

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

In the matter of an application for the grant and  
issue of Writs of Certiorari and Mandamus in  
terms of Article 140 of the Constitution.

Kapuruhamige Bisomenika

Nabadagaswewa, Rambawa

Anuradhapura.

**Petitioner**

Vs

1.U.B.Herath Banda

Former Colony Officer,

(Presently retired)

Private address

Opposite University of Rajarata,

Mihintale.

**Case No.C.A. Writ 154/2018**

2. T.A.W.A.Amunugama

Former Divisional Secretary,

Rambawa, Anuradhapura

(Presently retired)

Private address

Police Quarters,

Abhayapura,

Anuradhapura.

3.W.A.Y.S.G.Weerasinghe

Divisional Secretary.

Divisional Secretariat,

Rambewa,

Anurahdapura.

4. Sandya N. Abeysekera

Deputy Commissioner of Lands,

Anurahdapura.

5. W.W.A.Chandra

Commissioner of Lands,

Land Commissioner's Department

6/1200, Rajamalwatta Road,

Battaramulla.

6. Honorable Attorney General

Attorney General Department,

Colombo 12.

**Respondents.**

Before : Hon. Justice Janak de Silva  
Hon. Justice Bandula Karunaratne

Counsel : Pradeep Fernando for the Petitioner.  
Maithree Amerasinghe S.C. for Respondents.

Argued and

Decided on : 03/03/2020.

**Hon. Justice Janak de Silva**

The Petitioner was given a permit in terms of Section 19 (2) of the Land Development Ordinance for an extent of 2 Roods. The permit is marked "A" with the petition and identifies the extent of land by metes and bounds as 2 roods in extent. The Complaint of the Petitioner is that thereafter the Colony Officer of the area came and obtained the said permit marked "A" claiming that it was required for an official purpose and accordingly the Petitioner allowed the 1<sup>st</sup> Respondent to take away the permit. On or about 11/9/2015 which is about a week after the permit was collected by the 1<sup>st</sup> Respondent, it was returned to the Petitioner. The Petitioner then found that the permit had been altered to reduce the extent of land from 02 Roods to 01 Rood. The amended permit has been marked as "B".

The above facts are not disputed by the Respondents except that they claim that the 1<sup>st</sup> Respondent informed the Petitioner that the Petitioner was entitled only for 01 Rood in terms of a decision taken at the Land Kachcheri and the amendment of the permit was done on that ground.

The Petitioner disputes of being informed of the reasons for the change in extent.

Even upon a perusal of the documents marked "R - 7" and "R - 8" it is clear that even the official records of the Divisional Secretariat had initially identified the land as 02 Roods in extent.

Where the State or any of its officers makes a representation to a person that he will be entitled to enjoy a particular right that person will have a legitimate expectation of doing so unless the holding out is contrary to law. Where a legitimate expectation has been so created in a person, this Court will intervene in two ways in order to protect such legitimate expectation. Firstly, where the legitimate expectation has been frustrated or denied without giving that person a hearing, Court will ensure that the party, entertaining a legitimate expectation will be afforded an opportunity of being heard prior to any change of the legitimate expectation. Secondly, even where the State is entitled to change a representation after giving hearing to a party this Court may protect the legitimate expectation as a substantive right after balancing the interest of party against the public interest.

In this case there is no affidavit of the Colony Officer indicating that the Petitioner was given a hearing before the extent of land was changed

from 02 Roods to 01 Rood. In those circumstances, Court is of the view that the legitimate expectation the Petitioner entertained as a result of permit marked "A" has been frustrated by issuing a permit marked "B" without giving the Petitioner a hearing.

For the aforesaid reasons, Court grants a Writ of Certiorari quashing the decision shown in the permit marked "B" reducing the extent of land given to the Petitioner from 02 Roods to 01 Rood.

This order will not prevent the State from giving a hearing to the Petitioner on whether the Petitioner is entitled to retain the 02 Roods.

Application is allowed to the extent setout above. No costs.

**JUDGE OF THE COURT OF APPEAL**

**Hon.Justice Bandula Karunarathna.**

I agree.

**JUDGE OF THE COURT OF APPEAL**

WC/-