

**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, Prohibition and Mandamus under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

**CA/WRIT/146/2018**

1. Forest Glen Hotel and Spa (Pvt) Ltd,  
Elk Plain, Black Pool,  
Nuwara Eliya.
2. Elk Plain Farm (Pvt) Ltd,  
Black Pool,  
Nuwara Eliya.
3. Dr. Tariq Kuraishy,  
Managing Director,  
Forest Glen Hotel and Spa (Pvt) Ltd,  
Elk Plain, Black Pool,  
Nuwara Eliya.
4. Ms. Melissa Kuraishy,  
Director,  
Forest Glen Hotel and Spa (Pvt) Ltd,  
Elk Plain, Black Pool,  
Nuwara Eliya.

**PETITIONERS**

**Vs.**

1. Dr. L.H.K. Mahanama,  
Secretary,  
Ministry of Land and Parliament  
Reforms,  
“Mihikatha Madura”  
Land Secretariat,  
No. 1200/6, Rajamalwatta Avenue,  
Battaramulla.

1A. Mr. R.A.A.K. Ranawaka,  
Secretary,  
Ministry of Land and Land  
Development,  
Land Secretariat,  
No. 1200/6, Rajamalwatta Avenue,  
Battaramulla.

1AA. H.M.B.P. Herath,  
Secretary,  
Ministry of Tourism and Land  
Development,  
Land Secretariat,  
No. 1200/6,  
Rajamalwatta Avenue,  
Battaramulla.

1AAA. M.G.M.N. Wickramasinghe,  
Secretary,  
Ministry of Agriculture, Lands,  
Livestock, Irrigation, Fisheries and  
Aquatic Resources,  
Land Secretariat,  
No. 1200/6, Rajamalwatta Avenue,  
Battaramulla.

2. Mr. W.M. Anandha,  
Divisional Secretary,  
Divisional Secretariat,  
Nuwara Eliya.

2A. D.A.P. Danansooriya,  
Divisional Secretary,  
Divisional Secretariat,  
Nuwara Eliya.

3. Mr. R.M.C.M. Herath,  
Commissioner General of Land,  
Department of Land Commissioner  
General,  
Land Secretariat,  
No. 1200/6, Rajamalwatta Avenue,  
Battaramulla.

3A. L.A. Jayasinghe,  
Commissioner General of Land,  
Department of Land Commissioner  
General,  
Land Secretariat,  
No. 1200/6, Rajamalwatta Avenue,  
Battaramulla.

3AA.K.D. Bandula Jayasinghe,  
Commissioner General of Land,  
Department of Land Commissioner  
General,  
Land Secretariat,  
No. 1200/6, Rajamalwatta Avenue,  
Battaramulla.

4. Hon. Gayantha Karunathilake  
Minister,  
Land and Parliamentary Reforms,  
Ministry of Land and Parliamentary  
Reforms,  
“Mihikatha Madura”  
Land Secretariat,  
No. 1200/6, Rajamalwatta Avenue,  
Battaramulla.

4A. Hon. Ramesh Pathirana,  
Minister,  
Land and Land Development  
“Mihikatha Madura”  
Land Secretariat,  
No. 1200/6, Rajamalwatta Avenue,  
Battaramulla.

4AA. Hon. Harin Fernando,  
Minister,  
Ministry of Tourism and Land,  
“Mihikatha Madura”  
Land Secretariat,  
No. 1200/6, Rajamalwatta Avenue,  
Battaramulla.

4AAAA. His Excellency, Anura Kumara  
Dissanayake,  
In the capacity of Minister,  
Ministry of Agriculture, Lands,  
Livestock, Irrigation, Fisheries and  
Aquatic Resources.

5. Mrs. Prema Dickson Silva  
Hendavitharana,  
9/6, Baddegama Road,  
Hikkaduwa.

### **RESPONDENTS**

**Before:** **Dhammika Ganepola, J.**  
**Damith Thotawatta, J.**

**Counsel:** Samhan Munzir instructed by N. & S. Associates for the Petitioners.  
Yuresha Fernando, D.S.G. for the 1<sup>st</sup> to 4<sup>th</sup> Respondents.  
Hirosha Munasinghe with Anusha Perusinghe for the 5<sup>th</sup> Respondent.

**Written Submissions Tendered on:** 11.12.2024 and 28.12.2024 by the Petitioners.  
27.07.2020 by the 5<sup>th</sup> Respondent.

**Argued on:** 07.11.2024.

**Delivered on:** 07.02.2025.

**Damith Thotawatta, J.**

1. This Application inter alia had been filed by the Petitioners seeking a mandate in the nature of Writs of Certiorari to quash a decision by the 1<sup>st</sup> to 4<sup>th</sup> Respondents to

cancel the Lease bearing No 4/10/20592 and the Lease Approval bearing No 4/10/20614 annexed to the petition respectively marked as **P5** and **P6**.

2. The 3<sup>rd</sup> Petitioner to this Application is an American national and the 4<sup>th</sup> Petitioners husband. In order to conduct a business in Sri Lanka they had incorporated the 1<sup>st</sup> and 2<sup>nd</sup> Petitioner companies, respectively Forest Glen Hotel and Spa (Pvt) Ltd and Elk Plain Farm (Pvt) Ltd.
3. The re-registration certificates of Forest Glen Hotel and Spa (Pvt) Ltd the 1<sup>st</sup> Petitioner Company and Elk Plain Farm (Pvt) Ltd the 2<sup>nd</sup> Petitioner Company are annexed to the petition as **P1** and **P2** and their respective Memorandums and Articles of Association are annexed marked as **P1(A)** and **P2(A)**, the Form 20's dated 08-01-2008 are annexed marked as **P2(B)** and **P2(B)**. The 3<sup>rd</sup> and 4<sup>th</sup> Petitioners are named as founder Directors and 3<sup>rd</sup> Petitioner claim that he acted as the Managing Director of the 1<sup>st</sup> and 2<sup>nd</sup> Petitioner companies. The 1<sup>st</sup> to 4<sup>th</sup> Respondents in their objections dated 19-07-2019 has admitted documents **P1**, **P1(A)**, **P1(B)**, **P2**, **P2(A)**, and **P2(B)**.
4. Lease bearing No 4/10/20592 and the Lease Approval bearing No 4/10/20614 are annexed to the Petition respectively as **P5** and **P6** and has not been disputed by 1<sup>st</sup> to 4<sup>th</sup> Respondents.
5. **P5** the Lease bearing No 4/10/20592 has been signed by His Excellency the President as the lessor under Section 02 of the State Land Ordinance No. 08 of 1947. The land as described in **P5** lease document is **Lot 02** of survey plan No.NU1710 (which document is attached to **P5**) with an extent of 3.346 Hectares had been granted to the 1<sup>st</sup> Petitioner Forest Glen Hotel and Spa (Pvt) Ltd. As the lessee for a period of 30 years commencing from 12-07-2006.
6. The Lease Approval bearing No 4/10/20614 annexed to the Petition as **P6** has been issued by the Assistant Commissioner of Land, for and on behalf of the Commissioner General of Land to the 2<sup>nd</sup> Petitioner Elk Plain Farm (Pvt) Ltd for a period of 30 years from 24-03-2006 in respect of the land depicted in the survey plan No.NU 236 as **Lot 01** containing an extent of 1.226 Hectares.
7. In addition to above mentioned parcels of land, the Petitioners claim that a Lease Approval bearing No. 4/10/15199 was issued dated 13-09-2005 with regard to Lot. No. 3 of the survey plan No.NU1710. Although this lease approval document has not been annexed to the petition the 1<sup>st</sup> to 4<sup>th</sup> Respondents in their objections dated 19-

07-2019 has admitted the averments regarding Lease Approval bearing No. 4/10/15199 contained in paragraph 14 of the Petition.

8. The Lease and the Lease Approval's marked as **P5** and **P6** and the **P7** survey plan No. NU1710 is admitted by the 1<sup>st</sup> to 4<sup>th</sup> Respondents. Further as survey plan No. NU 236 depicting Lot 1 appears to be a re-survey of the Lot No.1 of survey plan No. NU1710. It is clear that Petitioners have received the lease and the two Lease Approvals for Lot1, 2 and 3 depicted in survey plan No. NU1710.
9. It is claimed by the Petitioners that prior to the above-mentioned lease and lease approvals, being received the lease on Lot No's 1, 2 and 3 depicted in survey plan No. NU1710 was held by a person named Hendavitharanage Dickson Silva and Mr. Hendavitharanage Dickson Silva has renounced all rights and privileges and transferred the same in favor of the Petitioners.
10. As evidence of the above claim, the Petitioners have annexed to the Petition a Deed of Declaration marked **P9** in which the declarant Elk Plain Farm (Pvt) Ltd the 2<sup>nd</sup> Petitioner, state that the Crown land obtained on a lease by Mr. Hendavitharanage Dickson Silva on 05-09-2005 and 13-09-2005 described in the schedule to this document has been assigned to them. However, the schedule describes only one allotment, namely Lot No. 3 with an extent of 0.696 Hectares depicted in the survey plan No. NU 69. Although the extent of land corresponds to the land extent of Lease Approval No 4/10/5199, the survey plan No. NU1710 or NU 236 is not mentioned on the said deed. When considering the boundaries of the allotment mentioned **P9** a Deed of Declaration with Lot 3 depicted in the much clearer survey plan No. NU1710 submitted as **5R26** there is no doubt that it is the same land.
11. In the Quit Claim Deed dated 23-03-2006 annexed to the Petition as **P8**, Mr. Hendavitharanage Dickson Silva has agreed to forfeit all rights, claims, interest and privileges to a 13 ½ acre extent of land of the 2<sup>nd</sup> Petitioner company and also the 1<sup>st</sup> Petitioner company which he has stated include Lot 1, 2 and 3 as depicted in survey plan No. NU1710.
12. The Lease agreement No. 4/10/9252 (Annexed to the objections of the 5<sup>th</sup> Respondent as **5R5**) granting a lease for 30 Years to Mr. Hendavitharanage Dickson Silva from 15-05-1997 with regards to the land extent of 03 acres and 05 perches (1.226 Hectares) depicted as Lot 1 in the survey plan No. NU236 and the Lease agreement No. 4/10/14907 (Annexed to the objections of the 5<sup>th</sup> Respondent as **5R17**) granting a lease for 50 Years to Mr. Hendavitharanage Dickson Silva from 03-01-1996 with regards to the land depicted as Lot 2 in the survey plan No. NU1710 is

the same allotments of land (Lot 1 and Lot 2) referred to in Lease Approval bearing No 4/10/20614 and the Lease bearing No 4/10/20592 respectively.

13. The Petitioners claim that after obtaining lawful rights over Lot No's 1, 2 and 3 as depicted in survey plan No. NU1710 and NU 236, The 5<sup>th</sup> Respondent Mrs. Prema Dickson Silva Hendavitharana the widow of Mr. Hendavitharanage Dickson Silva with the assistance of 1<sup>st</sup> to 4<sup>th</sup> Respondents unlawfully and illegally attempted to acquire the relevant leases.
14. The Petitioners have annexed as **P12** a Lease Approval dated 08-07-2015 sent by the Assistant Commissioner of Lands to the Commissioner of Lands Central Province informing him that the Hon. Minister has approved giving on a long-term lease Lot No.1 depicted in the survey plan No. NU 236 to Mrs. Prema Dickson Silva Hendavitharana. As mentioned above a Lease Approval for this same land had been made under No 4/10/20614 and given to 2<sup>nd</sup> Petitioner Elk Plain Farm (Pvt) Ltd on 24-03-2006.
15. The Petitioner has annexed marked **P14** a letter that has been sent by the Divisional Secretary, Nuwara Eliya to the Registrar of the Magistrate Court of Nuwara Eliya in the criminal action (case No. 72882) filed against the 3<sup>rd</sup> Respondent for preventing officers of the Survey department from entering and surveying the land. In **P14** letter the Divisional Secretary Nuwara Eliya has stated that a long-term Lease had been given to Mrs. Prema Dickson Silva Hendavitharana under the Lease Approval 4/10/42486 and upon perusal of documents in the Registry, it transpired that the Commissioner General of Lands has given this same land to Elk Plain Farm (Pvt) Ltd by his letter dated 21-03-2006. Further, the reason that a Lease had not been granted to Elk Plain Farm (Pvt) Ltd is because the said company didn't have a local Director. **Further, it is admitted in this letter that the dispute has arisen due to the fact that Lease Approval 4/10/42486 and Lease Approval No 4/10/20614 is given regarding the same land.**
16. The Divisional Secretary, Nuwara Eliya in his letter marked as **P14** has also admitted that the 3<sup>rd</sup> Petitioner has paid the rental for the Lease 4/10/20614 (corresponding to the Lease Approval 4/10/42486) up till 2014 and thereafter the rent was not accepted by them as there appeared to be a dispute regarding the said land. Further to this admission, the Divisional Secretary, Nuwara Eliya by his letter dated 23-12-2015 (annexed to the Petition marked as **P17**) to the 3<sup>rd</sup> Respondent has given a breakdown of the yearly rent due to Lease bearing No 4/10/20592, the Lease Approval bearing No 4/10/20614 and Lease Approval bearing No. 4/10/15199. The Divisional Secretary, Nuwara Eliya in the same letter has stated that Elk Plain Farm

(Pvt) Ltd and Forest Glen Hotel and Spa (Pvt) Ltd has been billed annually since 2006 and according to the documents, there is no outstanding lease amount due.

17. In response to the advice sought by the Divisional Secretary, Nuwara Eliya, the Commissioner General of Lands by his letter dated 18-04-2016 has advised the Divisional Secretary, Nuwara Eliya to call both the parties to the dispute (Mrs. Prema Dickson Silva Hendavitharana and Mr. Tariq Kurashy) and to forward the recommendation of the Divisional Secretary, Nuwara Eliya, as to whom the land should be leased. The Commissioner General of Lands has further stated if the matter cannot be settled, he will have to take steps according to the first Lease Approval.
18. By his letter (Annexed to the Petition as P21) the Divisional Secretary, Nuwara Eliya, has informed the Commissioner General of Lands, that the 5<sup>th</sup> Respondent Mrs. Prema Dickson Silva Hendavitharana did not participate and also the 3<sup>rd</sup> Petitioner Mr. Tariq Kurashy has submitted to him the Directors and Secretaries registration form [Form 20 annexed marked as **P2(B)**] which showed that as of 08-01-2008, a local Director named Mr. Harold Tyrone Mathews has been appointed to the board of Elk Plain Farm (Pvt) Ltd. This appears to have removed any impediment to a Lease being executed in respect of Lease Approval bearing No 4/10/20614.
19. By the letter annexed to the Petition as **P22**, the Assistant Commissioner of Lands on behalf of the Commissioner General of Lands has instructed the Divisional Secretary, Nuwara Eliya, to take steps to get the relevant land surveyed and in the statement objections of the 1<sup>st</sup> to 4<sup>th</sup> Respondents they have admitted that inquiry in to two Lease approvals being given regarding the same land was not concluded and no final determination was reached.
20. The Petitioners have annexed to the Petition marked as **P27**, a letter sent by Commissioner General of Land to the Divisional Secretary, Nuwara Eliya under reference No.4/10/42486 in January 2018 (the exact date on the photo copy annexed to the Petition is not legible) under the heading, "The cancelation of lease approvals 4/10/20592 and 4/10/20614".
21. The letter begins by stating that its being written with reference to a discussion that took place on 05-12-2017 at the Ministry of Land and parliamentary reforms with the participation of the Minister, officers of Ministry of Land and Parliamentary Reforms, Department of Commissioner General of Land and the complainant Mrs. Prema Dickson Silva.



22. The Commissioner General of Lands further state that he is in receipt of a letter from the Secretary of the Ministry of Land and Parliamentary Reforms dated 29-12-2017 and by this letter he has been instructed to take steps under Section 212 of the State Lands Ordinance regarding lease No 4/10/20592 for violating the conditions of that lease and further to submit Lease Approval 4/10/20614 to the Minister in charge of the subject of land for cancellation or a suitable decision regarding violation of the conditions of the lease approval.
23. By this letter, the Commissioner General of Land further informs the Divisional Secretary, Nuwara Eliya the lessees' (1<sup>st</sup> and 2<sup>nd</sup> Petitioners) agreements with the BOI which was the basis on which the above leases were granted has been terminated by the BOI and requests his recommendation as to acting under Section 212 of the State Lands Ordinance regarding lease 4/10/20592 and cancelling of lease approval 4/10/20614 for violating conditions.
24. 1<sup>st</sup> to 4<sup>th</sup> Respondents have admitted all documents P1 to P27 except P3, P4, and P11 which has no bearing on the present issue. The 1<sup>st</sup> to 4<sup>th</sup> Respondents whilst admitting all the relevant documents submitted by the Petitioners has almost in all instances rejected the accompanying narration (averments) of the Petitioners. It is for this reason that from paragraph 2 to 23 I have given the facts as they appear according to the content of the documents admitted by the 1<sup>st</sup> to 4<sup>th</sup> Respondents
25. It is abundantly clear according to admitted documents that survey plan No. NU1710 (which may or may not be part of a larger land) is an extent of land comprising of three lots (Lot 1, Lot 2, and Lot 3) Lot 1, of this land is also depicted in survey plan No. NU 236 (which appears to be a re-survey) it is very clear that Lease Approval bearing No. 4/10/20614 regarding Lot 1 and Lease bearing No 4/10/20592 regarding Lot 2 has been duly made in favor of the 1<sup>st</sup> and 2<sup>nd</sup> Petitioners. 1<sup>st</sup> to 4<sup>th</sup> Respondents have not contested the legality or validity of these lease instruments.
26. Although it appears at a point of time in the past above mentioned Lot 1 and Lot 2 had been leased to Mr. Hendavitharanage Dickson Silva, the husband of 5<sup>th</sup> Respondent, by 12-07-2006 and 24-03-2006. However, by the time the Lease No 4/10/20592 and the Lease Approval No. 4/10/20614 made, Mr. Hendavitharanage Dickson Silva has transferred or assigned them in favor of the Petitioners. This fact is clearly accepted by the 2<sup>nd</sup> Respondent by his letters marked P14 and P15 mentioned as facts found by him on examining relevant documents in the registry. 1<sup>st</sup> to 4<sup>th</sup> Respondents has admitted both these documents.

27. 1<sup>st</sup> to 4<sup>th</sup> Respondents has also stated in their objections that the Petitioners has been in occupation of the land identified as Lot 1 of the survey plan bearing NU 236 under the Lease Approval No. 4/10/20614 and the relevant lease rentals have been duly paid without default.
28. The 5<sup>th</sup> Respondent is at variance with the position of 1<sup>st</sup> to 4<sup>th</sup> Respondents as to the validity of the lease instruments as she claims that **P8** and **P9** are forgeries. Further, the averment in the objections of the 5<sup>th</sup> Respondent and the positions taken in her written submissions are contradictory and confusing. It is clear that the 5<sup>th</sup> Respondents claim over these allotments cannot be based on any residue from her husband's former rights over the property.
29. As the 1<sup>st</sup> to 4<sup>th</sup> Respondents have admitted the contents of paragraph 30 to 36 of the Petition. As such nonpayment of rent or arrears in rent cannot be a reason for terminating the lease.
30. The Secretary of the Ministry of Land and Parliamentary Reforms has failed to specifically mention what conditions have been violated and the Commissioner General of Lands who conveyed the decision to the Divisional Secretary, Nuwara Eliya has also not mentioned what the violation was.
31. On perusal of the pleadings of 1<sup>st</sup> to 4<sup>th</sup> Respondents, it appears the only ground they have mentioned is the termination of BOI agreements with the 1<sup>st</sup> and 2<sup>nd</sup> Petitioner companies. In their statement of objections, 1<sup>st</sup> to 4<sup>th</sup> Respondents had stated that No.4/10/20614 lease and No.4/10/20592 Lease Agreement are intrinsically interwoven and dependent on the BOI agreements. However, 1<sup>st</sup> to 4<sup>th</sup> Respondents does not explain how the lease instruments and the BOI agreements are intrinsically interwoven or the manner in which their cancelation would affect the ability of the 1<sup>st</sup> and 2<sup>nd</sup> Petitioners to fulfill their obligations under the lease instruments. Even it is assumed that it is the contention of the 1<sup>st</sup> to 4<sup>th</sup> Respondents that the 1<sup>st</sup> and 2<sup>nd</sup> Petitioners will not be able to conduct business in the absence of the BOI agreements and that would constitute a violation of the lease conditions, no material is available to support such a contention.
32. Although the 1<sup>st</sup> to 4<sup>th</sup> Respondents in their statement of objection has averred that "...given the circumstances upon which the Petitions were afforded the opportunity of coming to possession of state land." It appears to suggest that the Petitioners were given the lease only because 1<sup>st</sup> and the 2<sup>nd</sup> Petitioner companies were BOI companies. However, there is no indication that the granting and the continuation of the Lease and the Lease agreement was predicated upon the 1<sup>st</sup> and the 2<sup>nd</sup>

Petitioners continuing to enjoy the rights and privileges of the BOI agreements. Therefore, I consider this argument to be untenable.

33. Considering the contents of the letter P27 regarding Lease No. 4/10/20592, the Commissioner General of Lands has informed the Divisional Secretary, Nuwara Eliya that the Secretary of the Ministry of Land and Parliamentary Reforms has informed him to take steps under Section 212 of the State Land Ordinance regarding Lease No. 4/10/20592 **for violating the conditions of the lease**. It is not stated that Secretary of the Ministry of Land and Parliamentary Reforms wanted him to cancel or terminate the lease. As the State Lands Ordinance does not have a section 212 and as such it is impossible to comprehend what manner of action was intended by the 1<sup>st</sup> Respondent. However, it appears that he had come to a firm decision that the Petitioners have violated the conditions of the Lease No. 4/10/20592.
34. Considering the contents of the letter P27 regarding Lease Approval No. 4/10/20614, Commissioner General of Lands has further informed the Divisional Secretary Nuwara Eliya that the Secretary of the Ministry of Land and Parliamentary Reforms, has informed him to refer the Lease Approval No. 4/10/20614 to the Minister in charge of the subject for cancelation or some other action for violating the conditions of the said Lease Approval.
35. When considered that the letter P27 is from Commissioner General of Lands to the Divisional Secretary Nuwara Eliya informing the decision of Secretary of the Ministry of Land and soliciting his recommendations it can be argued that it is not an order of cancelation or a communication of such a decision to the Petitioners. However, considering the contents of the letter it clearly reflects a decision taken to cancel Lease No. 4/10/20592 and Lease Approval No. 4/10/20614.
36. It is abundantly clear from the contents of the P27 letter itself that the decision has been reached consequent a discussion held at the Ministry of Land and Parliamentary Reforms without the participation of the Petitioners. In their statement of objections, (averment 29) the Respondents have stated that considering the circumstances of their coming in to possession of state land the Petitioners do not have a vested right for them to be afforded opportunity to be present at and inquiry regarding the cancellation of the lease agreements.
37. The procedure that should be followed when canceling a lease issued under Section 02 of the State land ordinance No. 08 of 1947 appears to be laid down in Section 17(1) of the State Lands Ordinance.

Section 17(1) of the State Lands Ordinance provides as follows:

“Where a Government Agent is of opinion that the grantee of any permit or license has failed to observe any condition attached to any such permit or license, he may cancel such permit or license, and eject the grantee in accordance with the procedure prescribed in sections 106 to 128 of the Land Development Ordinance which shall apply accordingly as though the grantee of a permit or license under this Ordinance were a permit-holder under that Ordinance and as though the land which is the subject-matter of a permit or license under this Ordinance were land alienated by a permit issued under that Ordinance:..”

In the case of *Kalu Banda v. Upali* 1999 3 SLLR 391 at page 398, His Lordship Yapa, J. has stated;

“An examination of the provisions referred to above would make it clear that before a cancellation of a lease permit or an instrument of disposition, a particular procedure has been clearly laid down in sections 106-128 of the Land Development Ordinance. Therefore, in terms of section 106 (2) of the Land Development Ordinance the 2<sup>nd</sup> Respondent in this case was required by law to issue a notice to the Petitioner intimating to him that his lease permit would be cancelled unless sufficient cause to the contrary was shown.”.

It is clear that with regard to the Lease bearing No 4/10/20592, there is a statutory procedure to be followed and that the 1<sup>st</sup> to 4<sup>th</sup> Respondent have disregarded this.

38. With regard to the Lease Approval bearing No 4/10/20614, it is not stated under what legal provision it is issued. Even if there is no specific statutory provision regarding cancellation of a Lease Approval, rules of natural Justice prevent the 1<sup>st</sup> to 4<sup>th</sup> Respondent from canceling this lease instrument without granting the Petitioners and opportunity to be heard. Rules of natural justice dictate that that the party that would be affected by the decision should be given a hearing before the decision is taken. It is clear that 1<sup>st</sup> to 4<sup>th</sup> Respondents have violated a fundamental principle of natural justice. As the 1<sup>st</sup> to 4<sup>th</sup> Respondents has not given prior notice of the discussion to the Petitioners and has also failed to give them a hearing, both components of *Audi Alteram Partem* rule has been violated. Further, these actions of the 1<sup>st</sup> to 4<sup>th</sup> Respondents are compounded by the fact that 5<sup>th</sup> Respondent who is a rival for the claim of the Petitioners and would profit by the cancellation of the subject lease instruments had participated at the discussion.
39. The doctrine of legitimate expectation ensures that administrative authorities act fairly and would not take arbitrary decisions. It is a ground for judicial review. Whether an expectation is legitimate is a question of fact. Legitimate expectation is

a justifiable expectation that's based on law, custom, or a regular procedure. When the Petitioners received a 30-year lease under the hand of the President of the country or the Commissioner General of Land, it stands to reason that it would give rise to a legitimate expectation that they would be able to enjoy the privilege for the stipulated time period and in the event of early termination that it will be done in a fair and an equitable manner. I hold that the 1<sup>st</sup> to 4<sup>th</sup> Respondents actions has breached the legitimate expectations of the Petitioners.

For the reason set out above, I hold that the Petitioner is entitled to an issuance of a writs of Certiorari to quash the decision reflected in the letter P27 to cancel Lease No. 4/10/20592 and Lease Approval No. 4/10/20614.

*Application is allowed.*

**JUDGE OF THE COURT OF APPEAL**

**Dhammika Ganepola, J.**

**I agree.**

**JUDGE OF THE COURT OF APPEAL**