

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

Sinanathamby Seyyedu Abbasee,  
No.168, Town Mosque Road,  
Akkaraipattu – 05.  
Petitioner

**CASE NO: CA/WRIT/276/2014**

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 1<sup>st</sup>, 3<sup>rd</sup>, 5<sup>th</sup>-  
7<sup>th</sup> Respondents.  
H. Withanachchi with Shantha Karunadara  
for the 4<sup>th</sup> 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 2<sup>nd</sup> Respondent Divisional Secretary made the decision under section 17 of the Act to pay compensation in a sum of Rs. 13,995,500 to the Petitioner. *Vide* P13 dated 26.10.2010. So far, the said compensation has not been paid. The Petitioner filed this application seeking a writ of mandamus compelling the 1<sup>st</sup> Respondent District Secretary and/or the 2<sup>nd</sup> Respondent to pay to the Petitioner the said compensation with interest.

What do the 1<sup>st</sup> and/or 2<sup>nd</sup> Respondents say in their defence? They say acquisition was done on behalf of the 4<sup>th</sup> Respondent Sri Lanka Ports Authority, and, as the said Authority has failed to deposit the compensation money with the 1<sup>st</sup> and/or 2<sup>nd</sup> Respondents, they are unable to pay compensation to the Petitioner.

What does the 4<sup>th</sup> Respondent say in turn? Compensation was predominantly decided on the valuation of the land by the Government Chief Valuer. The 4<sup>th</sup> 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 Petitioner's 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 Petitioner. The matters raised by the 4<sup>th</sup> Respondent shall be sorted out by the 4<sup>th</sup> Respondent with the Chief Valuer and the 1<sup>st</sup> and/or 2<sup>nd</sup> Respondents. The Petitioner cannot and shall not be made to suffer for disputes among other parties. The 4<sup>th</sup> Respondent's defence is absolutely devoid of merit.

Moreover, no relief has been sought against the 4<sup>th</sup> Respondent because the land was acquired by the subject Minister and the award under section 17 of the Act was made by the Divisional Secretary. The Petitioner has nothing to do with the 4<sup>th</sup> Respondent.

Once the award under section 17 is made, section 29 becomes operative. According to section 29, the acquiring officer, in this case the 2<sup>nd</sup> 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 Petitioner in this application has a legal right to demand.

I grant the reliefs to the Petitioner as prayed for in paragraphs (b)-(d) of the prayer to the petition.

The application is allowed with costs.

Judge of the Court of Appeal

Arjuna Obeyesekere, J.

I agree.

Judge of the Court of Appeal