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

In the matter of an Application for orders like Writs of Certiorari Prohibition under and in terms of Article 140 of the Constitution.

CA WRIT 294/23

Dilini Nadehani Dissanayake
247/3
Wendkaduwa
Pallama

Petitioner

Vs.

1. G.D. Keerthi Gamage
   Commissioner General of Lands
   Department of Lands
   "Minhikatha Madura"
   No. 1200/6
   Rajamalwatta road
   Battaramulla.

2. Divisional Secretary of Pallama
   Divisional Secretariat
   Pallama

3. Harin Fernando
   Minister of Tourism and Land,
   Ministry of Tourism and Lands

"Minhikatha Madura"
No. 1200/6
Rajamalwatta road
Battaramulla.

4. Secretary to the Ministry of Tourism and Land
Ministry of Tourism and Lands
"Minhikatha Madura"
No. 1200/6
Rajamalwatta road
Battaramulla.

5. Grama niladhari of Wendakaduwa
Division Number 664A
Wendakaduwa

6. Chamila Kumuduni Dassanayake
Katupotha
Pallama.

**Respondents**

**Before:** **N. Bandula Karunarathna P/CA, J.**
**B. Sasi Mahendran, J.**

**Counsel:** Shantha Jayawardena with Sajana De Zoysa for the Petitioner
Abigail Sooriyakumar Jayakody, SC for the 1st,2nd and 5th Respondents
Tharanatha Palliyaguruge with Nandana Kumara for the 6th Respondents

**Argued On:** 06.07.2024

**Written Submissions:** 08.07.2024(by the Petitioner)
09.07.2024 (by the 1st-5th Respondents)
**On** 15.07.2024 (by the 6th Respondents)

**Judgment On:** 31.07.2024

**B. Sasi Mahendran, J**

The Petitioner instituted this application, by petition dated 30.05.2023 praying for;

a. Issue notices on the Respondents;
b. Call for and examine the entire record pertaining to this application, including:
   (a) Proceedings of the inquiry held at the office of the IS Respondent's office on 15.02.2023;
   (b) Documents/recommendations/communications/notices and decisions taken under and in terms of Sections 104A, 104B, 104C and 104D of the Land Development Ordinance (as amended).
c. Grant and issue of an order in the nature of Writ of Certiorari quashing the decision of the 1st Respondent to cancel and/or revoke the Grant/rights to the land given in favour of the Petitioner, reflected in P20;
d. Grant and issue of an order in the nature of Writ of Certiorari quashing the decision of the 1st Respondent to divide the said land and convey title for half of the land to the 6th Respondent, reflected in P20;
e. Grant and issue of an order in the nature of Writ of Certiorari quashing P20;
f. Grant and issue an order in the nature of Writ of Certiorari quashing the proceedings of the inquiry held on the 15.02.2023 by the 1st Respondent Commissioner of Lands;

g. Grant and issue an order in the nature of Writ of Certiorari quashing any decision (if any) of the, 1st,2nd,3rd,4th or 5th Respondents or any one or more of them to cancel the Petitioner's grant/rights and divide the land between the Petitioner and the 6th Respondent;

h. Grant and issue an order in the nature of Writ of Certiorari quashing any recommendation (if any) by the 3rd Respondent to cancel the Petitioner's grant/rights and divide the land between the Petitioner and the 6th Respondent;

i. Grant and issue an order in the nature of Writ of Prohibition, prohibiting the 1st to 4th Respondents from granting/issuing a grant/permit/rights to the 6th Respondent, in respect of the land, referred to in P12 or a portion/share thereof;

j. Grant and issue an interim order to suspend the operation of P20, until the final hearing and determination of this application;

k. Grant and issue an interim order to restraining the 1st to 5th Respondents from taking further steps based on P20, until the final hearing and determination of this application;

l. Grant and issue an interim order to restraining the 1st to 5th Respondents from surveying and/or dividing the land until the final hearing and determination of this application;

m. Grant and issue an interim order to maintain the status quo of the said land until the final hearing and determination of this application;

n. Grant and issue an interim order restraining the 1st to 4th Respondents from granting/issuing a grant/permit/rights to the 6th Respondent, in respect of the land, referred to in P12 or a portion/share thereof, until the final hearing and determination of this application;

o. Grant costs;

p. Grant such other and further reliefs that Your Lordships' Court shall seem meet.

The main ground urged by the Petitioner is that the decision made by the 1st Respondent in the document marked as P20 is ultra vires as the 1st and 2nd Respondents have failed to follow the proper procedure laid down in the Land Development Ordinance No.19 of 1935 (as amended) with regard to nomination under Section 60 of the said Ordinance.

When the matter was supported on 06.06.2023, the Court has issued interim order and issued notice to the Respondents as prayed.

Facts of this case are as follows:

According to the Petitioner, on or about 1949, the grandfather of the Petitioner, Peus Dassanayake was issued a permit under the Land Development Ordinance in extent of 10 Acres 1 rood and 3 perches in the village of Wendakaduwa within the Pallama Divisional Secretariat Division. Upon the demise of the Petitioner's grandfather on or about 13.12.1979, the Petitioner's grandmother succeeded to the said holding. Accordingly, the Petitioner's grandmother, Subasinghe Pathirana Dona Regina received two Grants bearing Nos. පත්/ ජර/5373 and පත්/ ජර/5374 for the said land in respect of lot Number 52 and 53 of the Final Village Plan No. 1781. On or about 25.03.1987, the Petitioner's grandmother passed away leaving 6 children.

The Petitioner states that after the demise of the Petitioner's grandmother the said 2 lots were divided among her 4 children. Accordingly, the Petitioner's father succeeded to a lot of land in extent of 3 Acres and 20 perches from and out of the Lot Number 52 of the said Final

Village Plan, which portion was identified as Lot 1 of Supplementary Plan No. 1530 to the said Final Village Plan. Subsequently, the Petitioner's father was issued with the certificate of ownership dated 22.12.1995.

According to the averments in paragraphs 14 to 17 of the petition, the Petitioner and her mother, had admitted the Petitioner's father, Leo Paul Dassanayake on 13.02.2017 for treatment at the National Institute of Mental Health in Angoda due to his mental condition deteriorating. But, while he was in the hospital, on or about 14.03.2017, unknown to the Petitioner at that time, the 6th Respondent had taken the said Leo Paul Dassanayake from the said hospital against the medical advice.

After two weeks' time, the villagers had brought him to the Petitioner's house where he stayed until his demise. He passed away on 06.04.2018.

The Petitioner further contends that, upon the demise of her father, she made an application to the Respondents to transfer the property to her as she is the only child of her father. Accordingly, the Petitioner was issued with the certificate of ownership dated 08.03.2019.

Thereafter, by obtaining a loan from the Bank of Ceylon, she refurbished the house which is situated in the said land spending 3 million and also developed the coconut cultivation on the said land.

While she was peacefully occupying in the said land with her mother, by letter dated 16.02.2022, the then Divisional Secretary of the Pallama Divisional Secretariat called the Petitioner for an inquiry on the 21.02.2022 regarding the Government Grant ಪಶ್/ಜಠ/5373. At the said inquiry, the 6th Respondent participated and claimed entitlement to half share of the land on the basis that she is the eldest daughter of the Petitioner's father producing a birth certificate. Thereafter, another inquiry was held by the 1st Respondent on 15.02.2023. At the said inquiry the 6th Respondent produced a document dated 19.10.2016, where the

Petitioner's father had nominated both the Petitioner and the 6th Respondent as the successors of the said land. This authorization was disputed by the Petitioner.

Further, the Petitioner contends that she was informed by the letter dated 19.05.2023 issued by the Divisional Secretary marked as P20 that the grant/rights given on 08.03.2019 was thereby cancelled and the land would be divided between the Petitioner and the 6th Respondent in equal shares.

Further, as stated in the petition, the 5th Respondent, Grama Niladhari had tried to enter into the said land to conduct a survey which failed as the Petitioner and her mother were not in the said premises and the gate being locked. The Petitioner further states that when the Petitioner informed by the letter dated 29.05.2023 of her intention to institute legal action against the said decision, the 2nd Respondent informed that she will proceed with the instruction of the Commissioner of General Lands to divide the land and that the Petitioner is free to proceed with the litigation.

The contention of the Petitioner is that the 1st and 2nd Respondents have acted in contravention of the procedure laid down in the Land Development Ordinance and the principle of natural justice.

Further, the Petitioner contends that the decision of the 1st Respondent to cancel the certificate of ownership and divide the said land between the Petitioner and the 6th Respondent in equal shares is ultra vires as they have not followed the proper procedure laid down in the Ordinance.

On the other hand, the objections filed by the 1st to 5th Respondents dated 01.11.2023, state in paragraph 15 that, on or about 10.01.2022, the 6th Respondent had made an application to the 2nd Respondent requesting to grant her a portion of the land in question on the basis that she is the eldest daughter of the Petitioner's father by producing the birth certificate. Therefore, the Respondents called for an inquiry on 21.02.2022. At the said inquiry, the Petitioner did not consent to grant half share of the land to the 6th Respondent.

Therefore, another inquiry was held on 15.02.2023. At the said inquiry, the 6th Respondent produced the document dated 19.10.2016 which indicated that the Petitioner's father had nominated the Petitioner and 6th Respondent as his successors which was marked as 6R4 by the 6th Respondent. Thereafter, the 1st Respondent made a decision to cancel the certificate of ownership issued to the Petitioner on 08.03.2019. This decision was communicated to the Petitioner by the 2nd Respondent on 19.05.2023.

The 6th Respondent in her objection dated 20.09.2023 has alleged that, due to the domestic dispute, the Petitioner's mother had forcibly admitted her father to the mental hospital. After she came to know about her father's plight, she had taken him from the hospital and took care of him under her care. Due to financial difficulties, she went abroad and returned to the island two years later. Thereafter only, the 6th Respondent became aware that the particular land was transferred to the Petitioner on the basis that the Petitioner is the only child of the Petitioner's father. Thereafter, the 6th Respondent made an appeal to the 1st Respondent indicating that she is the eldest daughter of the Petitioner's father. After the inquiry, equal shares were decided to be granted to the 6th Respondent and the Petitioner by the document marked as P20.

Against the said decision of the 1st Respondent, the Petitioner has come before this Court to quash the impugned decision by way of a writ of Certiorari.

In the context of this case, two questions have arisen to be addressed before this Court. The first question is that whether the document marked as 6R4 is a valid document for nomination in terms of the Land Development Ordinance. The 1st Respondent had taken a decision based on the document marked as 6R4 and arrived at a decision that both the 6th Respondent and the Petitioner are the successors to the land in question.

Did the Respondents act illegally or unreasonably or irrationally when they decided to consider the 6th Respondent as a nominee along with the Petitioner?

This Court has to decide on the legality or validity of the action taken by the Respondents.

The principles of illegality and unreasonableness were considered by his Lordship Arjuna Obeysekara J in Udagedara Waththe Anusha Kumari v. Jayasinghe Mudiyanselage Chamila Indi Jayasinghe, CA/WRIT Application No. 293/17, Decided On 18.11.2019:

> "This brings this Court back to the issue that arises for determination - i.e. did the Respondent act illegally or unreasonably or irrationally when he formed his opinion that the land which is the subject matter of the said quit notice is State land. In considering this question, it would be useful to bear in mind the description given by Lord Diplock in Council of Civil Service Unions vs Minister for the Civil Service to the phrases 'illegality' and irrationality:
>
> "By 'illegality' as a ground for judicial review I mean that the decision maker must understand correctly the law that regulates his decision making power and must give effect to it. Whether he has or not is par excellence a justiciable question to be decided

in the event of dispute, by those persons, the judges, by whom the judicial power of the state is exercisable."

"By 'irrationality' I mean what can now be succinctly referred to as 'Wednesbury unreasonableness'll. It applies to a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it."

In Regina v. Hull University Visitor, Ex parte Page Lord Browne-Wilkinson, after considering the aforementioned passage of Lord Diplock, observed as follows :

"Over the last 40 years, the courts have developed general principles of judicial review. The fundamental principle [of judicial review] is that the courts will intervene to ensure that the powers of public decision-making bodies are exercised lawfully. In all cases, save possibly one, this intervention by way of prohibition or certiorari is based on the proposition that such powers have been conferred on the decision-maker on the underlying assumption that the powers are to be exercised only within the jurisdiction conferred, in accordance with fair procedures and, in a Wednesbury sense reasonably. If the decision-maker exercises his powers outside the jurisdiction conferred, in a manner which is procedurally irregular or is Wednesbury unreasonable, he is acting ultra vires his powers and therefore unlawfully. " (emphasis added)

Section 60 of the said Ordinance deals with how the nomination would become effective. Accordingly, Section 60 reads as follows:

**"Nomination or cancellation of nomination invalid unless registered before death of owner or permit-holder.**

No nomination or cancellation of nomination of a successor shall be valid unless the document (other than a last will) effecting such nomination or cancellation is duly registered before the date of the death of the owner of the holding or the permit-holder."

According to the above Section, it is apparent that the succession of the property has to be considered on the basis of whether it is duly registered before the death of the owner of the holding.

Further, Sections 58(1) of the said Ordinance, requires that until the said document being registered by the Registrar of Lands of the Districts, the document shall not be valid. In the instant case, there is no evidence to show that 6R4 is registered before the death of the Petitioner's father at the land registry.

This aspect was considered in the following cases.

In Madurasinghe v. Madurasinghe, (1988) 2 SLR 142 at page 146, his Lordship De Silva, J held that;

"There remains to be answered the second question viz: whether -the. nomination of the defendant as successor having been registered after the death of Haramanis Perera is rendered invalid by Section 60 of the Land Development Act.

It was the plaintiff's contention that in view of the provisions of Section 60 of the Land Development Ordinance as amended by Act No. 16 of 1969 which states that "no nomination .... of a successor shall be valid unless the document (other than a last will) effecting such nomination .... is duly registered before the death of the owner of

the holding or the permit-holder" the nomination of the defendant; if there be such a nomination is of no effect and does not pass title to her. To overcome this obstacle, learned Counsel for the defendant has called into aid two legal maxims viz: (1) lex non cogit ad impossibilia and (2) the principle of nunc pro tune.

Further his Lordship held that:

> "I do not see any reason why the nominations could not be registered before such issue, because these lands had been the subject matter of transactions even during the lifetime of the defendant's mother. In these circumstances, even if this maxim could be applied to a situation where a nomination had not been registered during the lifetime of the owner, in compliance with the mandatory requirement of Section 60, I do not think that in the circumstances of this case, the application of that maxim is justified."

Her Ladyship Dr. Shirani A. Bandaranayake, CJ held in Gunadasa v. Marywathy, SC Appeal No. 82/2008, Decided on 26.10.2010 (2012 BLR 248 at page 249) that:

> One of the questions that arose before the District Court was whether the said document marked as P5 was a valid document in terms of the Land Development Ordinance.
>
> It is not disputed that the deceased Palate Gedera Jamis was the original permit holder and that the land in question was alienated under and in terms of the Land Development Ordinance on 25.01.1982 (P3). Accordingly, succession to such land would be decided on the basis of the provisions laid down under the Land Development Ordinance. Chapter VII of the Land Development Ordinance deals with the successors

to any land alienated on a permit or a holding and section 60 refers to nomination or cancellation of such alienation.

It is therefore evident that the learned District Judge of Polonnaruwa was correct when he had decided that the question of succession and the validity of the document marked P5 should be considered on the basis of section 60 of the Land Development Ordinance.

The documents marked as P4 dated 17.06.1993, V1 dated 05.04.1994 and P5 which was registered on 22.11.1994 all refer to the nomination of a successor to the original grant holder's property. In Madurasinghe v Madurasinghe ([1988] 2 Sri L.R. 142), it was held that the successor under the Land Development Ordinance has to be considered in terms of section 60 of the said Ordinance. Accordingly it is apparent that the succession of the property alienated on a permit in terms of the Land Development Ordinance has to be considered and decided on the basis of section 60 of the said Ordinance. The said section 60 is in the following terms:

"No nomination or cancellation of the nomination of a successor shall be valid unless the document (other than a last will) effecting such nomination or cancellation is duly registered before the date of the death of the owner of the holding or the permit-holder."

It is not disputed that Palate Gedera Jamis had nominated the appellant and the respondent as his successors by his application made to the Divisional Secretary, Medirigiriya. On 17.06.1993 (P9), the Divisional Secretary, Medirigiriya had forwarded the said application to the District Land Registrar, Polonnaruwa to take necessary action. The said application clearly states that its purpose was to 'appoint

a successor'. Based on that application the names of the appellant and the respondent were entered as successors of the said Jamis by P4 dated 17.06.1993. It is also not disputed that the said Jamis had died on 25.05.1994 (P10). The contention of the learned Counsel for the respondent was that by letter dated 05.04.1994 (V1), the said Jamis had written to the Divisional Secretary, Medirigiriya requesting to nominate the respondent as his successor to the land in question. On the basis of this document, the said respondent's name had been entered in to the Register of Permits/Grants under the Land Development Ordinance (P5). The said registration has been effected on 22.11.1994.

According to section 60 of the Land Development Ordinance, referred to above, a nomination would become effective, only if such nomination or cancellation is duly registered before the date of the death of the owner of the holding or the permit-holder. It is therefore quite obvious that the nomination of the respondent had been registered on a date several months after the death of the said Jamis, who was the permit-holder."

In Rathnayake Mudiyanselage Gunaratne v. V.U.K. Agalawatta, CA WRIT Application No, 406/2011, Decided on 18.03.2013 (2013 Galle Law Journal Volume 2, page 325), his Lordship Sunil Rajapakse, J held that;

"However, in this case, the 4th Respondent's position is that he was nominated a successor to his father. Further he says under the Land Development Ordinance he is the legal successor to the entire paddy land under Permit/Grant by virtue of the provisions of the Land Development Ordinance . Therefore the 4th Respondent claims that the decision of the 1st Respondent naming the 4th Respondent as the successor to the said land is not unlawful and ultra vires. But the court holds that this

submission cannot be substantiated by the provisions of the Land Development Ordinance. The main point argued by the learned Counsel for the Petitioner was that the registration of the nomination of the 4th Respondent in respect of the entire paddy land is invalid in terms of Section 60 of the Land Development Ordinance."

Further it was held that:

"One of the questions that arose before the Court was whether the said document marked P7 was a valid document in terms of Section 60 of the Land Development Ordinance."

His Lordship has referred to the following authorities in his judgement:

Gunadasa vs Marywathy- 2012(BLR pg.248)

In Madurasinghe vs Madurasinghe (supra)

Further he held that:

"Therefore, it is evident that it is necessary to apply the provisions contained in Section 60 of the Land Development Ordinance. to the facts of this case."

In Rajakaruna Wasala Mudiyanselage Sumedha Manoratne Margratte v. Kumburage and Others, CA/WRIT Application 148/2017, Decided on: 09.08.2019, his Lordship Janak De Silva J,held that;

"Fifthly, section 60 of the Ordinance states that no nomination or cancellation of the nomination of a successor shall be valid unless the document (other than a last will) effecting such nomination or cancellation is duly registered before the date of death of the owner of the holding or the permit holder. Several decisions of the superior courts have held that the provisions in section 60 of the Ordinance is mandatory and the

failure to register renders a nomination invalid. [Madurasinghe v. Madurasinghe (1988) 2 Sri.L.R. 142, Gunadasa v. Marywathy (2012) B.L.R. 248, Gunaratne v. Agalawatta (2013) Galle Law Journal Vol. 11325, Ranjith v. Nissanka Arachchi and Others (C.A. Writ 453/2013, C.A.M. 10.10.2016)]. There is no evidence that the nomination of Samarakoone Banda by Ukku Banda was registered."

This principle was further succinctly articulated by his Lordship Arjuna Obeyesekera, J in Godellawatte Liyanarachchige Diyunuhamy Amaradasa and Another v. R.P.R.Rajapaksha and Others, CA WRT Application No:161/2016, Decided on 05.10.2020, which held that;

Even though the Respondents have not made available to this Court the letter dated 15th March 2016, the learned Senior State Counsel submitted that the decision in 'P15' recalling the permit and grant issued to the 1st Petitioner was done for two reasons. The first is that the nomination of Manamperige Hamina had not been registered in the Land Ledger, and therefore her nomination as a successor is not valid. The second is that, in these circumstances, Manamperige Hamina was only a lifeholder of the said lands and therefore she had no power to nominate a successor, either through a last will or through a nomination made under the Ordinance.

I shall now consider each of the said grounds urged before this Court by the learned Senior State Counsel, in order to determine if 'P15' is illegal, irrational or arbitrary.

There are three Sections of the Ordinance that are relevant to a consideration of the first ground.

The first is Section 56(1) of the Ordinance, which provides that, "The nomination of a successor and the cancellation of any such nomination shall be effected by a document substantially in the prescribed form executed and witnessed in triplicate before a Government Agent, or a Registrar of Lands, or a divisional Assistant Government Agent, or a notary, or a Justice of the Peace."

The second is Section 58(1) which goes on to state that, "A document (other than a last will) whereby the nomination of a successor is effected or cancelled shall not be valid unless and until it has been registered by the Registrar of Lands of the district in which the holding or land to which that document refers is situated."

The final section is Section 60 of the Ordinance, in terms of which, "No nomination .... of a successor shall be valid unless the document (other than a last will) effecting such nomination .... is duly registered before the date of the death of the owner of the holding or the permit-holder."

The cumulative effect of these three Sections is that a nomination carried out in the prescribed manner must be registered by the Registrar of Lands during the life time of the owner or permit holder, for such nomination to be valid.

The Respondents have filed together with their motion dated 7th June 2019 a copy of the permit 'P1' which clearly shows that the name of Manamperige Hamina has been nominated as the successor. However, the Land Ledger pertaining to the said permit, which has also been submitted with the said motion, does not contain the first nomination made in 'P1' of Asilin, or the nomination of Manamperige Hamina. The validity of the nomination of a successor which has not been registered in conformity

with the provisions of the Ordinance was considered by the Supreme Court in Palate Gedera Gunadasa vs Palate Gedara Marywathy.

The above decision of the Supreme Court supports the argument of the learned Senior State Counsel that not only should the nomination be registered, but that the registration must take place during the lifetime of the permit holder or the owner. In the absence of such registration, and in view of the mandatory nature of Sections 54, 56 and 60 in the overall scheme of the Ordinance, I agree with the submission of the Respondents that the nomination of Manamperige Hamina is not valid."

His Lordship M. Sampath K.B. Wijeratne. J K.W.A. held in Sarath Sanjeewa v. R.M. A.C. Herath and Others, CA WRIT/030/2019, decided on 20.10.2023, that;

The Petitioner submitted two land ledgers ('P 3(a)' and 'P 4(a)') and the two registers of permits/grants under the LDO ('P 3(b)' and 'P 4(b)'). The Petitioner's nomination is registered in both the land ledgers, on the 27th of May 2004. However, the Petitioner's nomination is not registered in the two registers of permits/grants under the LDO. Section 58 of the LDO provides that a document whereby the nomination of a successor is affected (other than a last will) shall not be valid unless and until it has been registered by the Registrar of Lands of the District in which the land is situated. Furthermore, according to Section 60 of the LDO, a nomination has to be registered before the death of the owner of the holding. "

When we consider the above judgements with the instant case, we hold that there is no evidence to indicate that 6R4 was registered before the death of the Petitioner's father. Since

it was not registered under Section 60 of the above said Ordinance, according to Section 58(1), the document is not invalid.

Therefore, we hold that the decision taken by the 1st Respondent to nominate the 6th Respondent along with the Petitioner based on the document marked as 6R4 is illegal and irrational as it was not in conformity with the Land Development Ordinance. The decision is bad in law.

The next question before this Court is, even in the absence of nomination, could the 6th Respondent who claimed to be the eldest child of the deceased Petitioner's father, be the successor to the land in question? We note that Section 51 of the Ordinance imposes restrictions on the nomination of the successor to the holding.

Section 72 of the Ordinance provides that when there is no successor has been nominated or the successor nominated has failed to succeed, the title to the land devolves as prescribed in Rule 1 of the Third Schedule. The said Rule provides for the relatives from whom the successor may be nominated. In the particular Schedule, preference is given to the oldest child as the successor to the impugned premises.

However, through the amendment made by Act No.11 of 2022 to the Ordinance, Rule 1(d)(i)of the Third Schedule provides thus:

> "where any person in the order of priority in which they are respectively mentioned in the subjoined table developed such land, the title to the holding or the land shall not devolve on the older person referred in paragraph (b) but on the person who developed such land; or"

In the instant case, the Petitioner has stated that she developed the land which was not denied by the Respondents. We are mindful that the 6th Respondent never possessed the said land. This provision was not considered by the 1st Respondent when making the decision contained in the document marked as P20. Therefore, according to the law, the Petitioner is entitled to succeed to the land.

In view of the reasoning provided above in this judgement, we hold that the Petitioner has established the grounds to issue writs as prayed for in the petition. Therefore, this Court issues writ of Certiorari as prayed in prayers (j), (k), (l), (m), (n) and (o) and issue writ in the nature of Prohibition, prohibiting the 1st to 4th Respondents from granting or issuing permit to the 6th Respondent in respect of the land referred to in P12 or portion of share thereof.

Application allowed with costs.

**JUDGE OF THE COURT OF APPEAL**

**N. Bandula Karunarathna (P/CA), J.**
**I AGREE**

**PRESIDENT OF THE COURT OF APPEAL**