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

CA/Writ/406/2023

Kawsaladevi Govindapillai
Klassic Apartments,
No. 287/8/2,
Modera Street,
Colombo 15.

PETITIONER

Vs.

1. W.A.D.S. Gunasinghe,
   General Manager,
   General Managers Office,
   Sri Lanka Railways,
   Colombo 10.

1A. J.I.D. Jayasundara,
   General Manager,
   General Manager's office
   Sri Lanka Railways,
   Colombo 10.

2. W.D.R. Pathmalal,
   Assistant Commercial
   Superintendent (Land),
   Railway reserve management Unit,
   General manager's Office
   Sri Lanka Railways,
   Colombo 10.

3. P.P.D.S. Muthukumarana,
   Government Chief Valuer,
   Valuation House,
   No. 748, Maradana Road,
   Colombo 10.

3A. A.S.W.K. Nanayakkara,
Government Chief Valuer,
Valuation House,
No 748, Maradana Road,
Colombo 10.

4. The Hon. Attorney General,
Attorney Generals Department,
Colombo 12.

RESPONDENTS

Before	:	**Hon. M.T. Mohammed Laffar, J.(Act.P/CA)**
	:	**Hon. K. Priyantha Fernando, J.(CA)**
Counsel	:	Faiszer Musthapha, PC with Naveen Marapana for the Petitioner. Dilantha Sampath, SC for the State.
Supported On	:	14.05.2025
Decided on	:	16.06.2025

K. Priyantha Fernando, J. (CA)

The Petitioner currently operates a small restaurant and a salon on the premises described in the schedule to the Petition. The land on which the building stands belongs to the State and is under the purview of the Sri Lanka Railways. The Petitioner's husband rebuilt the current structure on the land after the previous building was destroyed by fire in 1991. The Petitioner states that she has consistently paid rent as per the law.

On 2nd October 1997, the Petitioner entered into a lease agreement with the former manager of Railways for the premises, with the rent assessed at Rs. 172,800. Subsequently, the Railways tried to increase the rent to Rs. 422,200, which led to case No. 9318/RE in the District Court of Colombo**.** This matter was

eventually settled, and the Petitioner agreed to pay an annual rent of Rs. 209,088 for the period from 1st July 2007 to 30th June 2012.

Following the expiration of this period, the Petitioner and the then General Manager of Railways entered into a new lease agreement bearing No. 00001/2012. Under this agreement, the annual rent was assessed at Rs. 313,620 for a period of five years commencing from 1st July 2012, representing a 50% increase from the previously agreed rent in case No. 9318/RE. The lease also provided that the rent was subject to amendment following a valuation by the government valuer.

The Petitioner paid the agreed rent for the first year of this new lease, from 1st July 2012 until 30th June 2013. However, the Sri Lanka **Railways unilaterally and arbitrarily revised the rent, including retrospectively for the period already paid, first to Rs. 720,000, then to Rs. 900,000, and finally to Rs. 800,000**. **These substantial increases far exceeded the maximum 50% increment allowed under Section 217(2)(vi) of the Land Manual**.

The Petitioner contends that the conduct of the Railways was unlawful and designed to evict her from the premises and reallocate the land to other parties. The Petitioner emphasizes that Section 217(2)(vi) of the Land Manual stipulates a maximum limit of 50% increase from the previously assessed rent, thereby safeguarding the rights of tenants and ensuring proportional and gradual increments in rent.

The Respondents submit that they reserve the right to respond more fully to the Petition and Affidavit of the Petitioner if Notices are issued. As a preliminary objection, the Respondents contend that the Petition is misconceived in law, involves a purely contractual grievance, and does not satisfy the conditions for the issuance of a writ of mandamus. They argue that the Application amounts to an abuse of Court process, is barred by Res Judicata, and that the Petitioner has failed to make a full and fair disclosure of material facts. They also assert that the Petitioner does not come before Court with clean hands and is therefore

not entitled to equitable or discretionary relief, warranting dismissal of the Petition *in limine.*

Without prejudice to these objections, the Respondents deny the averments in the Petition and corresponding paragraphs of the supporting Affidavit, except those specifically admitted. They state that the building/land in question, which is 3.1 perches in extent, was originally leased to the Petitioner's husband in 1989 for an annual rent of Rs. 144,000. Following breaches of the lease, the Respondents requested the husband to hand over the premises, prompting him to file a District Court case (No. 4350/spl). After his death, the Petitioner withdrew the case and paid the due rent.

Subsequently, on 01.07.1997, the premises were leased to the Petitioner at an annual rent of Rs. 172,800. It was later discovered that the building occupied 7 perches instead of 3.1, and the rent was revised to Rs. 432,000 annually based on a valuation. The Petitioner's request to reduce the rent was rejected. Due to the Petitioner's improper disposal of garbage, the lease was terminated on 26.05.2000, with an outstanding rent of Rs. 972,000 at that time.

Despite this, the Petitioner paid Rs. 375,000 to the Respondents in August 2000 but did not hand over possession. The Respondents filed District Court case No. 9318/RE to recover the remaining rent, and the parties settled in November 2006, agreeing on annual rents of Rs. 172,800 (1997-2001), Rs. 190,080 (2002-2006), and Rs. 209,088 (2007-2012). A new lease agreement was executed on 24.05.2012 for Rs. 313,632 annually, with rent subject to amendment upon a government valuation.

A government valuation dated 22.11.2012 assessed the annual rent at Rs. 900,000 from 01.07.2012 to 30.06.2017, which was communicated to the Petitioner. The Petitioner objected, contending that the building value should not be considered. After considering the Petitioner's concerns, the Respondents confirmed that only the land value was considered. Following an appeal to the

Ministry of Transport, the annual rent was reduced to Rs. 800,000 by the 3rd Respondent.

The rent due from 01.07.2012 to 30.06.2014 was calculated as Rs. 1,390,732.16, of which the Petitioner paid Rs. 310,000 on 21.07.2014 but failed to pay the balance. Meanwhile, the Petitioner filed District Court case No. DSP/00271/2014 seeking to reduce the annual rent to Rs. 313,632 but later withdrew it, reserving the right to refile. On 02.06.2016, the Petitioner filed case No. DLM/00051/16 seeking the same reduction, and the 1st Respondent made a cross-claim to recover unpaid rent. This case is still pending.

While the District Court action is pending, the Petitioner proposed terms of settlement by letter dated 29.05.2023, to which the Respondents responded by letter dated 21.06.2023. The Respondents submit that the current Application essentially seeks the same reliefs as the pending District Court case, and therefore no writ lies.

The Respondents maintain that they have acted lawfully and within their statutory powers at all times, and the Petitioner has repeatedly failed to comply with lease terms. They argue that the Application is vexatious and unmeritorious, lacking any demonstration that their conduct was arbitrary or unreasonable. Accordingly, the Respondents assert that the Petitioners are not entitled to the reliefs sought, including interim relief, and the Petition should be dismissed *in limine.*

The synopsis of the Petitioner sets out the legal framework for rent revisions in commercial leases as established by *Section 217(2)(vi) of the Land Manual*, which stipulates that rent may be revised only once every five years, with a maximum increase of 50% from the previously assessed amount. This safeguard aims to ensure economic stability for lessees and to prevent arbitrary rent hikes by State agencies. The principle is underpinned by the *Public Trust Doctrine*, which requires State land and resources to be administered fairly and for the benefit of the public.

This principle was reaffirmed in **Sugathapala Mendis and Another v Chandrika Kumaratunga and Others (Waters Edge Case) SC FR 352/07**, where it was held that

> *"All facets of the country its land, economic opportunities or other assets are to be handled and administered under the stringent limitations of an trusteeship posed by the Public Trust Doctrine and must be used as a manner for economic growth and always for the benefit of the entirety of the citizenry of the country - not for the benefit of granting gracious favours to a privileged few".*

From the initial lease dated 2nd October 1997 (P3), through the court settlement (P4), and the last lease (P5), rent increases remained within the 50% limit. However, after P5, the Sri Lanka Railways unilaterally raised the rent to Rs. 800,000, in violation of the 50% ceiling. The Petitioner contends that this conduct was ultra vires and that the Petitioner relied in good faith on the State to act within the law.

The Petitioner states that the failure to continue paying the increased rent arose because payment would have amounted to acquiescence to an unlawful assessment. Consequently, on 07th April 2016, the Petitioner filed *District Court Case No. DLM 00051/2016* seeking a declaration that the rent under P5 should remain at Rs. 313,620. During the pendency of this action, the Railways demanded Rs. 12,080,681 for the period 01st July 2012 to 30th June 2023, calculated using the disputed rent of Rs. 800,000.

The synopsis asserts that the ultra vires nature of these rent increases falls squarely within the supervisory jurisdiction of this Court under Article 140 of the Constitution and is not a matter for any other forum. The *Limited Statement of Objections* and oral submissions of the Learned State Counsel did not contest the Petitioner's assertion that the rent increase was ultra vires and contrary to the Land Manual, leaving the Petitioner's position uncontested.

This Court, during the stage of support, raised concerns about whether the Petitioner was guilty of laches for not challenging the rent assessment made on or around 08th May 2014 by P8, and whether the Petitioner had not come to court with clean hands, having not paid rent after 30th June 2012.

Addressing laches, the Petitioner submits that any delay was due to the need to challenge the manifest illegality and does not bar relief. Reference is made to **University of Peradeniya v Justice D.G. Jayalath, Chairman University services Appeals Board and Others [2005| 3 SLR 337**, where it was held that

> *"There does not exist in Sri Lanka any statutory provision or rule of Court that sets out a time limit within which a petition for the issue of a prerogative writ must be filed. However, a rule of practice has grown which insists upon such petition being made without undue delay, when no time limits is specified for seeking such remedy, the Court has ample power to condone delays, where denial of a prerogative writ to the petitioner is likely to cause great injustice".*

This judgment underscores that laches should not bar relief when there is manifest illegality.

On the question of clean hands, the Petitioner submits that the refusal to pay the increased rent was to avoid validating an unlawful assessment. The Petitioner paid the rent stipulated under P5 for the first year but refrained from paying the arbitrary increases, which exceeded the 50% ceiling allowed by law. The Petitioner contends that this conduct reflects good faith and an intent to comply with the lawfully assessed rent, in contrast to the Railways' conduct in imposing arbitrary increases in violation of the law. The Petitioner argues that the Railways acted dishonestly and with an ulterior motive to compel default and reclaim the property, which had been built through the personal efforts and investment of the Petitioner and the late husband.

The Petitioner emphasizes that the aim is not to avoid obligations, but to ensure they are imposed lawfully. The Petitioner contends that the conduct of the

Railways in exceeding the legal limits for rent increases violated the duty of fairness and the trust that underpins public administration. The Petitioner therefore seeks the intervention of this Court, not to escape liability, but to affirm the principle that State power must be exercised within legal limits.

It was transpired during the proceedings the Petitioner has filed a second action on 02.06.2016 against the 1st Respondent in the District Court of Colombo bearing No. DLM/00051/16 seeking to reduce the annual rent to Rs. 313,362/By way of answer. The 1st respondent has made a cross claim to recover the unpaid rent due to be paid by the Petitioner. (vide R18 and R19). District Court case is still pending and it has not yet been concluded. While it is pending, the Petitioner by letter dated 29.05.2023 has proposed terms of settlement to settle the said case. (vide R20). In response, the Respondents have issued letter dated 21.06.2023 (P10). Thereafter only the Petitioner has come before this Court seeking to quash P8(R15) and P10 (R21) and further seeking the same reliefs as prayed for in the pending District Court action.

It is **clearly seen that the Petitioner has time to time challenged and/or objected to the valuation and lease rental amount and the said facts are in dispute in this Application. Thus, no writ can be lied for the Petitioner**.

For the foregoing reasons, application for the Interim Relief and Formal notices are refused. Application is dismissed. No costs.

Judge of the Court of Appeal

M.T. Mohammed Laffar, J.(P/CA)

I agree.

Judge of the Court of Appeal