

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

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

C.A. (Writ) Application

No: 0036 / 2017

1. Sri Lanka State Plantations Corporation

No.11, Duke Street,

Colombo 01.

(Appearing by its duly appointed attorney namely Bogawantalawa Tea Estates PLC by Power of Attorney No.28 dated 20th May 1993 attested by M.M. Chandrika Notary Public)

2. Bogawantalawa Tea Estates PLC

153, Nawala Road,

Colombo

PETITIONERS

Vs.

1. Land Reform Commission,

No. 475, Kaduwela Road,

Battaramulla.

2. Sirimewan Dias.

Chairman,
Land Reform Commission,
No. 475, Kaduwela Road,
Battaramulla.

2A. Nilantha Wijesinghe

Chairman,
Land Reform Commission,
No. 475, Kaduwela Road,
Battaramulla.

2B. Panduka Keerthinanda

Chairman,
Land Reform Commission,
No. 475, Kaduwela Road,
Battaramulla.

2C. R. K. Nihal,

Chairman,
Land Reform Commission,
No.475, Kaduwela Road,
Battaramulla.

3. Upali Marasinghe.

Secretary,
Ministry of Plantation Industries,

8th Floor, Sethsiripaya 2nd Stage,
Battaramulla.

3A. Rawindra Hewawitharana
Secretary,
Ministry of Plantation Industries,
8th Floor, Sethsiripaya 2nd Stage,
Battaramulla.

3B. Janaka Dharmakeerthi
Secretary,
Ministry of Plantation Industries,
8th Floor, Sethsiripaya 2nd Stage,
Battaramulla.

3C. Prabath Chandrakeerthi.
Secretary
Ministry of Plantation and Community
Infrastructure,
11th Floor, Sethsiripaya 2nd Stage,
Battaramulla.

4. Mr. Navin Dissanayake.
Hon. Minister,
Ministry of Plantation Industries,
8th Floor, Sethsiripaya 2nd Stage,
Battaramulla.

4A. Mr. Ramesh Pathirana,
Hon. Minister,
Ministry of Plantation Industries,
8th Floor, Sethsiripaya 2nd Stage,
Battaramulla.

4B. Mr. Mahinda Amaraweera
Hon. Minister,
Ministry of Plantation Industries
8th Floor, Sethsiripaya 2nd Stage,
Battaramulla.

4C. Hon. K.V. Samantha Vidyaratna
Hon. Minister,
Ministry of Plantation and Community
Infrastructure,
11th Floor, Sethsiripaya 2nd Stage,
Battaramulla.

5. Pandiyan Balasubramaniam
5th Lane, Gouraville Janapadaya,
Upcot.

6. Pandiyan Ragunathan
20, Diyasirigama,
Dickoya.

7. Alappan Ravinathan

50, Temple Road,

Hatton.

8. Karuppannan Sugumar

09, Camp Valley,

Hatton.

9. Hon. Attorney General.

Attorney General's Department

Colombo 12.

RESPONDENTS

Before : Dhammika Ganepola, J.
Adithya Patabendige, J.

Counsel : Senaka De Seram with Nirosh Bandara and Laksara Prageeth instructed
by Shyamali Liyanage for the Petitioner.

M. Premachandra for the 1st and 2nd Respondents (LRC)

Shehan Soysa, S.S.C. for the 3rd and 4th Respondents.

Argued on : 20.11.2025.

Written Submissions

Tendered On : 17.12.2025 by the 1st and 2B Respondents

Decided on : 22.01.2026

Adithya Patabendige, J.

The Petitioners have filed this application, seeking, *inter alia*, a mandate in the nature of a *writ of certiorari* to quash the decision of the 1st Respondent, the Land Reform Commission (hereinafter referred to as the LRC), embodied in document dated 20th March 2014 marked **P14** (which was also marked **1R7** by the LRC), on the basis that the said decision was made without jurisdiction. The Petitioners have further pleaded consequential reliefs, including that the deeds marked **P7**, **P9**, **P10**, **P11**, **P12**, and **P13** do not convey title.

The 1st Petitioner, Sri Lanka State Plantation Corporation (hereinafter referred to as the SLSPC) was established under the Ceylon State Plantation Corporation Act No. 4 of 1958. The 2nd Petitioner, Bogawantalawa Tea Estates PLC (hereinafter referred to as the 2nd Petitioner), is a public limited company established under the provisions of the Conversion of Public Corporations or Government Owned Business Undertakings into Public Companies Act No. 23 of 1987.

The facts material to the determination of this application may be summarized briefly.

By the Gazette Extraordinary No. 150/12, dated 24th July 1981, marked **P2**, the Minister of Agricultural Development and Research, acting in terms of Section 27A read with Section 42H of the Land Reform Law No. 1 of 1972, as amended, vested the lands specified in the schedule thereto in the SLSPC. Items Nos. 6 and 16 of the schedule, namely Chapelton Estate (formerly Part of Kotiyagala Estate) in an extent of 673 Acres and 11 Perches, and Kotiyagala Estate in an extent of 1081 Acres, 2 Roods and 01 Perches, are relevant to this application.

Subsequently, the SLSPC entered into a lease agreement dated 20th May 1993 marked **P6** with the 2nd Petitioner in respect of the aforesaid lands. The Petitioners state that, notwithstanding such vesting, the LRC decided to execute two deeds of Exchange in favour of the 5th and 6th Respondents in respect of the portion of the said lands depicted in the plan bearing No.1082 dated 9th August 2014, marked **P8**. Accordingly, two deeds of Exchange bearing Nos. 6875 and 6876 dated 07th September 2015, marked **P7** and **P9**, were executed. The 5th and the 6th Respondents, thereafter by deeds bearing Nos. 6880 and 6881 dated 25th September 2015, marked **P10** and **P11** respectively, gifted the lands to the 7th Respondent, and the 7th Respondent

subsequently transferred the same to the 8th Respondent by deeds bearing Nos. 6886 and 6887 dated 29th October 2015 marked **P12** and **P13**.

The principal contention of the Petitioners is that once the lands were vested in the SLSPC by an order made under Section 27A (1) of the Land Reform Law, the LRC ceased to have any right, title, or interest therein, and consequently lacked jurisdiction to execute the deeds marked **P7** and **P9**. The decision of the LRC to execute the above two deeds, as embodied in **P14**, is therefore alleged to be illegal and *ultra vires*.

The LRC, in its objections dated 30th January 2018, raised several objections and asserted that it remained the absolute owner of the lands notwithstanding the vesting order.

The LRC stated that a company named “John Stuart Company on behalf of the Standard Ceylon Tea Company Limited” made a statutory declaration in respect of 197 Acres of uncultivated land of the Kotiyagala estate. However, by a statutory determination, published in the Government Gazette No. 156/4 dated 25th March 1975, marked **1R3**, an extent of 50 Acres was permitted to be retained by the Standard Ceylon Tea Company Limited, and the remaining 144 Acres were vested with the LRC. (Vide. Paragraph 31(b) of the objections)

As stated in the objections of the 1st and 2ndA Respondents, the Standard Ceylon Tea Company Limited made a statutory declaration in respect of 1518 Acres of cultivated lands from the Kotiyagala estate. The LRC further stated in its objections that compensation had been paid to the Standard Ceylon Tea Company Limited in respect of 1754 Acres of the Kotiyagala estate, as reflected in Government Gazette No. 253/11, dated 25th March 1975, marked **1R4**.

The Attorney General, appearing for the 3rd, 4th, and 9th Respondents, filed objections largely consisting of denials and admissions, without raising any independent legal issue bearing on the determinative question before this Court.

At the outset, it must be observed that the core issue for determination is whether the LRC retained legal authority to alienate any portion of the lands described in **P2** after the vesting order under Section 27A (1) of the Land Reform Law.

Before addressing that issue, it is necessary to consider the contention regarding the identity and extent of land. The position of the LRC is that 144 Acres of uncultivated land and 1518 Acres of

cultivated land are vested in the LRC, making a total extent of 1662 Acres. Even if it is assumed that the entire extent of uncultivated land amounting to 197 Acres was vested in its favour, the total extent would be 1715(1518+197) Acres. In such circumstances, the question necessarily arises as to how 1754 Acres was vested in the SLSPC by **P2**. Therefore, even on the LRC's own position, the aggregate extent of cultivated and uncultivated land said to be vested in the LRC does not reconcile with the extent of land vested in the SLSPC by **P2**. This inconsistency renders the factual foundation of the LRC's claim untenable.

As noted earlier, the subject Minister made the following order in **P2**.

*“ Pursuant to a request of the Land Reform Commission, having considered it necessary in the interest of the Commission to do so, estate lands specified in the Schedule hereto are hereby vested under Section 27A read with Section 42H of the Land Reform Law, No. 1 of 1972, as amended by Law No. 39 of 1975, Act No. 14 of 1981 and Act No. 39 of 1981 in the Sri Lanka State Plantation Corporation established under the Ceylon State Plantation Corporation Act No. 4 of 1958. **No terms or conditions are laid down as regards consideration.**”*

Section 42H of the Land Reform Law sets out the purposes for which estate lands vested in the LRC may be utilized, including alienation by way of sale, exchange, or lease.

For ease of reference, Section 42H states as follows;

1) Any estate land vested in the Commission under this Part of this Law may be used for any of the following purposes:

- a) alienation by way of sale, exchange, rent purchase or lease to persons for agricultural development of animal husbandry, or for a co-operative or collective farm or enterprise;
- aa) alienation, by way of sale or lease with the approval of the Minister for non-agricultural purposes;
- b) alienation by way of sale in individual allotments to persons for the construction of residential houses;
- c) alienation to any corporation established or to be established under the State Agricultural Corporations Act or to the Sri Lanka State Plantations Corporation established under the Sri Lanka State Plantations Corporation Act;

- d) for a farm or plantation managed by the Commission directly or by its agents;
- e) for village expansion or any other public purpose.

1A) It shall be lawful for the Commission to alienate, by way of lease under paragraph (aa) of subsection (1), estate land purpose as may be approved by the Minister, having regard to the need to increase the productivity of such land and to generate employment thereon.

- 2) In determining the purposes for which estate lands vested in the Commission may be used, the Commission shall be subject to such directions as may from time to time be issued in that behalf by the Minister.

Under Section 42H (c), the Minister has the power to vest agricultural land in the SLSPC.

However, Section 27A creates a distinct statutory mechanism whereby, at the request of the LRC, the Minister may vest agricultural or estate lands in a specified State Corporation by an order published in the Gazette.

Section 27A (2) expressly provides that an order made under subsection (1) shall have the effect of vesting in the State Corporation such right, title, and interest in the land as was held by the LRC immediately prior to the vesting. Section 27A (3) further transfers all subsisting rights and liabilities relating to such land to the State Corporation. Reversion of such land to the LRC can occur only in the manner stipulated in Section 27A (4), namely by a further order of the Minister published in the Gazette.

For easy perusal, Section 27A (1) to (4) states as follows;

(1) At the request of the Commission, the Minister may, where he considers it necessary in the interest of the Commission to do so, subject to sections 22, 23 and 42H, by Order published in the Gazette, vest, in any State Corporation specified in the Order, with effect from a date specified in that Order, any agricultural land or estate land or any portion of the land vested in the Commission under this Law, and described in the order; subject to such terms and conditions relating to consideration for the vesting of that land in such Corporation as may be agreed upon between the Commission and such Corporation.

(2) An Order under subsection (1) shall have the effect of vesting in such State Corporation specified in the Order such right, title, and interest to the agricultural land or estate land or

portion thereof described in that Order, as was held by the Commission on the day immediately preceding the date on which the Order takes effect.

(3) Where any agricultural land or estate land or any portion thereof is vested in a State Corporation by an Order made under subsection (1), all the rights and liabilities of the Commission under any contract or agreement, express or implied, which relate to such agricultural land or estate land or portion thereof, and which subsist on the day immediately prior to the date of such vesting, shall become the rights and liabilities of such State Corporation.

(4) Where any term or condition relating to consideration for the vesting of any agricultural land or estate land or portion thereof in any such State Corporation by an Order under subsection (1) is not complied with, the Minister may by Order published in the Gazette, revoke the Order under subsection (1) relating to that land and thereupon that land shall revert in the Commission.

The effects of Section 27A (1) to (4) have been consistently recognized by this Court in the following judgments.

His Lordship Arjuna Obeysekera, in the case of Balangoda Plantations PLC v Janatha Estate Development Board and Others, CA (Writ) Application No. 858/2009, decided on 07th November 2019, held that;

“The above provisions reflect the intention of the legislature that the right and liabilities of the 4th Respondent (LRC) in respect of any agricultural or estate land, together with the ownership of such lands, shall pass to the 1st and 2nd Respondents, with the making of an order under Section 27A (1).”

In the case of ***Kelani Valley Plantations PLC v Janatha Estate Development Board and Others C.A. (Writ) Application No. 657/2011*** decided on 3rd June 2016, Justice Deepali Wijesundera made the following observations in a similar type of situation to the instant application;

Under the above Sections of the said Act, the lands have been vested in Petitioners; the only way the third Respondent (LRC) can have legal title to the said lands vested under Sec. 27A (1) by acting under Sec. 27A (4) of the Land Reform Law.

The Minister in charge is permitted to exercise his powers only where any term or condition relating to the consideration of the vesting of the land is not complied with. In the instant case, the land was vested with the Petitioner under Sec. 27A (1). Therefore, the third Respondent cannot make any claim to the said land, which is now vested with the Petitioner. The third Respondent, not being the legal owner in terms of Sec. 27A (2) of the said Act, cannot alienate any property to a third party.”

In the case of ***Ven. Rajawela Nandarathana Thero v Land Reform Commission and Others CA (Writ) Application No. 45/2016 decided on 31st July 2020***, His Lordship Arjuna Obeysekera held that,

“The above provisions reflect the intention of the legislature that the rights and liabilities of the Land Reform Commission in respect of any agricultural or estate land, together with the absolute title that the Land Reform Commission had to such lands, shall pass to the Janatha Estate Development Board, with the making of an Order under Section 27A (1).

*With the publication of the said Order **R2**, the Land Reform Commission ceased to be the owner of all agricultural and estate lands referred to therein, and in terms of Section 27A(1) of the LRC Law, the said lands referred to in the Schedule to **R2**, vested with the Janatha Estate Development Board, and the title to the said lands stood transferred to the Janatha Estate Development Board effective from the date of such Order.”*

Upon consideration of the above provisions, it is abundantly clear that once an order is made under Section 27A (1) of the Land Reform Law, the LRC ceases to be the owner of the land so vested in the SLSPC, unless the subject Minister makes an order under Section 27A (4) of the said Law.

Now, I turn to the legality of the decision marked **P14**, namely, whether the decision of the LRC to execute **P7** and **P9** is *ultra vires*. The following observation by ***Lord Diplock in Council of Civil Service Unions v Minister for the Civil Service [1985] AC 374*** is relevant here.

“Judicial review has, I think, developed to a stage today when, without reiterating any analysis of the steps by which the development has come about, one can conveniently classify under three heads the grounds upon which administrative action is subject to control by judicial review. The first ground I would call “illegality,” the second “irrationality,” and the third “procedural impropriety.”

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.”

In the case of ***Tata Cellular v Union of India 1994 SCC (6) 651***, the Indian Supreme Court held that;

The duty of the court is to confine itself to the question of legality. Its concern should be;

1. *Whether a decision – making authority exceeded its powers?*
2. *Committed an error of law,*
3. *Committed a breach of the rules of natural justice,*
4. *Reached a decision which no reasonable tribunal would have reached or*
5. *Abused its powers.*

Therefore, it is not for the court to determine whether a particular policy or a particular decision taken in the fulfilment of that policy is fair. It is only concerned with the manner in which those decisions have been taken. The extent of the duty to act fairly will vary from case to case. Shortly put, the grounds upon which an administrative action is subject to control by judicial review can be classified as under;

1. *Illegality,*
2. *Irrationality,*
3. *Procedural impropriety.*

Illegality means the decision-maker must understand correctly the law that regulates his decision – making power and must give effect to it.

Upon consideration of the above principle, it is abundantly clear that, in the absence of any order made by the subject Minister under Section 27A (4) of the Land Reform Law, the LRC had no authority to alienate any extent of land in Kotiyagala Estate or Chapelton Estate, as reflected in the decision marked **P14**. A revocation order under Section 27A (4) can be made only in a situation where any term or condition relating to the consideration of an order made under Section 27A (1) has not been complied with. However, it is to be noted that **P2** expressly states that no terms or conditions were laid down as regards consideration. Accordingly, in the present instance, the LRC had no power whatsoever, even under Section 27A (4) of the Land Reform Law, to revoke the vesting order under Section 27A (1).

In view of the foregoing reasons, my considered view is that the decision of the LRC embodied in **P14** (also marked **1R7**) to execute the deeds marked **P7** and **P9** was taken without jurisdiction and is therefore illegal and *ultra vires*.

Once the finding of illegality is reached, the consideration of other objections or ancillary factual disputes becomes academic and does not arise for further determination by this Court.

For the foregoing reasons, this Court decides to issue a mandate in the nature of a *Writ of Certiorari*, quashing the decision embodied in document marked **P14** (also marked **1R7**).

Considering all the circumstances of this application, I make no order as to costs.

JUDGE OF THE COURT OF APPEAL

Dhammika Ganepola, J

I agree.

JUDGE OF THE COURT OF APPEAL