

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

1. Mohamed Thampy Addur Razzak,
No.140A, Kaddupalli Road,
Eravur 03.
 2. Uthumalebbe Mohamed Aahir,
No.542C, Ayurvedic Hospital
Road,
Akkaraipattu 20.
- Petitioners

CASE NO: CA/WRIT/294/2014

Vs.

1. Neil De Alwis,
Former District Secretary,
District Secretariat,
Ampara.
- 1A. Thusitha P. Wanigasinghe,
Former District Secretary,
District Secretariat,
Ampara.
- 1B. D.L.M. Bandaranayake,
District Secretary,
District Secretariat,
Ampara.

2. Ismalebbe Mohamed Haniffa,
Former Divisional Secretary,
Divisional Secretariat.
- 2A. Thiyagarajah Jacob Athisayaraj,
Former Divisional Secretary,
Divisional Secretariat.
- 2B. J. Liyakethali,
Divisional Secretary,
Divisional Secretariat,
Addalachchanai.
3. Mohamed Musthapha Nazeer,
Divisional Secretary of
Addalachchanai,
Presently: Divisional Secretary of
Irakkaman,
Divisional Secretariat,
Irakkaman.
4. Sri Lanka Ports Authority,
No.19, Chaithya Road,
Colombo 01.
5. K. Wimalanathan,
Former Additional District
Secretary,
District Secretariat,
Ampara.
- 5A. A.M. Abdul Lathieef,
Additional District Secretary,
District Secretariat,
Ampara.

6. K.L.M. Muzammil,
District Land Officer,
District Secretariat,
Ampara.
7. M.A.M. Ismail,
Former Registrar of Lands,
Land Registry,
District Secretariat,
Ampara.
- 7A. L.D. Pushpakumara,
Registrar of Lands,
Land Registry,
District Secretariat,
Ampara.
8. R.W. Ranjith Premasiri,
Former Secretary,
Ministry of Ports and Highways,
No.10, Chaithya Road,
Colombo 01.
- 8A. L.P. Jayampathi,
Secretary,
Ministry of Ports and Highways,
No.10, Chaithya Road,
Colombo 01.
Now: Ministry of Ports and
Shipping, No.10, Chaithya Road,
Colombo 01.
9. Mohamed Sharifu Seithummah,
No.55/18, Mettappali Road,
Kattankudi.

Respondents

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

Counsel: Manohara de Silva, P.C., with Pubudini
Wickramaratne for the Petitioner.
Vikum de Abrew, S.D.S.G., for the 1st, 3rd, 5th-
7th Respondents.
H. Withanachchi with Shantha Karunadara
for the 4th Respondent.

Argued on: 17.06.2020

Decided on: 09.07.2020

Mahinda Samayawardhena, J.

The issue in this case is simple and straightforward. The land relevant to this application was acquired under the Land Acquisition Act. After the inquiry held under section 9 of the Act, the 2nd Respondent Divisional Secretary made the decision under section 17 of the Act to pay compensation in a sum of Rs. 9,521,333/30 to the two Petitioners. *Vide* P20/P20A dated 26.10.2010. So far, the said compensation has not been paid. The Petitioners filed this application seeking a writ of mandamus compelling the Respondents to pay to the Petitioner the said compensation with interest.

What do the Respondents (except the 4th and 9th) say in their defence? They say acquisition was done on behalf of the 4th Respondent Sri Lanka Ports Authority, and, as the said Authority has failed to deposit the compensation money with them, they are unable to pay compensation to the Petitioners.

What does the 4th Respondent say in turn? Compensation was predominantly decided on the valuation of the land by the Government Chief Valuer. The 4th Respondent's main contentions are the valuation by the Government Chief Valuer is excessively high, the findings/observations of the Presidential Investigation Unit highlight the suspicious nature of the valuations, and the Petitioners' claim to ownership of the land is dubious or uncertain. Defences of this nature are totally irrelevant in deciding the straightforward case presented by the Petitioners. The matters raised by the 4th Respondent shall be sorted out by the 4th Respondent with the Chief Valuer and the 1st and/or 2nd Respondents. The Petitioners cannot and shall not be made to suffer for disputes among other parties. The 4th Respondent's defence is absolutely devoid of merit.

Once the award under section 17 is made, section 29 becomes operative. According to section 29, the acquiring officer, in this case the 2nd Respondent, shall pay the compensation awarded under section 17 to the relevant claimants, subject to a final decision by way of appeal to the Board of Review or the Court of Appeal. There has been no such appeal in this case.

It is well settled law that mandamus lies to compel a statutory duty, which the Petitioners in this application have a legal right to demand.

The Petitioners have, in my view, irresponsibly sought mandamus against all the Respondents. The duty to pay compensation is cast on the acquiring officer.

I grant the reliefs to the Petitioners as prayed for in paragraphs (b)-(d) of the prayer to the petition against the 1st and/or 2nd Respondents as the acquiring officers.

The application is allowed with costs.

Judge of the Court of Appeal

Arjuna Obeyesekere, J.

I agree.

Judge of the Court of Appeal