

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

In the matter of an application for mandates
in the nature of Writs of Certiorari and
Mandamus in terms of Article 140 of the
Constitution of the Democratic Socialist
Republic of Sri Lanka.

1. S.G Joseph Santiago,
No. 09,
Bandaranayaka Mawatha,
Ratnapura.

PETITIONER

CA No. CA/Writ/0016/2019

v.

1. K. Uthayarajah,
The Divisional Secretary,
The Divisional Secretariat,
Vavuniya.
- 1A. N. Kamalathanan,
The Divisional Secretary,
The Divisional Secretariat,
Vavuniya.
2. I. M. Haneefa,
The District Secretary,
The District Secretariat,
Vavuniya.
- 2A. S. M. Saman Bandulasena
The District Secretary,

The District Secretariat,
Vavuniya.

3. P. Kuganathan,
Provincial Land Commissioner,
Department of Provincial land
Commissioner,
Northern-Provincial Council,
No. 80, Kandy Road,
Chundukkuli,
Jaffna.

3A. A. Sothinathan,
Provincial Land Commissioner,
Department of Provincial Land
Commissioner,
Northen-Provincial Council,
No. 59,
Temple Road,
Jaffna.

4. R. M. C. B. Herath,
Commissioner General of Land,
Land Commissioner General 's
Department, "Mihikathamadura",
No: 1200/6, Rajamalwatte Road,
Battaramulla.

5. Joseph Selliah Thevetheepan,
No. 208,
Main Road,
Kovilkulam,
Vavuniya.

6. Thoondil Kandasamy,
No. 202,
Thanalaxmi Stores,
Kovilkulam,
Vavuniya.

7. Milar Fatima Rani,
Nee

Selliah Fatima,
No. 10,
Old Kaccheriya Road,
Ratnapura.

8. Thyageshwaran Thushanthi,
Vishnu Kovil Road,
Kovilkulam,
Vavuniya.

9. Kandasamy Thayalan,
C/O T. Kandasamy,
No. 202,
Thanalaxmi Stores,
Kovilkulam,
Vavuniya.

10. Kandasamy Tharshika,
C/O T. Kandasamy,
No. 202,
Thanalaxmi Stores,
Kovilkulam,
Vavuniya.

11. N. Lasitha,
'Sampath Enterprise',
No. 208,
Main Road,
Kovilkulam,
Vavuniya.

12. Jeruratnam Nesan,
No. 128,
Kovilputhukkulam,
Vavuniya.

13. Thuraisingham Sarojinidevi,
No. 267,
Kovilkulam,
Vavuniya.

14. Innasi Vincent Siriya Pushpam,
Alaiadi Street,
Kovilkulam,
Vavuniya.

RESPONDENTS

BEFORE : M. Sampath K. B. Wijeratne J. &
M. Ahsan. R. Marikar J.

COUNSEL : Shantha Jayawardena with Azra Basheer
for the Petitioner.

N. Kahawita, S.C. for 1st – 4th
Respondents.

Harindi Seneviratne for the 5th to 10th and
13th Respondents.

B. N. Thambo with K. Jackson for the 12th
Respondent.

ARGUED ON : 27.02.2024

DECIDED ON : 03.05.2024

M. Sampath K. B. Wijeratne J.

Introduction

The Petitioner instituted these proceedings seeking *inter-alia*, writ of *certiorari*;

- i. To quash the decision to appoint/recognise/accept the 5th Respondent as the successor to the Grant 'P 2', reflected in 'P 20'¹.

¹ The minutes of meeting marked 'P 20'.

- ii. To quash the decision to issue long term leases to the 5th and 7th to 10th Respondents in respect of the land alienated on the annual Permit².
- iii. To quash the document marked 'P 20'.
- iv. To quash the letter marked 'P 13'.

Writ of *mandamus*;

- i. Directing the 1st to 4th Respondents to appoint/recognise the Petitioner as the successor to the Grant 'P 2'.
- ii. Directing the 1st to 4th Respondents to issue lease or other legal means to the surviving children of Joseph Selliah in respect of the land alienated on the annual Permit.

Without prejudiced to the above, a writ of *mandamus* directing the 1st to 4th Respondents to hold an appropriate inquiry/hearing to determine the entitlement of the land alienated on the annual Permit.

The 1st Respondent; 7th to 10th Respondents and the 12th Respondent filed their objections seeking to dismiss the Petitioner's application.

In reply, the Petitioner filed a counter affidavit.

Upon closure of pleadings, the matter was fixed for argument and the learned Counsel for the Petitioner, the learned State Counsel for the 1st to 4th Respondents, the learned Counsel for the 5th to 10th and 13th Respondents and the learned Counsel for the 12th Respondent made their submissions.

Factual background

The Petitioner asserts that his family hails from Ratnapura. The 5th, 7th, and 14th Respondents are siblings of the Petitioner. According to the Petitioner, in the early 1970s, the entire family relocated to Vavuniya due to escalating communal tensions in Ratnapura. However, the 5th to 10th and 13th Respondents dispute this claim, asserting that the Petitioner never resided in Ratnapura and instead departed for Iran around 1977.

The Petitioner's family sought refuge on State land in Vavuniya. Joseph Selliah, the Petitioner's father, was granted a permit ('P 1') in 1988 under

² contained in minutes marked 'P 20'.

Section 19 (2) of the Land Development Ordinance (hereinafter referred to as the 'LDO'), granting permission for the use of 3 Roods of State land adjacent to their residence. Subsequently, Joseph Selliah obtained Grant 'P 2' for the same land under Section 19 (4) of the LDO. On 7th May 1996, Joseph Selliah was issued an annual Permit 'P 3' under the Crown Lands Ordinance³ for the land he occupied. He passed away on 9th December 1996⁴, leaving behind his wife, Anthony Amma, three sons, and three daughters. Anthony Amma, the Petitioner's mother, passed away on 28th March 2002⁵.

Analysis

Initially, I will address the preliminary objection raised by the 3rd Respondent⁶ in their statement of objections, regarding the unexplained significant delay in submitting this application.

The Petitioner is seeking a writ of *certiorari* to annul the decision to appoint/acknowledge/endorse the 5th Respondent as the successor to the Grant ('P 2'/'1 R 2'), as documented in the minutes 'P 20'. Additionally, the Petitioner pleads for a writ of *certiorari* to nullify the decision outlined in 'P 20' to lease the land, originally allocated to the late Joseph Selliah under a Permit, to the 5th, 7th, and 10th Respondents. Furthermore, the Petitioner seeks a writ of *certiorari* to invalidate the letter 'P 13'. The date of 'P 20' is 7th May 2018, and the date of 'P 13' is 11th August 2017.

The letter 'P 13' is addressed to both the Petitioner and the 5th Respondent, explaining the relevant facts concerning the complaint lodged by the Petitioner on 7th July 2017. Regarding the Permit, it is stated that once the 1st Respondent Divisional Secretary receives advice from the Provincial Land Commissioner regarding the land alienated under the Permit, such information will be conveyed to both the Petitioner and the 5th Respondent.

Neither 'P 13' nor 'P 20' contains a decision made by the 1st Respondent regarding the alienation of the two lands. Instead, both documents solely provide a factual account related to the issuance of the Grant to the 5th Respondent. In 'P 13', there is an indication that guidance will be sought from the Provincial Commissioner of Lands regarding the land allocated under the Permit. However, 'P 20' contains a decision made by the panel of inquiry to lease out the land originally allocated to the late Joseph Selliah, and

³ No. 8 of 1947, as amended.

⁴ Death certificate 'P 5'.

⁵ Death certificate 'P 6'.

⁶ At paragraph 3.

subsequently to the 5th Respondent based on Permits, to the individuals currently in physical possession.

As indicated in the letter marked 'P 14', the 5th Respondent has succeeded to the land allocated to late Joseph Selliah under the Grant 'P 3', on the 10th August 2001. As reflected in the Petitioner's letter dated 7th July 2017, (filed of record adjacent to the document marked 'P 13A'), the Petitioner lodged a complaint with the authorities regarding the transfer of the two lands to the 5th Respondent on 5th November 2008.

The Petitioner instituted this application on 11th January 2019, which is more than ten years after the letter dated 5th November 2008, where the Petitioner raised objections to the allocation of the two lands to the 5th Respondent. Even considering the timeframe from the document 'P 20', it has been over seven months since then.

The decision to grant leases to individuals in possession of the land originally allocated to the late Joseph Selliah under Permit 'P 3' is also outlined in 'P 20'. This land was initially allocated to the 5th Respondent on 16th July 1997⁷, subsequent to Joseph Selliah's death. According to the report from the panel of inquiry dated 17th May 2018, as reflected in 'P 20', the said Permit was issued with the consent of Joseph Selliah's wife and children. This information is reiterated in the 1st Respondent's letter 'P 19' dated 28th May 2018. Despite the Petitioner's denial of having signed the consent letter ('P 18')⁸, in the Petitioner's letter dated 7th July 2017, the Petitioner unequivocally acknowledges that following the father's demise, both lands allocated to the father were transferred to his elder brother, the 5th Respondent⁹.

It's worth noting that the Petitioner initiated these proceedings more than twenty-one years after the issuance of the Permit and over seventeen years after the Grant was issued, in the name of the 5th Respondent

The letter dated 6th October 2017, from the 1st Respondent ('P 14'), indicates that the 5th Respondent has transferred the rights to the land allocated to him under the Permit to more than four individuals without obtaining prior approval from the 1st Respondent. Additionally, it is mentioned that the annual Permit issued to the 5th Respondent has lapsed due to non-renewal. Consequently, the 1st Respondent has proceeded on the basis that the land has

⁷ *Vide* P 14.

⁸ At paragraph 12 of the Counter affidavit.

⁹ filed of record next to the document marked 'P 13A'.

reverted to the State as per Section 16 of the Crown Lands Ordinance and Circular 2014/02. Therefore, the panel of inquiry has decided to lease the land solely to those individuals who have developed it and are currently in physical possession, disregarding the transfers made by the 5th Respondent¹⁰.

In the case of *Biso Menike v. Cyril de Alwis* (S.C.)¹¹ His Lordship Sharvananda J., (as His Lordship then was) observed that ‘...*delay defeats equity and the longer the injured person sleeps over his rights without any reasonable excuse, the chances of his success in a writ application dwindle and the Court may reject a writ application on the ground of unexplained delay*’.

In the case of *Seneviratna v. Tissa Bandaranayake and another* (S.C.)¹² Amarashinghe J., observed that ‘... *if a person were negligent for a long and unreasonable time, the law refuses afterwards to lend him any assistance to enforce his rights; the law both to punish his neglect, nam leges vigilantibus, non dormientibus, subveniunt, and for other reasons refuses to assist those who sleep over their rights and are not vigilant...*’.

In *Issadeen v. The Commissioner of National Housing and others* (S.C.)¹³ Bandaranake J, (as her Ladyship then was) observed that ‘... *Although there is no statutory provision in this country restricting the time limit in filling an application for judicial review and the case law of this country is indicative of the inclination of the court to be generous in finding a good and valid reason for allowing late application, I am of the view that there should be proper justification given and explained in the delay in filling such belated application...*’.

In *Paramalingam v Sirisena and Another* (C.A.)¹⁴ Wigneswaran J., made the following observations regarding laches ‘*Laches means negligence or unreasonable delay in asserting or enforcing a right. There are two equitable principles which come into play when a statute refers to a party being guilty of laches. The first doctrine is that delay defeats equities. The second is that equity aids the vigilant and not the indolent. Lord Camden said “Nothing can call forth this Court into activity but conscience, good faith, and reasonable diligence; when these are wanting the Court is passive and does nothing*’

¹⁰ *Vide* ‘P 20’.

¹¹ [1982] 1 Sri L. R. 377 at p. 378.

¹² [1999] 2 Sri L. R. 341 at p.351.

¹³ [2003] 2 Sri L. R. 10. At pp. 15, 16.

¹⁴ [2001] 2 Sri L. R. 239 at p. 248.

Considering the situation, it seems evident that the Petitioner has failed to provide a satisfactory explanation for the significant delay in filing this application which warrants dismissal of the same without considering the merits.

Nevertheless, to ensure a comprehensive evaluation, I will proceed to examine the merits of the Petitioner's case as well.

The Petitioner asserts that both lands previously allocated to his deceased father are agricultural lands situated adjacent to each other, and he personally cultivated them until the end of 2016. The Petitioner alleges that he was forcibly evicted and denied access to continue cultivation. He has lodged a complaint with the police seeking the restoration of his possession. However, the Petitioner has only provided a receipt issued by the police acknowledging the complaint. He could have readily supplied a copy of the complaint, which presumably contains details regarding his eviction. Therefore, the logical conclusion for this Court would be that the contents of the complaint are unfavourable to him. To support his assertion of cultivating the lands, the Petitioner submitted a photograph supposedly taken during the cultivation of *chene* crops. The Petitioner did not provide any additional evidence.

To refute the Petitioner's assertion of cultivating both lands until 2016, the 5th Respondent submitted copies of Electoral Registers from the years 2006, 2008, 2010, 2012, 2014, 2016, and 2018, marked as '5R1' to '5R7', which indicate the Petitioner's residence at No. 9/2, Colombo Road, Ratnapura, within the Ratnapura electorate. It is a known fact that the distance between Ratnapura and Vavuniya is approximately over 275 kilometers. Therefore, it is implausible to believe that the Petitioner, residing in Ratnapura, managed to cultivate two lands in Vavuniya.

The Petitioner claimed that the 5th Respondent wasn't significantly engaged in cultivation. In response, the 5th to 10th and 13th Respondents countered that the Petitioner never resided in Vavuniya, and it was solely the 5th Respondent who managed the affairs there. According to them, the Petitioner departed for Iran around 1977. They further claimed that upon returning to Sri Lanka in 1983, the Petitioner lived in Wattala, and at their father's request, the 5th Respondent handed over the family-owned grocery business in Ratnapura to the Petitioner around 1975/1976, which he continued to operate. As per the Respondents' claim that the Petitioner left for Iran in 1977, the transfer of the business should have occurred before his departure. However, according to the Petitioner, it was the 5th Respondent who went to India as a refugee. In support

of this, he submitted an affidavit sworn by their father as 'P 23'. Nevertheless, the affidavit does not specify which child was in India.

The Petitioner contends that according to the LDO, upon their father's demise, their mother should have rightfully succeeded as the legitimate successor, both as the surviving spouse and as the nominee¹⁵. The Petitioner alleges that the 5th Respondent manipulated the process to acquire the land allocated under the Grant 'P 2/'1 R 2' and the land allocated under the annual Permit 'P 3'. However, the 5th to 10th and 13th Respondents argued that their mother was nominated as the successor only in the Permit ('P 1'), and there was no nomination specified in the subsequent Grant issued for the same land ('P 2/'1 R 2'). They assert that their mother, Anthony Amma, has no legal right or entitlement to be considered as a successor in the subsequent grant. Therefore, they argued that according to Section 72, read in conjunction with the Third Schedule of the LDO, the title to the land allocated under the Grant should devolve upon the 5th Respondent, who is the eldest son of the original owner, Joseph Selliah.

The above argument presented by the 5th to 10th and 13th respondents is untenable under existing law.

In the case of *Don Agosinno v. Divisional Secretary, Polonnaruwa and others*¹⁶(S.C.), Chief Justice S.N. Silva, with Justices Jayasinghe and Amaratunge concurring, held that the transition from an initial holding under a Permit to a subsequent Grant is a single process, not two distinct processes. Therefore, the fact that the holder's interest is converted from a Permit to a grant does not alter any nomination previously made by the holder to the relevant authority. Consequently, any nomination of a successor under the Permit should be considered as transferred to the Grant. Justice J.A.N. de Silva, then of the Court of Appeal, in the case of *Nanayakkara v. Jayasooriya and another*¹⁷ adopted the same perspective, emphasizing that the intention of the allottee should be honoured. Thus, the contention raised by the 5th to 10th and 13th respondents lacks merit in light of established legal precedent.

¹⁵ Paragraph 12 of the Petition.

¹⁶ Appellate Law Recorder, (2010)1, at p.5.

¹⁷ [1989] 1 Sri. L.R. 366.

Land alienated under the Grant.

According to the statement of objections filed by the 3rd Respondent, following the demise of the Grant holder, the land mentioned in ('P 2/1 R 2') is supposed to pass to his spouse as the nominee and successor. Subsequently, upon her passing, as per Schedule III of the LDO¹⁸, the Grant was issued to the 5th Respondent, who was the eldest son of the deceased Joseph Selliah.

Under the Grant, Anthony Amma, the wife of the owner Joseph Selliah, held a dual capacity as both the spouse and the nominated successor.

According to Section 48 B (1) of the LDO, the spouse of the deceased owner of the holding is entitled to succeed to the holding, subject to the conditions outlined in Subsections (a), (b), and (c). However, the proviso states that if the spouse has also been nominated by the deceased owner to succeed to that holding, the aforementioned conditions would not apply.

Section 68 (1) of the LDO stipulates that if the spouse of an owner refuses to succeed to the land or does not take possession of the holding within six months from the owner's death, it is deemed that the spouse has failed to succeed.

According to Section 68 (2) of the LDO, if a nominated successor to a holding of an owner refuses to succeed to the holding or does not take possession of the holding within six months from the owner's death, it is also considered a failure to succeed.

Joseph Selliah passed away on 9th December 1996, and his wife Joseph Selliah Anthony Amma, died on 28th March 2002. However, according to the letter 'P 14' dated 6th October 2017, signed by the Divisional Secretary of Vavuniya, the transfer of the holding in the name of the 5th Respondent, Joseph Selliah Thevetheepan ('P 2/'1 R 2'), was executed on 10th August 2001, in accordance with the Third Schedule of the LDO read along with Section 72 of the LDO. Therefore, it is evident that the succession of the holding ('P 2/'1 R 2') occurred before the death of Anthony Amma.

There is no material to suggest that Anthony Amma made a request after Joseph Selliah's death to have the Grant issued in her name as the nominated successor. The Grant was issued to the 5th Respondent during Anthony Amma's lifetime, and there had been no conflicting claim made by her.

¹⁸ Paragraph 9 of the Objections.

The 5th Respondent contends that as a bachelor, he resided on the subject premises at all relevant times, maintaining, improving, and cultivating the land at his own expense without objection from any party¹⁹. Furthermore, the Petitioner does not assert that his mother, Anthony Amma, took possession of the holding. The Petitioner merely argues that his mother *should have been* the legitimate successor to the land²⁰.

Therefore, the only logical conclusion that this Court could reach is that the spouse of the deceased owner did not take possession of the property within the six-month period following the owner's death. There is no material before the Court indicating otherwise.

In the case of *Gunawardhane and another v. K. A. Rosalin*²¹ (S.C.) His Lordship Basnayake C.J., held that upon the failure of the successor to enter into possession within six months prescribed in the LDO, successor's rights get wiped out.

In accordance with Section 72 of the LDO, if the spouse or nominated successor fails to succeed to the holding of an owner, it shall devolve as per Rule 1 of the Third Schedule of the LDO. Pursuant to this, preference is given to the sons, with the eldest son taking precedence over the younger ones. Therefore, the 5th Respondent, being the eldest son of the deceased owner Joseph Selliah, should receive preference over the younger son, Joseph Santiago, the Petitioner.

The Petitioner claimed that the 5th Respondent has unlawfully transferred the land allotted to him under a Grant, thereby breaching specified conditions. These conditions, as outlined in Grant 'P 2', which adheres to the prescribed format, stipulate that the land, or any part thereof, cannot be transferred without prior written consent from the Divisional Secretary²².

The Divisional Secretary acknowledged in his letter 'P 14' that the alienations were given effect with his sanction. Additionally, the details of the approval granted by the Divisional Secretary are explicitly mentioned on the deeds²³ 'P10' and 'P11'.

¹⁹ Paragraphs 15 (i), 15(vii) and 17 (i) of the statement of objections of 5th to 10th and 13th Respondents.

²⁰ Paragraph 12 of the Petition.

²¹ 62 N.L.R. 213.

²² *Sellathangam v. Assanarlebbe* 59 N.L.R. 350.

²³ *Nanayakkara v. jayasooriya and another* [1989] 1 Sri.L.R. 366.

Therefore, in my informed perspective, the 1st Respondent has lawfully transferred the rights under the Grant to the 5th Respondent pursuant to Rule 1 of the Third Schedule in conjunction with Section 72 of the LDO.

In light of the preceding analysis, it is my considered view that the 1st to 4th Respondents have acted in accordance with the law by appointing the 5th Respondent as the successor to Grant 'P 2'. Therefore, the claims for a writ of *certiorari* to annul the aforementioned decision and a writ of *mandamus* to compel the appointment of the Petitioner as the successor cannot be upheld.

Land alienated under the Permit.

The Permit ('P 3') is issued under the Crown Lands Ordinance²⁴. As indicated on the face of the Permit, it is personally granted to the recipient in accordance with Section 16 of the Crown Lands Ordinance. Section 16(2) of the Crown Lands Ordinance specifies that upon the death of the grantee, the property shall revert to the State, along with any improvements made on it. Consequently, following the demise of the grantee, Joseph Selliah, the land alienated under Permit ('P 3') should revert to the State. According to the aforementioned letter marked ('P 14'), the 1st Respondent, in accordance with the succession outlined in Rule 1 of the Third Schedule of the LDO, has also transferred the rights to the land held by Joseph Selliah under Permit ('P 3') to the 5th Respondent, Joseph Selliah Thevetheepan.

Subsequently, the 5th Respondent, without obtaining prior approval of the 1st Respondent, has transferred portions of the same land to multiple other parties. As previously stated in this judgment, the succession outlined in Rule 1 of the Third Schedule does not apply to a Permit issued under the Crown Lands Ordinance. Therefore, the decision of the 1st Respondent to transfer the land to the 5th Respondent is not in accordance with the relevant law.

However, subsequently, the annual Permit issued to the 5th Respondent was not renewed and lapsed²⁵. Following this, the 1st Respondent, in accordance with Circular No. 2014/02 issued by the Commissioner General of Lands, organized a *land kachcheri* and selected individuals for long-term leases. Out of the six children of the late Joseph Selliah, only two, namely the 5th Respondents, Joseph Selliah Thevetheepan, and Selliah Fatima Rani, were chosen for the allocation. Subsequently, the Petitioner requested the allocation of the land to himself and the heirs of his deceased sister. As a result, the 1st

²⁴ *Supra* note 03.

²⁵ Paragraph 07 of the letter 'P 14'.

Respondent sought instructions from the Provincial Commissioner of Lands through the aforementioned letter marked ('P 14'). Accordingly, by letter dated 16th January 2018 ('P 15') the Provincial Commissioner of Land advised the 1st Respondent that the succession under the LDO is not applicable to the lands alienated under the Crown Lands Ordinance. However, if the heirs of the deceased Permit holder are in possession without any conflict, those claims could be considered. Further, he has specifically stated that since the 5th Respondent is granted the succession of the land alienated under the Grant ('P 2'/1 R 2'), it is unnecessary to grant another State land to him.

Despite the aforementioned advice, at a meeting convened on the 17th May 2018, attended by the Provincial Commissioner of Land, the Deputy Commissioner of Land, Additional District Secretary (Lands), and the 1st Respondent Divisional Secretary, it was determined that allocating the land alienated under the Grant ('P 2'/1 R 2') to the 5th Respondent is lawful. However, it was decided that the land alienated under the Permit should be divided and allocated to the individuals currently in possession of it.

The details outlined above are reflected in the 1st Respondent Divisional Secretary's letter dated 28th May 2018 ('P 19'). According to the minutes of the meeting held on 17th May 2018, the officers constituting the panel of inquiry decided to allocate the land as follows: 20 perches each to Kandasamy Thayalan, Kandasamy Tharshika, and Thyageshwaran Thushanthi for residential purposes, and another 40 perches for agricultural use to Selliah Fatima, the daughter of late Joseph Selliah. Additionally, 20 perches for residence and 60 perches for agricultural purposes were allotted to the 5th Respondent, Selliah Thevatheepan. However, no portion of the land was allocated to the Petitioner, Joseph Santiago, who consequently rejected the decision of the panel of inquiry²⁶. As previously mentioned, the decision of the panel of inquiry was to lease the land to individuals who were in possession at the time, in accordance with Circular No. 2014/02. Accordingly, since the Petitioner was not in possession of the land, his claim was rejected.

Conclusion

In light of the above analysis, it is my considered view, that the 1st to 4th Respondents have acted in accordance with the law when allocating the land alienated to the late Joseph Selliah, to the 5th Respondent. Therefore, there are no grounds to warrant the issuance of a writ of *certiorari* to quash the decision

²⁶ *Vide* 'P 20'.

to appoint/acknowledge/validate the 5th Respondent as the successor to the grant 'P 2'. Furthermore, in my view the 1st to 4th Respondents have lawfully alienated the land initially assigned to the late Joseph Selliah through lease agreements to the 5th and 7th to 10th Respondents. As a result, there are no valid reasons to issue a writ of *certiorari* to annul the decision contained in 'P 20' to lease the land to the 5th and 7th to 10th Respondents, nor is there justification for issuing a writ of *mandamus* to allocate the land to Joseph Selliah's surviving children through lease or other legal means.

Based on the analysis presented in this judgment, there is no grounds for issuing a writ of *certiorari* to annul 'P 13' and 'P 20' either.

Since the Respondents consistently adhered to the law, there is no necessity to issue a writ of *mandamus* directing the 1st to 4th Respondents to conduct a fresh inquiry to ascertain entitlement to the land alienated under the permit. Therefore, granting alternative relief is also unwarranted.

Above all, as I have already stated in this judgement, this application should be dismissed solely on the basis of inordinate delay.

Consequently, I hold that the Petitioner's application must fail. Accordingly, the Writs sought in paragraphs (a) through (i) are thus rejected.

Application is dismissed subject to a cost Rs 50000/-.

JUDGE OF THE COURT OF APPEAL

M. Ahsan. R. Marikar J.

I Agree.

JUDGE OF THE COURT OF APPEAL