

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

In the matter of an Application for a mandate  
in the nature of a Writ of *Certiorari* under and  
in terms of Article 140 of the Constitution of  
the Democratic Socialist Republic of Sri  
Lanka.

**Court of Appeal Case No.**

**CA/WRT/611/23**

**K. A. Priyanthi Mangalika,**  
33, Winston Wickramasinghe Mawatha,  
Walawwatta,  
Kegalle.

**Petitioner**

**Vs**

1. **K. G. S. Nishantha**  
Divisional Secretary,  
Divisional Secretariat,  
Kegalle.
2. **Hon. Harin Fernando**  
Minister of Lands,  
Ministry of Lands,  
"Mihikatha Madura",  
Land Secretariat,  
1200/6, Rajamalwatta Road,  
Battaramulla
3. **The Land Reform Commission**  
475, Kaduwela Road,  
Battaramulla.

**Respondents**

Before: **M. T. MOHAMMED LAFFAR, J.**

Counsel: Indunil N. Bandara with Malaka Wickramasinghe for the  
Petitioner.

Ms. Navodi De Zoysa, SC, for the Respondents.

Supported on: 07.12.2023

Decided on: 24.01.2024

**MOHAMMED LAFFAR, J.**

I heard the learned Counsel for the Petitioner in support of this Application. I heard the learned State Counsel for the Respondents as well.

The 1<sup>st</sup> Respondent has instituted proceedings against the Petitioner in the Magistrate's Court of Kegalle in case bearing No. 17324/D/23 in terms of the provisions of the State Lands (Recovery of Possession) Act, No. 7 of 1979. The Petitioner is seeking a Writ of Certiorari quashing the decision of the 1<sup>st</sup> Respondent, Divisional Secretary of Kegalle, that the Petitioner is in unauthorized occupation of the land which is described in the quit notice marked as P19a. The Petitioner is also seeking a Writ of Certiorari to quash the decision of the 1<sup>st</sup> Respondent to institute proceedings against the Petitioner in the Magistrate's Court of Kegalle in case bearing No. 17324/D/23.

The only ground upon which the learned Counsel for the Petitioner is challenging the quit notice issued under the provisions of the said Act is that the competent authority, the 1<sup>st</sup> Respondent, has not identified the subject matter with metes and bounds.

According to the Petition, the Petitioner is in possession of lot 4 in plan bearing No. 839 marked as P1, that is owned by the Land Reform Commission. Even though there is a contract between the Petitioner and the Land Reforms Commission to transfer the said lot to the Petitioner, so far the transfer has not been effected. As per the quit notice marked P19a, according to the Surveyor General's Plan No. 3831, the subject matter is bounded as follows.

1. North- portion of lot 1 in plan No. 3831
2. East- lot 4 and roadway as per Plan No. 839
3. South- road
4. West- lot 4 in Plan No. 839

In this respect, it is abundantly clear that the subject matter which is described in the quit notice, upon which the said Magistrate's Court proceedings are instituted, is properly identified with metes and bounds without any ambiguity. Moreover, it is pertinent to be noted that the land claimed by the Petitioner, namely lot 4 in plan 839 is not the subject matter of the said Magistrate's Court proceedings. The said lot 4 in plan No. 839 where the Petitioner claims that he is in possession is shown as the Eastern and Western boundary of the corpus of the Magistrate's Court case. In this scenario, I decline to accept the contention of the learned Counsel for the Petitioner stating that the subject matter is not properly identified.

According to the documents tendered, as it is *ex facie* established that the subject matter is properly identified with metes and bounds and the land claimed by the Petitioner is not within the subject matter, it appears to this Court that necessity does not arise to invoke the Writ Jurisdiction of this Court. Furthermore, as per the oral submissions of the State Counsel for the Respondents, this Court has taken cognizance of the fact that the entire land

including lot 4 in plan No. 839 has been acquired by the State from the Land Reforms Commission under and in terms of the provisions of the Land Acquisition Act.

For the foregoing reasons, I hold that the instant Application is devoid of merits and accordingly, notices are refused and the application is dismissed without costs.

*Application dismissed. No costs.*

***JUDGE OF THE COURT OF APPEAL***