒ සඳහා මසක පමණ කාලයක් ලබා දෙන

ලෙසත් 2016.08.22 වන දිනැති ලිපියක් මගින් මා වෙත දන්වා ඇත. ඔහුගේ ඉල්ලීමට අනුව මසක පමණ කාලයක් ගත වී ඇත්ත් මේ දක්වා අදාළ ලේඛන සහිතව පැමිණ ප්‍රකාශ ලබා දීමක් සිදුකර නොමැත.

එමෙන්ම මේ දක්වා කරන ලද විමර්ශන වලට අනුව උක්ත නඩුවට අදාළව සිගිරි විලේජ් හෝටල් සමාගමේ සභාපතිවරයා ලෙස කටයුතු කරන ශ්‍රී දාමන් රාජේන්ද්‍රන් අරුප්ප්‍රකාශම් යන ඔබගේම ප්‍රකාශ ලබා ගැනීමට අවශ්‍යව ඇත.

එබැවින් වනසත්ව හා වෘක්ෂලතා ආරක්ෂක ආඥා පනතේ 67(ඇ)(1) වගන්තිය හා 1979 අංක 15 දරණ අපරාධ නඩු විධාන සංග්‍රහ පනතේ XI වන පරිච්ඡේදයේ 109(6) වගන්තිය ප්‍රකාරව මා වෙත පැවරී ඇති බලතල අනුව සිගිරි විලේජ් හෝටල් සමාගමෙහි සභාපතිවරයා ලෙස කටයුතු කරන ඔබ 2016.10.31 වන දින පෙ.ව. 09.00 ට සිගිරිය වනජීවී අඩවි කාර්යාලයට පැමිණ ප්‍රකාශයක් ලබා දෙන මෙන් ඉතා කාරුණිකව ඉල්ලා සිටිමි.

මෙයට,

(signed)

විමර්ශණ නිලධාරී

The Petitioner in the written submission says the Petitioner does not attempt to thwart or undermine the lawful powers vested in the Respondents. Nonetheless, the Petitioner does not explain to this Court the legal basis on which it seeks to quash P26 and P31 by certiorari. The Petitioner's position is:

The Petitioner has strong cause to apprehend that the summoning of the Chairman of the Petitioner company is an attempt to apply collateral and extraneous pressures and that this is a prelude to summoning the other directors of

the board as well. The Petitioner states that there are several officers who are fully conversant and intimate with the entirety of the Petitioner's project approvals, operations etc., who can assist the Respondents in any inquiry that is lawfully conducted. As such, the summoning of the Chairman and/or the Directors is and will be unnecessary to say the least.

The Petitioner cannot decide who is or is not necessary to be questioned in the investigation into the matter.

In paragraph 66 of the petition, the Petitioner alleges violations of fundamental rights by the 1st and 2nd Respondents in embarking upon this inquiry. That shall be canvassed in a different forum.

To the contrary, the 2nd Respondent in P26 and P31 explains the legal basis on which he seeks to call the Chairman of the Petitioner to make a statement in pursuance of the investigation into the matter already reported to the Magistrate's Court of Dambulla. The Petitioner does not say the said legal basis is erroneous.

The Petitioner *inter alia* seeks writs of mandamus compelling the 2nd Respondent to confine his inquiry to the matters reported to the Magistrate's Court of Dambulla in Case No. B/453/2016, and compelling the 1st and 2nd Respondents to move the learned Magistrate to discharge the Petitioner company from the proceedings or refrain from proceeding further against the Petitioner and its employees. These are vague reliefs. The Petitioner company is not a party to the proceedings to be

discharged therefrom. This Court cannot order the two employees of the Petitioner who were arrested for clearing the Sigiriya Sanctuary and produced before the Magistrate's Court be discharged. The matters reported in the Magistrate's Court, which I have quoted above, encompass recording statements from various parties for the investigation into the matter. What authority does this Court have to give instructions to the Director General of Wildlife Conservation on how to conduct this investigation? All of these applications can be made before the learned Magistrate in the said case and the desired Orders can be sought. This includes the Petitioner's protest against calling the Chairman of the Petitioner company to make a statement at the investigation. The P26 and P31 letters clearly highlight that the request for a statement by the Chairman is made in relation to the case in the Magistrate's Court. If the Petitioner is dissatisfied with the ruling of the learned Magistrate, there is a procedure in place for appeal.

The 1st and 2nd Respondents in their joint statement of objections state that Case No. B/453/2016 was filed under the Fauna and Flora Protection Ordinance and the 2nd Respondent embarked upon the investigation within his legal powers under the said Ordinance. They further say the Chairman of the Sigiriya Village Hotel was required to be present "*to collect information pertaining to the legal ownership of the land and other matters*". Their position is that the Petitioner has "*encroached [on] the [Sigiriya] sanctuary illegally exceeding the land allocated for the Hotel.*" The plan and the report prepared upon the Orders of the learned Magistrate in the aforementioned case have been tendered marked 1R1 and 1R2. Accordingly, the

1st and 2nd Respondents say the Petitioner is in occupation of an additional 10 acres of land. The impugned inquiry relates to the alleged illegal encroachment upon the Sigiriya Sanctuary.

The Petitioner has unnecessarily taken great pains to show the inaccuracies in 1R1 and 1R2. It is plain law that consideration of those matters is outside the purview of this Court.

In my view, this application is misconceived in law and devoid of merit.

I unhesitatingly dismiss the application with costs.

Judge of the Court of Appeal

Arjuna Obeyesekere, J.

I agree.

Judge of the Court of Appeal