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

Narandeniye Deepananda Thero,
Kondagala Viharaya, Weeraketiya.

PETITIONER

-Vs-

SC Appeal No: 245/2016

Leave to Appeal No:
SC/SPL/LA/111/2016

CA (PHC) 122/2011

HC WA 20/2010

1. Martin Ekanayake,
   No. 47/1, Beliaththa Road, Kondagala,
   Weeraketiya.

2. Assistant Commissioner of Agrarian Development,
   Agrarian Development Office,
   Hambantota.

RESPONDENTS

AND BETWEEN

Narandeniye Deepananda Thero,
Kondagala Viharaya, Weeraketiya.

PETITIONER-APPELLANT

-Vs-

1. Martin Ekanayake,
   No. 47/1, Beliaththa Road, Kondagala,
   Weeraketiya.

2. Assistant Commissioner of Agrarian Development,
   Agrarian Development Office,
   Hambantota.

RESPONDENTS-RESPONDENTS

AND NOW BETWEEN

Narandeniye Deepananda Thero,
Kondagala Viharaya, Weeraketiya.

PETITIONER-APPELLANT-APPELLANT

Vs.

1. Martin Ekanayake,
   No. 47/1, Beliaththa Road, Kondagala,
   Weeraketiya.

2. Assistant Commissioner of Agrarian Development,
   Agrarian Development Office,
   Hambantota.

RESPONDENTS-RESPONDENTS-RESPONDENTS

BEFORE: **ACTING CHIEF JUSTICE S. THURAIRAJA, PC**

JUSTICE A.H.M.D. NAWAZ

JUSTICE SAMPATH B. ABAYAKOON

COUNSEL: Ranga Dayananda instructed by Lakni Silva for the Petitioner-Appellant-Appellant

Shantha Karunadhara instructed by Hasitha Amarasinghe for the 1st Respondent-Respondent-Respondent

Ganga Wakishta Arachchi, DSG instructed by Rizni Firdous for the 2nd Respondent-Respondent-Respondent

WRITTEN SUBMISSIONS: 2nd Respondent-Respondent-Respondent on 30th November 2017

ARGUED ON: 04th August 2025

DECIDED ON: 10th November 2025

THURAIRAJA, PC, ACTING CJ

1. The Petitioner-Appellant-Appellant (hereinafter referred to as the "Appellant") made an application to the Provincial High Court holden in Hambantota seeking, *inter alia*, a writ of certiorari to quash a decision of the 2nd Respondent-Respondent-Respondent (hereinafter referred to as the "2nd Respondent"). Following a dismissal of the Appellant's application by the Provincial High Court by order dated 08th November 2011, the Appellant challenged such dismissal in the Court of Appeal. Following a dismissal of the Appellant's application by the Court of Appeal by judgment dated 25th May 2016, the

appellant has preferred the present appeal before the Supreme Court. On 8th December 2016, this Court granted leave to appeal on the following questions of law:

"a. Did the Court of Appeal err in law by holding that the Provincial High Court of the Southern Province Holden in Hambantota did not have jurisdiction to hear and determine Petitioner's application?

b. Did The Court of Appeal misinterpret the Article 154P of the Constitution?

c. Did the Court of Appeal fail to properly evaluate the provisions of Agrarian Development Act No. 46 of 2000 (as amended)?

d. Did the Court of Appeal err in law by applying the judgment of the Supreme Court in M.P. Wijesuriya Vs Nimalawathi Wanigasinghe which has no application to the present matter?"

FACTUAL BACKGROUND

2. The Appellant is the owner of the paddy land known as 'Aluthwewamulana', one acre and one rood in extent (A1-R1-P0). As proof thereof, the document marked "P1" is tendered, deemed to be the extract from the Agricultural Land Register. The 1st Respondent-Respondent-Respondent (hereinafter referred to as the "1st Respondent") had claimed *anda* rights from the Appellant with respect to the said paddy land.

3. The 1st Respondent had made a complaint to the Assistant Commissioner of Agrarian Development of Hambantota (bearing No. HA/04/MISSALANIOUS/2008) on 29th November 2009 that he is the tenant cultivator of the disputed land and to therefore take necessary steps to protect his rights.

4. Subsequently, an inquiry was held, and it was decided, by order marked "P5A", that the 1st Respondent is the tenant cultivator of the subject land and that the Appellant should not disturb the rights of the 1st Respondent. In the said backdrop, the Appellant had

invoked the jurisdiction of the Provincial High Court for an issuance of a writ of certiorari to quash the said decision of the 2nd Respondent. It is further the Appellant's contention that he was not afforded the opportunity to participate in the said inquiry, contrary to and in violation of the rules of natural justice.

5. The 2nd Respondent, upon filing the statement of objections, raised the preliminary objection that the Provincial High Court holden in Hambantota had no jurisdiction to hear and determine this matter.

6. The order of the Provincial High Court held that, in view of the judgment of the Supreme Court in ***Wijesuriya v. Wanigasinghe and Others***,[1] the exercise of island-wide powers by the Commissioner General of Agrarian Development falls within the domain of the jurisdiction of the Court of Appeal, and not the Provincial High Court, and thus, action should have been instituted against the Commissioner in the Court of Appeal.

7. When the Appellant preferred an appeal to the Court of Appeal, the learned Judges adopted the same view, stating that the Provincial High Court did not have jurisdiction in the present case and is empowered to issue an order in the nature of a writ only on: (a) matters arising within the province, and (b) matters falling within the Provincial Council list contained in the Ninth Schedule to the 13th Amendment to the Constitution and any authority exercising the powers within the province.

ANALYSIS

8. The *Thirteenth Amendment to the Constitution* came into effect in 1987, and the *Provincial Councils Act, No. 42 of 1987* was enacted in order to establish Provincial Councils in the country. The prime objective of the *Thirteenth Amendment* was to establish a

[1] [2011] 2 Sri L.R. 231.

constitutional framework for devolution of power to units of devolution identified as "Provinces." The Amendment was designed to decentralise authority, to allow provincial institutions to function not as mere administrative extensions of the centre, but as meaningful organs of governance. This design is reflected both in the language of *Chapter XVIIA* of the Constitution and in the *Provincial Councils Act, No. 42 of 1987*, which together manifest the characteristics of substantial devolution.

9. In terms of Article 154P(1), there shall be a High Court for each Province with effect from the date on which *Chapter XVIIA* of the Constitution comes into force, and each such High Court shall be designated as the High Court of the relevant Province.

10. Devolution of legislative power is not merely a symbolic gesture but the institutionalisation of governance at the provincial level. Article 154G(1) enacts that every Provincial Council may, subject to the Constitution, make statutes applicable to the Province for which it is established in respect of any matter set out in List I of the Ninth Schedule. This provision entrusts Provincial Councils with an exclusive legislative sphere, autonomous within its boundaries. Thus, within the matters devolved under the Provincial Council List, the Councils enjoy plenary competence. This plenary character of authority marks the "substantial" nature of devolution envisaged by the *Thirteenth Amendment*.

11. Article 154P(4) of the Constitution specifies the scope of jurisdiction of Provincial High Courts. It states,

> *"Every such High Court shall have jurisdiction to issue, according to law –*
>
> *(a) orders in the nature of habeas corpus, in respect of persons illegally detained within the Province; and*

(b) order in the nature of writs of certiorari, prohibition, procedendo, mandamus and quo warranto against any person exercising, within the Province, any power under –

(i) any law; or

(ii) any statutes made by the Provincial Council established for that Province, in respect of any matter set out in the Provincial Council List."

The Issue Contested Before the Provincial High Court Must Pertain to a Matter Listed Under the Provincial Council List

12. The devolutionary pattern under the *Thirteenth Amendment* empowers both the Parliament and the Provincial Councils to legislate on matters listed under the Provincial Council List in three specific instances, as delineated in Articles 154G(3), 154G(4), and 154G(11) of the Constitution. However, this should not be interpreted as allowing the Parliament, through the devolutionary scheme itself, to diminish the legislative powers devolved to the Provincial Councils. The provisions of the *Thirteenth Amendment* must be interpreted purposively, in a manner that upholds the foundational rationale for its introduction into the Constitution.

13. Where Parliament has enacted a law on a matter included in the Provincial Council List, the residual scope of that subject must still be understood as falling within the legislative competence of the Provincial Councils, to be exercised through their own statutes. Furthermore, with regard to the concept of "National Policy," as clarified in this Court's determination on the ***Divineguma Bill***,[2] such a policy cannot take the form of a functional scheme of administration. Rather, it operates only as a framework or set of

[2] SC/SD/01/2012, SC/SD/02/2012 and SC/SD/03/2012.

guiding principles within which the Provinces may exercise their devolved legislative powers.

14. Moreover, once a law relating to a devolved subject is amended or repealed, either in whole or in part, the legislative competence of the Provincial Councils over that subject may immediately be exercised. Accordingly, this Court is of the view that subjects devolved under the Ninth Schedule to the Constitution cannot be withdrawn or annulled by subsequent legislation of Parliament.

15. It is pertinent to note that the constitutional establishment of the Provincial High Courts represents a recognition of the need to resolve local disputes through judges with closer familiarity to such issues, while also removing the hardship of litigants who would otherwise have to seek justice only before the superior courts in Colombo. This was a central purpose of the *Thirteenth Amendment* when the Bill was originally presented to Parliament. Therefore, the jurisdiction of the PHCs must be preserved inviolate and cannot be diminished by interpretations that would undermine the rationale of the *Thirteenth Amendment*.

16. In this context, the first question to be considered is whether "Agrarian Services" fall within the scope of the Provincial Council List. Item 9 of the List, set out in the Ninth Schedule, provides as follows:

> *"9. Agriculture and Agrarian Services –*
>
> *9.1. Agriculture, including agricultural extension, promotion and education for provincial purposes, and agricultural services (other than in inter-provincial irrigation and land settlement schemes, State land and plantation agriculture);*
>
> *9.2. Rehabilitation and maintenance of minor irrigation works;*

9.3. Agricultural research, save and except institutions designated as national agricultural research institutions."

17. The *Agrarian Services Act, No. 58 of 1979* was repealed in the year 2000 with the introduction of the *Agrarian Development Act, No. 46 of 2000 (as amended)*, and the long title to the *Agrarian Development Act* describes the ambit of the Act as follows:

> *"An act to provide for matters relating to landlords and tenant cultivators of paddy lands, for the utilization of agricultural lands in accordance with agricultural policies for the establishment of Agrarian Development Councils, to provide for the establishment of a land bank and Agrarian Tribunals..."*

18. Accordingly, and subject to the express limitations stated in the Ninth Schedule, "Agrarian Services" must be regarded as a matter falling within the Provincial Council List. The present case concerns the issue of tenancy, a matter addressed in ***Madduma Banda v. Assistant Commissioner of Agrarian Services and Another***,[3] where this Court held that the term "agrarian" in item 9 of the Provincial Council List refers to landed property, including paddy lands and tenant cultivators:

> *"The word 'agrarian' relates to landed property and such property no doubt would attract paddy lands and tenant cultivators of such land."*[4]

19. In ***Kalu Arachchige Allen Nona v. Sunil Weerasinghe***,[5] Vijith Malalgoda, PC, J (P/CA, as His Lordship was then) adopted the same view, stating that, if a purposive interpretation is given, the said Act fulfils the requirement of the title "Agriculture and

[3] [2003] 2 Sri L.R. 80

[4] *ibid.*, at p. 91

[5] CA Writ 23/2013, CA Minutes of 10th June 2016, at p. 4

Agrarian Services" referred to in Section 9 of the Provincial Council list. Therefore, the issue before this Court properly falls within the Provincial Council List.

Exercising Power Derived from Any Law or Provincial Statute

20. The authority exercised in such matters may derive either from a law enacted by Parliament or from a statute enacted by a Provincial Council. Article 154F(2) does not operate to restrict the jurisdiction of the Provincial High Court in respect of cases arising under statutes enacted by the Provincial Councils. The Provincial High Court accordingly retains jurisdiction over matters governed by laws relating to subjects devolved under the Provincial Council List. The key inquiry for the Court, therefore, is whether the subject matter in dispute falls within a devolved subject, regardless of whether the relevant provision is found in an Act of Parliament or a Provincial statute.

21. In the present case, although the dispute arises under the *Agrarian Development Act, No. 46 of 2000 (as amended),* which is an Act of Parliament, since 'Agrarian Services' are expressly recognised as a devolved subject, the matter must be understood as falling within the jurisdiction of the Provincial High Court pursuant to this second criterion.

Against Any Person Exercising Power, Within the Province, Under Any Law or Provincial Statute

22. The central question, in the instant case, is the extent to which this power is qualified by the words "within the Province". The case of ***Wijesuriya v. Wanigasinghe and Others***,[6] has taken a rather restrictive view, requiring that the power or authority itself be provincial in character for a Provincial High Court to exercise its writ jurisdiction.

[6] [2011] 2 Sri L.R. 231

23. In ***Wijesuriya v. Wanigasinghe (supra)***,[7] this Court interpreted Article 154P(4) and found that it conferred jurisdiction on the Provincial High Courts to issue orders in the nature of writs of certiorari, prohibition, procedendo, mandamus and quo warranto only in respect of:

    (i) those matters enumerated in the Provincial Council List (List I) of the Ninth Schedule to the Thirteenth Amendment to the Constitution, and

    (ii) against a person exercising power pursuant to any law or provincial specific statutes <u>within</u> the Province.[8]

24. The Court in ***Wijesuriya***[9] further considered the meaning of the term "within" in Article 154P(4)(b), concluding the decisive factor to be the qualitative nature of the power exercised, i.e., whether the scope of the power per se—and not the manner and extent of its exercise—was provincial in character or whether it was exercised from a centrally acting authority for the entire island.

25. In the present case, relying on the judgment in ***Wijesuriya***,[10] learned Counsel for the Respondents contended that the Provincial High Court did not have jurisdiction to hear and determine the application as the Commissioner General of Agrarian Development exercises powers of an island-wide nature, arguing that the writ application in question ought to have filed before the Court of Appeal.

26. Although, the application of the Appellant before the Provincial High Court challenged a decision of the Assistant Commissioner of Agrarian Development, the Respondents

[7] ibid

[8] ibid, at p. 236-237

[9] ibid, at p. 239

[10] *ibid*

sought to argue in light of Section 38(5) of the *Agrarian Development Act* that the Assistant Commissioner exercises powers of the Commissioner-General within the area for which such Assistant Commissioner is appointed, and that such functions of the Assistant Commissioners are carried out in furtherance of the national policy.

27. It is in light of this argument that the Provincial High Court dismissed the application and the Court of Appeal went on to affirm such dismissal. I am of the view, however, that such an application of the ***Wijesuriya*** dicta risks contradicting Article 154P(4)(b)(i) of the Constitution.

28. This provision expressly empowers the Provincial High Court to issue orders in the nature of writs of certiorari, prohibition, procedendo, mandamus and quo warranto "against any person" exercising authority derived from "any law" or "provincial statute". The breadth of the terms "any person" and "any power," particularly the word "any," must be interpreted expansively to include both centrally and provincially located authorities, provided the subject matter falls within a devolved subject.

29. To impose a restrictive interpretation undermines the fundamental objective of the *Thirteenth Amendment*, which is to establish a devolutionary scheme. Devolution was intended not only as a constitutional accommodation of minority claims but also as a mechanism to foster localised governance, encourage economic growth, and allow provincial expertise to address regional problems more effectively. Such a scheme enhances democratic participation, strengthens trust in political institutions, and permits provinces to function as "laboratories of democracy" responsive to the distinct needs of their populations. To draw a rigid distinction between "central" and "provincial" authority in this context risks frustrating these objectives.

30. The jurisdiction of the Provincial High Court is not without limitation. The Provincial High Court cannot issue writs in respect of: (a) aspects of devolved subjects expressly excluded

in the Ninth Schedule itself; (b) matters falling within the Concurrent List; and (c) subjects in the Reserved List. Nevertheless, actions and decisions incidental to, or consequential upon, devolved matters do properly fall within the competence of the Provincial High Court, so long as such actions and decisions are of an authority that exercises its power within the province.

31. In any event, the 2nd Respondent of the instant case is the Assistant Commissioner of Agrarian Development attached to the Agrarian Development Office in Hambantota. The Assistant Commissioner's authority is derived from the *Agrarian Development Act No. 46 of 2000 (as amended)*, a law relating to agrarian services: a subject expressly devolved under the Provincial Council List.

32. According to Section 38(5) of the *Agrarian Development Act No. 46 of 2000 (as amended)*,

> "*Every Assistant Commissioner may exercise all or any of the powers of the Commissioner-General under this Act,* ***within the area to which such Assistant Commissioner is appointed***."

33. Counsel for the Respondent further invited this Court to consider Section 38(7) of the Act, which states that,

> "*The Additional Commissioner General, The Commissioners, the Deputy Commissioner General, every Assistant Commissioner and every Agrarian Development Officer shall in the exercise of his powers and the performance of his duties under this Act, be subject to the direction and control of the Commissioner-General.*

34. It is based on these sections that the objection with regard to jurisdiction was raised. As such, questions of law before this Court must necessarily be answered keeping in mind the scope of the Assistant Commissioner's power under the Section 38(5) of the Act,

which are very clearly limited to the area within which an Assistant Commissioner is appointed. Moreover, although Assistant Commissioners exercise such power subject to the direction and control of the Commissioner-General, there is no basis whatsoever to claim that such direction and control can impute a central character to the actions and decision of an Assistant Commissioner.

Analysis of the Questions of Law

35. The first question of law requires this Court to consider whether the Court of Appeal erred in law by holding that the Provincial High Court of the Southern Province holden in Hambantota did not have jurisdiction to hear and determine the Petitioner's application. It is a question of law so wide in scope, the answer to this question necessarily includes the answers to all questions of law before this Court. For this reason, in the course of my analysis on the first question of law, I shall proceed to answer the rest in no particular order.

36. The matter in question relates to agrarian services, specifically the recognition of tenant cultivation rights in paddy lands. As discussed above, Item 9 of the Provincial Council List in the Ninth Schedule to the Constitution expressly devolves "Agriculture and Agrarian Services" to the Provincial Councils, subject to certain exclusions not applicable to the present dispute. Accordingly, disputes concerning tenancy rights under the *Agrarian Development Act* fall within the competence of the Provincial Councils. Moreover, although the matter involves an Act of Parliament, the subject matter it regulates, "Agrarian Services", is devolved. These matters have not been contested.

37. As to the "within the province" limitation, as previously noted, the Assistant Commissioner of Agrarian Development in Hambantota is an officer functioning within the province and deriving authority from the *Agrarian Development Act*. To this extent, the instant matter is distinguishable from the ***Wijesuriya*** dicta, and the Court of Appeal

has erred in treating the same as binding on the instant matter. As such, it is my view that the reliance placed on ***Wijesuriya*** was misplaced. Accordingly, the fourth and final question of law is answered in the affirmative.

38. In terms of the second question of law, the Court of Appeal appear to have considered Article 154P, relying on an overblown reading of the ***Wijesuriya Case*** leading to an unduly restrictive interpretation of the term "within the Province" in Article 154P(4)(b), even as the case was clearly distinguishable. As previously noted, it was the finding of the Court of Appeal that the Provincial High Court may only issue writs of certiorari, prohibition, procedendo, mandamus and quo warranto against authorities deemed to be "provincial" in character, excluding those deriving powers from centrally acting authorities. Such an approach, in my view, runs contrary to the plain language of the Constitution.

39. As I briefly noted earlier in the judgment, the provision uses the words "any person" and "any law or provincial statute." The word "any" must be given its natural, expansive meaning, especially considering the constitutional text being one designed to devolve authority. Limiting the provision to a qualitative assessment of whether the authority itself is central or provincial undermines the very purpose of Article 154P, which is to provide a forum at the provincial level for resolving disputes arising out of devolved subjects.

40. It is not the physical location of the authority—as correctly observed by the Court of Appeal—nor the post or designation of the authority as either "central" or "provincial" that are decisive. The decisive factor, as highlighted in the ***Wijesuriya Case*** is the scope of the power that is exercised. In fact, even a central authority may be amenable to judicial review under Article 154P(4)(b) where such authority exercises a power that is provincial in scope and character.

41. Provincial delegates exercising power on behalf of a central supervising authority is far from uncommon. The *Agrarian Development Act,* too, established such a scheme of administration. If we are to interpret Article 154P(4)(b) in such a manner to exclude all such provincial actors, simply because they act under the authority and supervision of a central authority, that would be to significantly attenuate writ jurisdictions of the Provincial High Courts.

42. We must also appreciate the apparent intention of the framers of the *Thirteenth Amendment* for Provincial High Courts to serve as accessible institutions of justice in matters affecting local communities. This *Amendment* was animated by a recognition that justice must be brought closer to the people. The creation of Provincial High Courts was not a mere administrative reorganisation but a deliberate constitutional choice to remedy the inequities of a system in which litigants across the island were compelled to journey to Colombo to vindicate rights even in matters inherently local in character. The right to effective access to justice is not a peripheral value: it is intrinsic to the rule of law itself. A constitutional promise of devolution that does not secure this access is a hollow one. A restrictive interpretation, therefore, offends both the text and the purpose of the Constitution.

43. Matters of jurisdiction in general—especially those relating to territorial jurisdiction—when unduly complicated, have the effect of taking the ordinary man further away from the halls of justice. That would most certainly be antithetical to the most fundamental objective of establishing Provincial High Courts. It should not take those most skilled lawyers specially trained in the art of statutory and constitutional interpretation to determine something so simple as to which court one might take their pleas.

44. As one of the most rudimentary rules of statutory interpretation directs us, there is no need for a court to seek secondary meanings or interpretations where a plain reading is clear and produces no absurdity.

45. Article 154P(4)(b) of the Constitution establishes that High Courts of the Provinces have jurisdiction to issue, according to law, orders in the nature of writs of certiorari, prohibition, procedendo, mandamus and quo warranto "against any person exercising, within the Province, any power under" any law, or provincial statute.

46. The term "within the Province" herein may conceivably lead to some confusion owing to its placement in the text and requires some clarification. This Court, as the forum with sole and exclusive jurisdiction to address such uncertainties within the constitutional text, has previously ventured to explicate the same in ***Wijesuriya v. Wanigasinghe (supra)***,[11] which I have already adverted to in some detail. As it was decided in the ***Wijesuriya Case,*** the decisive factor is the qualitative scope of the power exercised, i.e., if the power itself is one that relates to provinces, the respective Provincial High Court would have jurisdiction under Article 154P(4)(b) of the Constitution. To inflate the said dicta to bring within its purview such subordinate officers acting under the Commissioner-General's authority, in my view, is completely ill-conceived.

47. Similarly, Section 38(5) of the *Agrarian Development Act* states that "*[e]very Assistant Commissioner may exercise all or any of the powers of the Commissioner-General under this Act,* ***within the area to which such Assistant Commissioner is appointed***."

48. This very clearly indicates that the Assistant Commissioner's power to exercise the powers of the Commissioner-General so delegates is strictly limited to his or her area of appointment. To this extent, the Court of Appeal has erred in considering the powers of

[11] [2011] 2 Sri L.R. 231.

the Assistant Commissioners to be of "island-wide" nature. Accordingly, the third question of law, too, is answered in the affirmative.

49. In light of the above, this Court must affirm, in the clearest terms, that where the subject matter of a dispute arises under a devolved subject, the Provincial High Court is vested with jurisdiction, notwithstanding whether the official whose decision is impugned is a central or provincial officer, so long as the qualitative character and the scope of the power exercised is provincial. To hold otherwise is to privilege the administrative convenience of officials over the constitutional rights of citizens.

50. The *Thirteenth Amendment* did not devolve power for the ease of government but for the empowerment of the governed. The devolutionary scheme cannot be reduced to an empty formality, nor can the Provincial High Courts be relegated to second-class forums. They are courts of plenary writ jurisdiction in respect of devolved subjects, and their role must be vindicated accordingly.

51. I would be remiss if I did not address the concerns of the 2nd Respondent as to national policy. It was the submission of the 2nd Respondent that the Assistant Commissioner being amenable to writ jurisdiction of the Provincial High Courts would entail unforeseen consequences, in light of the fact that the Assistant Commissioner acts in furtherance of the national policy on agrarian development. It was highlighted that there is a possibility of different courts taking contrasting decisions and stances with regard to the national policy which the *Agrarian Development Act* seeks to implement, for national policy should always be uniform. This concern, in my view, may be somewhat misplaced. Judicial review, especially in the exercise of writ jurisdiction, is performed under widely accepted grounds and within the contours of well-established principles. In addition, one of the cardinal rules observed by courts in this function is to refrain from being arbiters of political or

policy questions, in order to avoid any potential encroachments of the executive province.

52. In light of the above, it is my considered view that the Appellant originally invoked the proper forum. The first question of law is therefore answered in the affirmative.

53. As all questions of law are answered in the affirmative, the Appeal is accordingly allowed. The order of the High Court of the Provinces holden in Hambantota dated 08th November 2011 and the judgment of the Court of Appeal dated 25th May 2016 are both set aside.

54. The High Court of the Provinces holden in Hambantota is directed to hear and determine the application on its merits. The High Court is further directed to expedite this matter, as it has been pending since 2010.

Appeal Allowed.

ACTING CHIEF JUSTICE

A.H.M.D. NAWAZ, J.

I agree.

JUDGE OF THE SUPREME COURT

SAMPATH B. ABAYAKOON, J.

I agree.

JUDGE OF THE SUPREME COURT