

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

In the matter of an application under Article 126
of the Constitution of the Democratic Socialist
Republic of Sri Lanka.

P.A. Costa

No. 263/10, Makumbura Road,
Kottawa, Pannipitiya.

S.C. (F.R) Application No. 379/2018

PETITIONER

Vs.

1. Urban Development Authority
6th and 7th Floors,
“Sethsiripaya”,
Battaramulla.
2. Road Development Authority of Sri Lanka
“Maga Neguma Maha Medura”,
Denzil Kobbakaduwa Mawatha, Koswatta,
Battaramulla.
3. M.M.K. Dilrukshi Walpola
Divisional Secretary-Maharagama, Divisional
Secretariat,
Maharagama.
4. Hon. Minister of Lands
Ministry of Lands,
“Mihikatha Medura”
Land Secretariat,
No. 1200/6, Rajamalwatte Road,
Battaramulla.

5. D.G.L. Dassanayake
Project Director,
3K Project,
Greater Colombo Urban Transport
Development Project,
Ministry of Megapolice and Western
Development,
17th and 18th Floors,
“Suhurupaya”, Subuthipura Road,
Battaramulla.
6. D.K.G. Somasiri
Deputy Director-Lands,
Urban Development Authority,
6th and 7th Floors,
“Sethsiripaya”,
Battaramulla.
7. T.D.E. Naveen Sanjaya
The Chairman,
Provincial Road Development Authority-
Western Province,
No. 59, St. Sebastian Hill,
Colombo 12.
8. P.D.D.S. Muthukumarana
Chief Valuer,
Valuation House,
No. 748, Maradana Road,
Colombo 10.
9. P.M.P. Udayakantha
Surveyor General,
No. 150, Kirula Road,
Narahenpita,
Colombo 05.

10. Officer-in-Charge

Polie Station

Homagama.

11. Pujith Jayasundara

Inspector General of Police,

Police Headquarters,

Colombo 01.

12. Hon. Attorney General

Attorney General's Department,

Colombo 12.

RESPONDENTS

BEFORE : YASANTHA KODAGODA, PC, J.
A.H.M.D. NAWAZ, J.
JANAK DE SILVA, J.

COUNSEL : Rasika Dissanayake with Sandun Senadipathi for
Petitioner instructed by Sanjeewa Kaluarachchi
Ms. Ganga Wakishta Arachchi, DSG for Respondents

ARGUED &
DECIDED ON : 17.10.2025

JANAK DE SILVA, J.

The Petitioner is the owner of the corpus forming in the subject matter of this application. The core complaint of the Petitioner is that certain officials from the Urban Development Authority and Police entered the corpus on 23.10.2018 and demolished the parapet wall that formed part of the boundary.

Leave to proceed has been granted under Article 12(1) of the Constitution.

Admittedly, the corpus was acquired by the State pursuant to an order made under proviso (a) to Section 38 of the Land Acquisition Act as amended. The corpus has been identified as lot No. 30 in the Advanced Tracing Bearing No.CO/MHR/2012/1014 referred to in the said order. It shows an extent of 0.0076 hectares.

According to this advance tracing, the house of the Petitioner did not fall within the area acquired by the State. Admittedly, the Petitioner handed over vacant possession of the corpus to State officials on 02.07.2013.

However, subsequent communication between the Petitioner and State officials indicate that the Petitioner has entertained some concern as to whether any part of the two storied house he has constructed on the corpus is also included within the area acquired by the State.

In these circumstances, the Petitioner has attempted to convince State officials to divest any part of the corpus acquired by the State which included part of his house.

The Petitioner complains that whilst he was pursuing administrative relief to get the State to divest a portion of the corpus, the demolition of the parapet wall was done without any advance notice.

According to Section 40A(a) of the Land Acquisition Act as amended, where an Order of the Minister under Section 38 is published in the Gazette, then where that Order is in regard to the taking possession of a particular land, that Order shall, for so long only as it is not subsequently revoked under section 39, be received in all courts as conclusive evidence of the title of the State to that land.

Therefore, as at 23.10.2018 the State was the absolute owner of the part of the corpus forming the subject matter of the acquisition order. Accordingly, the State was entitled to perform any act on that part of the corpus consistent with its common law rights of ownership.

By letter dated 20.09.2013 marked P23, the Urban Development Authority informed the Petitioner, that while taking steps to divest an extent of 0.3 perches from the land acquired by the State, the Petitioner should take steps within seven days of the receipt of the said letter to demolish the parapet wall as it had become a hindrance to the road development work that was taking place. This is a clear statement that the portion of the corpus containing the parapet wall was not going to be divested. However, the Petitioner failed to do so. The demolition of the parapet wall took place more than one month after the Petitioner was given such notice.

As the demolition has admittedly occurred on the land acquired by the State, possession of which was handed over to the State, we do not see any unlawful act on the part of the State.

We further observe that the communication regarding the divestment of the portion of the land acquired by the State was taken by the officials consequent to certain representations made by the Petitioner. In particular, it had been the position of the Petitioner that he and his wife were unfortunate victims of the Central Bank bomb blast on 31.01.1996 and still suffer from post-traumatic effects of that incident.

We have much empathy to the mental trauma the Petitioners have undergone due to this unfortunate tragedy. Undoubtedly the demolition of the wall may have evoked painful memories.

However, the material placed before Court does not establish any violation of Article 12(1). In fact, the State had attempted to accommodate the request of the Petitioner and sought to divest part of the corpus already acquired by the State.

For all the foregoing reasons, we dismiss the application without costs.

JUDGE OF THE SUPREME COURT

YASANTHA KODAGODA, P.C., J.

I agree.

JUDGE OF THE SUPREME COURT

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

I agree.

JUDGE OF THE SUPREME COURT