

**The Performance Audit on the Utilization  
of the Lands and Buildings of the Sri  
Lanka Government Railway situated in  
Colombo Fort-2010**



**September  
2013**

**Performance and Environment Audit Unit**

**8<sup>th</sup> Installment – Part IV**



**Auditor General's Department**



## 01. Executive Summary

-----

According to the Vision of the Department of Sri Lanka Railways, the maintenance of an efficient and reliable transport system for fulfilling the demand for passenger transport and goods transport for the socio-economic development of the country is essential.

Even though the transport of goods had been the preliminary objective of the Sri Lanka Railways at its inception, the creation of the successful passenger transport system has become its major objective at present. At the inception of the Railway Service, City of Colombo had been connected with the other cities of the Island with the objective of transporting goods and raw materials. In the beginning, large tracts of land, specially in the Colombo Fort area had been allocated to it for those purposes. Those lands had been allocated for the maintenance of the Railway Service as well as for the future development purposes. As such a large extent of lands of high commercial value is situated in Colombo Fort and its surroundings.

According to the current operations of the Department of Sri Lanka Railways, the overall revenue as compared with the operating expenditure is at a low level resulting in a deficit/loss thus becoming a financial burden on the General Treasury. Nevertheless, an adequate attention had not been paid for the effective utilization of such lands belonging to the Department of Sri Lanka Railway to improve the revenue generated therefrom with a view to minimizing the deficit at least to a certain extent.

The objective of this Performance Audit is to evaluate whether the lands situated in the Colombo Fort area had been made use of in an efficient, economical and effective manner. Several matters indicated that due to various reasons such lands and buildings are being used in an ineffective manner. The Performance Audit conducted on the basis of such observations revealed major observations relating to the lack of properly maintained documentary evidence on certain lands and buildings, failure to enter into formal agreements resulting in external parties utilizing those lands and buildings for their purposes, non-renewal of agreements on lands and buildings leased out and illegal sub-leasing of certain lands and buildings. Legal action instituted on problems relating to certain lands and buildings remain without being settled over long periods. The title of the Department of Sri Lanka Railways to certain of those had been adversely affected due to the illegal utilization.

It had not been possible to manage these properties properly due to various matters such as the failure to enter into formal agreements for leasing out the lands and buildings, failure to take preventive action at the initial stage of the unauthorized utilization of lands and buildings, the lack of proper co-ordination among the different Divisions of the Department of Sri Lanka Railways, the lack of adequate distribution of work in certain Divisions, inadequacy of supervision, deficiencies in the physical resources of the Lands Division and lack of a proper procedure for the recovery of lease rent. The audit examination carried out in this connection revealed that taking remedial action for the effective utilization of the unutilized or the underutilized lands and buildings irregularly utilized by external parties has become a difficult task for the Department of Sri Lanka Railways.

The impact of this on the Department of Sri Lanka Railways and the remedial recommendations made in that connection appear in this report. The recommendations for the utilization of these properties for the improvement of the welfare of the passengers in addition to the main operational process of the Department, the action to be taken to improve the revenue by the effective utilization of the lands and buildings in that area with huge revenue potential for commercial purposes, timely assessment and proper leasing out of properties, preparation and implementation of the development plan for the effective utilization of the properties unutilized and underutilized at present, taking action with the Attorney General for the speedy settlement of problems referred to Courts and the improvement of co-ordination among the different Division of the Department handling this subject are the major recommendations.

## **02. Introductions**

-----

### **2.1 Background of the Subject**

-----

Transport is a primary need for the socio-economic development of a country. The overall as well as the regional socio economic development of a country has to be achieved through the effective improvement of a service sector spread throughout the country led by the transport sector.

The Railways provide 7 per cent of the passenger transport and 1 per cent of the goods transport of the present transport sector of Sri Lanka. Department of Sri Lanka Railways owns about 13,500 acres of land reserved for the maintenance of the operational process as well as for future requirements. Out of the 1,450 kilometres of railway tracks included therein, only about 1,250 kilometres are in use at present. The development of two tracks of the abandoned Northern Line has been commenced while preliminary work on the proposed Matara-Katharagama Line has also been commenced.

An efficiently maintained Railway Transport System could provide very cheap transport facilities to the passengers and for that purpose, the development of the infrastructure facilities including lands and buildings and rehabilitation of capital assets are very essential.

The Railway Service was first launched in the year 1864 during the British Period as the “Ceylon Government Railways”. In the early days, its primary objective was the transport of goods. The service comprised a track system spread throughout the country with Colombo as the centre for the transport of raw materials and goods to Colombo for export.

In addition, there is evidence of the existence of an improved canal transport system connecting the Diyawanna Oya in operation in collaboration with the Railway Service. As such the Department of Sri Lanka Railways possesses vast extents of lands in the Colombo Fort area allocated for the Colombo Main Railway Station, Colombo Goods Section, the railway track and for the future requirements. These lands had been allocated to the Department for the purposes of maintaining the Rail Service and for the future development of the service. As these lands are situated in the Colombo Fort area, they are of high commercial value.

## **2:2 Authority for Audit**

-----

The audit was carried out under my direction in pursuance of provisions in Article 154 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

## **2:3 Objective of Audit and Audit Criteria**

-----

### **2:3:1 Objectives of the Performance Audit**

-----

The audit objectives of the Performance Audit are as follows.

- (a) The examination of the possibility of providing a better service to the passengers from the effective utilization of the Railway lands in Colombo Fort out of the large extent of lands and buildings spread throughout the country belonging to the Department of Sri Lanka Railways.
- (b) Examination of the economy, effectiveness and efficiency of the utilization of these lands by the Department of Sri Lanka Railways for the intended purposes.
- (c) Examination of the extent to which the management had taken action with the objective of commercial based utilization of lands and buildings of very high value situated in the Colombo Fort area for the minimization of the operating loss.
- (d) Examination of the possibility of the utilization of the lands and buildings belonging to the Department of Sri Lanka Railways situated in the Colombo Fort area for the development of other public utilities.

## 2:3:2 Audit Criteria

-----

Primary Objective -----	Audit Criteria -----
(a) Evaluation as to whether the lands and buildings with high commercial value belonging to the Department of Sri Lanka Railways situated in and around in Colombo Fort Area are utilized economically, efficiently and effectively.	The legal and physical title to the lands and buildings enjoyed by the Department and the land use.
(b) Improvement of the revenue of the Department by the effective utilization of the lands and buildings in this area and identifying the other sources of revenue.	Make the Department aware of the need for the effective utilization of the lands belonging to the Department for the improvement of revenue generation.

The particulars of a summarized classification of the data on the lands and buildings of very high commercial value situated in the Colombo Fort area, considering the lands belonging to it as a strength to the going concern of the Department of Sri Lanka Railways appear below.

### Status of Utilization of Lands and Buildings

-----

Lands and Buildings subjected to Audit Attention -----	Extent -----	Particulars or Ineffective use -----	Observations in brief -----
World Market and Telecom Car Park	1.2 acres 90 perches	Fully	Abandoned by the Department of Sri Lanka Railways and used by a Statutory Institution of the Government and a Government Company.
Two Trade stalls in front of the Colombo Fort Railway Station	About 500 Square feet	Fully	Used by two private institutions.

Nineteen Trade Stalls on Olcott Mawatha	40 Perches	Part only	Legal action not finalized.
Bastian Mawatha 131 Trade Stalls	60 Perches	Fully	Problems relating to the title existed.
Land Parcel leased out to Ceylon Petroleum Corporation	32.3 Perches		Lease Agreement had not been renewed.
Unauthorized sub-lease of 2 land parcels granted by the Urban Development Authority	10.35 Perches 13 Perches	Fully	Action not taken for rectification.
Lands given for Trade Union activities	2.5 Roods 05 Perches	Fully	Other alternate places not allocated for that purpose.
Very old buildings on the land parcel adjoining the Platform No. 1 of the Colombo Fort Railway Station	03 Roods	Part only	Not effectively used by carrying out improvements.
Bus Stand at Bastian Mawatha	10.5 Acres	Part only	Not assessed. An agreement had been signed subsequently without taking into consideration the adjoining shops.
A Private Business	0.17 Perches	Fully	Used without giving any benefit to the Department of Sri Lanka Railways.

Land adjoining Colombo Goods Section	03 Roods 19 Perches	Fully	The lease agreement had not been renewed over a period of 17 years.
A State Bank and a Private Bank	22.3 Perches 08.06 Perches	Fully	Lease agreement not renewed by revising the conditions

## 2:4 Scope of Audit

-----

This Performance Audit was conducted independently in pursuance of provisions in Article 154 of the Constitution of the Democratic Socialist Republic of Sri Lanka. The methods of examination deemed necessary for obtaining an understanding of the institution, its operating process and the internal control systems were followed to form a basis as to whether the expected objectives had been achieved.

## 2:5 Audit Approach

-----

The objective of this Performance Audit is to ascertain whether the lands and buildings in the Colombo Fort area deemed as belonging to the Department of Sri Lanka Railway are in physical existence, that they are effectively utilized and that alternate revenue sources from them have been identified for the improvement of revenue as well as the possibility of those adding value to the Railway Services.

With regard to the observations made in reaching the objectives of the Performance Audit and the recommendations made thereon, attention was paid to the auditee institution, its operating process and the internal control system as well as the audit risk. We have obtained appropriate audit evidence deemed necessary to formulate a reasonable conclusion on the audit. The scope and extent of the audit procedures followed had changed according to the assessed audit risk and the activities of the institution connected to the non-achievement of the objectives.



### **03. Audit Observations, Recommendations and Comments of the Institution**

-----

#### **3:1 Utilization of Its Lands by External Parties causing Damage to the Title of the Department of Sri Lanka Railways**

-----

##### **3:1:1 Motor Vehicle Park maintained by the World Market and a Government Company**

-----

The land parcel, 1.2 acres in extent situated on the Western terminal of the Colombo Fort Railway Station on which a signal tower had been constructed according to the Survey Plan including the lands of the Department of Sri Lanka Railways drawn in the year 1918 and abandoned by the Department had been transferred for the maintenance of the World Market Centre and for the maintenance of a Motor Vehicle Park by a Government Company. But the Department is not in possession of information on that transfer. As such, this matter can be a potential problem for the railway development works in the Western Terminus of the Colombo Fort Railway Station in the future. Even though the title is confirmed according to the map , other documentary evidence is not available.



Boundary of the World Market and the Telecom Motor Vehicle Park situated very close to the Southern Line.

## **Implication**

-----

The legal documents relating to the transfer of this land parcel belonging to the Department of Sri Lanka Railways and confirmed according to the information in the map, to the institutions using the land at present are not available. As these two institutions are using the land parcels over long periods, the settlement of the title for the effective utilization of the land parcels by the Department of Sri Lanka Railways has become a difficult task.

At present, the two institutions are using the two land parcels at maximum level for their purposes, thus depriving the use of those for the purposes of the Railway Service.

As these land parcels in the Western Terminus of the Colombo Fort Railway Station are situated very close to railway track used at present, it is observed as an obstruction to any development or expansion of railway tracks in the future.

## **Recommendations**

-----

- (a) The management should pay attention to ascertain the basis on which the lands had been transferred for use by other parties and establish the background.
- (b) Ascertain whether, this land depicted in the map with the old signal tower and the railway track supposed to have been abandoned, will be necessary for the future development work of railway tracks.

## **Comments of the Department of Sri Lanka Railways**

-----

"Agree with the matters included in the observation and as the manner in which the place is owned by another party is not traceable, further action will be taken after finding out as to how permission for use was obtained".

3:1:2 Two places situated in front of the Main Entrance to Railway Platform of the Colombo Fort Railway Station are being utilized by 02 External Persons due to an Agreement with weak conditions entered into.

Floor space of 200 square feet of the main building of the Railway Station had been used by a businessman from the year 1999 to year 2003 for running a restaurant on the basis of paying an annual lease rent of Rs.420,000. Action had been taken to run the business even after the year 2003 and the annual lease rent for the years 2004 to 2006 had been assessed as Rs.2,173,500. But the businessman had paid an annual lease rent of Rs.966,000. According to the Government valuation made in the year 2007 and out of the assessed lease rent from the year 2007 to September 2010, a sum of Rs.3,578,400 had been in arrears. A case had been filed in the year 2008 for the recovery of that amount. This matter had not been settled in courts even up to the year 2011 and it was observed that the businessman is continuing to run the business by using the water and electricity supplied by the Railway Station.

A floor space of 300 square feet adjoining the above business unit in the premises of the Fort Railway Station had been used at a monthly rental of Rs.2,500 from the year 1987 for running a business for the supply of information to passengers/ tourists. Subsequently the Department of Sri Lanka Railways had revised the lease rent and according to the revised lease rent, the arrears of lease rent up to the end of the year 2007 amounted to Rs.6,354,200. The Department had not taken to revise the lease from the year 2008. Legal action on the arrears had been taken against the lessee in the year 2009. The case had not been decided even up to the end of the year 2011. Even though the lease rent is in arrears, the lessee continues to run the business.



“Rail Tours” located in the Fort Railway Station Building



“Multifoods” location in the Fort Railway Station Building

As such the floor space occupied by these two institutions in the Fort Railway Station Building which can be utilized for the improvement of facilities to the passengers, continue to be utilized for the purposes of businessmen without receiving an adequate benefit to the Department. Even though the terms and conditions of the original agreements of the two businesses had been breached, the businessmen continue to run their businesses without let or hindrance by using the water and electricity obtained from the Railway Station.

### **Implication**

-----

Due to the inability of the Department to utilize the two business premises in the Fort Railway Station building due to the lease agreements with weak conditions, it had not been possible for the Department to carry out improvement to those premises or to make use of them to provide effective services for the passengers. It was observed that the leases are uneconomic and ineffective due to reasons such as the loss of revenue receivable and the use of other facilities such as electricity and water from the Railway Department.

## **Recommendations**

-----

- (a) Action should be taken for the inclusion of prudent and proper terms and conditions into the agreements for the lease of lands and buildings.
- (b) As the problems relating to the operation of businesses are under litigation at present, seek the advice of the Attorney General for the early settlement.
- (c) As the person had breached the trust by breaching the terms and conditions of the agreement, action should be taken to ascertain whether the Department is responsible to supply water and electricity under the existing circumstances.

## **Comments of the Department of Sri Lanka Railways**

-----

"Information given is correct, and the cases in this connection are pending in the District Courts and the Civil Appellate Courts and the lessee is not paying lease rent until the determination of the cases.

The lease rent assessed for the lease property on which a restaurant is maintained, by the Department of Valuation is considered excessive and as such a request had been made for a fresh valuation. New terms and conditions for the settlement of this case have been furnished to the Department of Attorney General. The lessee has agreed to the conditions of mediations submitted by the Department of Attorney General while a review of the assessment made for the years 2004 to 2011 has been requested from the Department of Valuation. The decision on the case is scheduled to be delivered on 29 May 2013.

With regard to the other lease property on which a business related to the Tourism Industry is run a new lease agreement for the payment of Rs.40,000 per month for a period of 05 years from 01 September 2011 is in force. The lease rent inclusive of the arrears from October 2011 to April 2013 have been paid and as the Value Added Tax on that has not been paid, action has been taken for obtaining the advice of the Attorney General.

### 3:1:3 Lease of 19 Trade Stalls opposite the Colombo Fort Railway Station and Subsequent Problems

-----

The building opposite the Colombo Fort Railway Station containing 19 Trade Stalls had been leased out to an external party in the year 1991 and the parties concerned had not entered into a formal agreement. Even though action had been taken up to the year 2005 for the revaluation of the property once in every 05 years, the valuations done in the years 1997 and 1998 were not at an acceptable level. That is, the valuation done for the year 1998 had been less by 100 per cent or nearly 100 per cent of the valuation of the year 1997. The valuation had been accepted without making inquiries about the reasons for such decrease thus creating a favorable situation to the lessees. As there is no evidence in support of deterioration of the volume of trading of these trade stalls, the decrease in the valuation is problematic. Details appear below.

Trade Stall Number	Valuation of 1997	Valuation of 1998	Difference
-----	-----	-----	-----
	Rs.	Rs.	Rs.
62A – 62J	78,000	32,000	46,000
62K	90,000	37,000	52,500
62L – 62Y	60,000	32,000	28,000

Action had not been taken for the valuation of the property after the year 1998 and the lessees had made use of buildings at the maximum level for business purposes on the old lease rent. Even though the Department had taken action in the meantime to evict the persons from the building, legal action had been taken subsequently. Cases had been filed for 14 trade stalls between the years 2002 to 2006.

Even though decisions favorable to the Department had been delivered in certain cases, it had failed to evict the persons. According to the prevailing situation the lease rent on the trade stalls had not been recovered and the arrears of lease rent up 10 May 2007 amounted to Rs.1,057,728.

A field audit inspection revealed that businesses are run in all the trade stalls and being an area much frequented by people, they continue earn heavy profits without paying lease rent. Due to the failure to evict the persons concerned at the initial stages or entering into agreements with clearly specified conditions, problems had been created. As the problems had not been settled up to date, a large amount of revenue had been lost in addition to being deprived of the opportunity to carry out any other development work.





19 Trade Stalls on the land in the land Opposite of the Colombo Fort Railway Station

## Implication

-----

- (a) In view of the failure to take action for the settlement of the problems relating to the lease of these trade stalls at the initial stage itself and due to the matter being in litigation at present, it had not been possible to recover even the minimum lease rent or for the use of the land for any other development work.
- (b) As it was observed that the original lessees had granted sub-leases, it is evident that the lessees had been bold enough to act according to their discretion. As the Department of Sri Lanka Railways had not actively intervened in the matter, other parties had been allowed to run business even depriving benefits to the Department of Sri Lanka Railways.

## **Recommendations**

---

- (a) Discuss with the Attorney General for expediting legal action.
- (b) Consider the possibility of obtaining the approval of the Cabinet of Ministers for the preparation and implementation of the development plan for the area.

## **Comments of the Department of Sri Lanka Railways**

---

"Action has been taken in collaboration with the Urban Development Authority to take over these trade stalls for development work. Accordingly, orders have been issued for their eviction and 11 trade stalls have been taken over by rejecting the amended pleas, permission for lodging appeals for 03 trade stalls has been granted while the cases against 03 trade stalls are pending. Appropriate action will be taken after the cases are finalized."

### **3:1:4 Lease of 131 Trade Stalls of Bastian Mawatha, Colombo Fort for Businesses and Non-recovery of Lease Rent**

---

The strip of land opposite Bastian Mawatha, Colombo Fort belonging to the Department had been made available to External Parties in the year 2007 for the construction of 131 trade stalls with the intervention of other institutions for running trade stalls. The sum of Rs.30.8 million receivable by the Department of Sri Lanka Railways for these stalls for the period August 2007 to September 2010 according to the valuation done by the Department of Valuation had not been paid to the Department.

As the Department of Sri Lanka Railways had not intervened in the construction and leasing of those trade stalls, there were no agreements between the trade stall owners and the Department. As such, it had not been possible to obtain the electricity and water connections required for the trade stalls. As such that land could not be used effectively.

In view of the non-formal lease of the land and due to problems arising from the intervention of external parties of different levels, even the settlement of the Department's title to the land has become a problem.





Line of 131 Trade Stalls situated on Bastian Mawatha

## Implication

-----

- (a) As the constructions on this land had been done without in intervention of the Department of Sri Lanka Railways, problems could arise with regard to the ownership of the land.
- (b) Due to the absence of a course of action for the recovery of lease rent on the value of the current assessment , a large financial loss has been incurred.
- (c) In view of the existing problem, the recovery of lease rent had been temporarily stopped. There is a possibility of aggravating the ownership problems due to the failure to recover at least the minimum lease rent.

## **Recommendations**

---

- (a) Take action for the settlement of the problems by holding discussions with the institutions that had intervened in this connection.
- (b) Determine the correct value of the land by obtaining a fresh valuation.
- (c) Action should be taken for recovery of the arrears of lease rent.
- (d) Take action for obtaining legal advice.

## **Comments of the Department of Sri Lanka Railways**

---

"Lease deeds have not been given as they are unauthorized occupants. According to the plan dated 13 March 2006, lease notifications had been sent by obtaining valuation reports for the periods 01 September 2000 to 31 August 2005 and 01 September 2005 to 31 August 2010 and the lessees had refused to pay lease rent due to lack of the required facilities. After the issue of notice of eviction of lessees who do not pay lease rent a sum of Rs.1,806,663 has been recovered by 31 August 2012."

### **3:1:5 Use of a Land on Bastian Mawatha by the Ceylon Petroleum Corporation**

---

The land 29.3 perches in extent facing Bastian Mawatha belonging to the Department of Sri Lanka Railway had been made available to the Ceylon Petroleum Corporation in the year 1986 for running a Fuel Shed. That had neither been valued nor leased under a lease agreement. The payment of the lease rent amounting to Rs.46,592,875 up to the end of the year 2010 had been defaulted. The field inspection revealed that, instead of the Ceylon Petroleum Corporation, another person had been running the Fuel Shed.



Fuel Shed at Bastian Mawatha

### **Implication**

-----

Lease rent amounting to Rs.46 million remaining outstanding over a period exceeding 26 years and the inability to use the land for any other development work.

### **Recommendations**

-----

- (a) Explore the possibility of settling off the arrears of lease rent against the payables to the Ceylon Petroleum Corporation.
- (b) The land should be valued and leased under a formal agreement. If not explore the possibility of leasing this land for any other purpose.
- (c) Formulate conditions against sub-leasing.

## **Comment of the Department of Sri Lanka Railways**

---

"Even though the Corporation was notified annually to settle the amount, payments had not been made. Action is being taken to set off this loan against the loan balance payable to the Corporation. Eviction notice has been sent under the Colombo Gedara Project. Even though the agreement included that sub-leasing is illegal, it was not possible to take action as the Corporation is a service institution and that it did not have Fuel Sheds."

### **3:1:6 Sub-lease of 02 Valuable Land Parcels situated on D.R. WijewardanaMawatha, Colombo Fort , to other party by the lessee**

---

Two land parcels 10.35 perches and 13.6 perches in extent belonging to the Department of Sri Lanka Railways had been leased on 01 January 1985 to the Urban Development Authority for a period of 05 years. Subsequently, the Urban Development Authority had taken over 02 land parcels at Kollupitiya belonging to another person and according to the file it was confirmed that action had been taken to sub-lease the 02 land parcels belonging to the Department of Sri Lanka Railways to the owner of the 02 land parcels taken over. Accordingly, the 02 sub-lessees had commenced the utilization of those 02 land parcels.

The Urban Development Authority had valued the 02 land parcels and the annual value amounted to Rs.1,170,161 and Rs.1,143,968. Nevertheless, the Government Valuation exceeded that value and the lease rent receivable according to the Government valuation amounted to Rs.6,813,739 and Rs.8,633,975 as at 31 December 2010. The payment of lease rent had been stopped from the year 1990 by the Urban Development Authority and the 02 sub-lessees had also refused to pay the lease rent at the Government valuation. As formal action had not been taken to settle the problem that remained without being settled up to date.

### **Implication**

---

- (a) A considerable amount of lease revenue had been lost by the Department of Sri Lanka Railways due to the decision to pay the lease rent based on their own valuation without accepting the valuation made by the Chief Government Valuer.

- (b) Due to the unilateral decisions on the Railway lands and property taken by the external parties without any let or hindrance, they are allowed to enjoy the benefits of such properties.
- (c) Due to the lease of properties for use by external parties on agreements with simple conditions has allowed room for challenging the title of the Department of Sri Lanka Railways.
- (d) Adverse results had emerged subsequent to the very simple conditions included in the agreements entered into for the lease of Railway lands and buildings for the use of external parties and the failure of the Department to intervene on breaches of agreement at the initial stages.

### **Recommendations**

-----

- (a) Prompt action to be taken at the initial stage itself against lessees for the breach of agreements and desist from any indication of tolerating such actions.(Non-Leniency in action taken)
- (b) Take legal action against such institutions at the initial stages.
- (c) Updated maintenance of documents relating to such transactions.

### **Comments of the Department of Sri Lanka Railways**

-----

"Two land parcels 13.6 perches and 10.35 perches in extent had been sub-leased on the valuation made by the Urban Development Authority. The agreement with the Urban Development Authority had expired on 31 December 1989 and the Authority had informed the Department that the money will be collected by entering into agreements with the sub lessees. The sub-lessees had refused to pay the lease rent based on the Government valuation. Sums of Rs.873,000 and Rs.1,116,308 have been recovered up to 23 March 2012. A complaint has been made to the Human Rights Commission in September 2012 after refusing to pay the lease rent based on the new valuation. A discussion had been held at the Ministry of Transport on 08 December 2012 on the receipt of a notice that all parties should act by reaching consensus on the matter. At that meeting instructions have been given to make enquiries as to whether the parties would agree for the renewal and extension of the lease and settle the arrears by the Urban Development Authority and grant the lease to the above lessees and follow up by the Urban Development Authority".

3:2 Non-utilisation or Underutilisation of Lands belonging to the Department of Sri Lanka Railways

3:2:1 Certain lands and buildings commercially important situated in the Colombo Fort area had been allocated for Trade Unions over long periods.

Two valuable premises situated in Colombo Fort had been made available for the Trade Union work of 02 political parties.

The extent of 2.5 roods made available to one Trade Union is bordered by the Manning Market, Bastian Mawatha and the boundary wall at the end of the Olcott Mawatha and the Private Bus Stand controlled by the Transport Commission. This land had been made available for Trade Union work in the year 1978 and the land and the building thereon had been used for the Trade Union work over a long period.

It was revealed in audit that a part of the land had been made available to an external party for a minimum monthly fee of Rs.34,200 for maintaining a motor vehicle park. But that minimum lease rent had not been paid to the Department.

The allocation of this land parcel, situated in close proximity to the Manning Market which is a very busy trading area, for Trade Union purposes and parking of motor vehicles indicates that the Department does not consider the value of such premises. The failure to allocate an alternate place for that purpose had deprived of a significant amount of revenue as well as the utilization of the land for any other development for public benefit.





Motor Vehicle Park and the Trade Union Building

The other land parcel situated opposite Bastian Mawatha in the eastern terminal of the Colombo Fort Railway Station and the building thereon had been made available for another Trade Union. Giving this land parcel that can be made use of for development of passenger facilities in the Colombo Fort Railway Station, for such purposes is considered as an uneconomical management decision. It was observed that action had been taken without an understanding of the value of the lands.



Building of the other Trade Union

## **Implication**

-----

- (a) The Department of Sri Lanka Railways had acted in an ineffective manner as it had not paid due attention to utilize lands and building of high value for the enhancement of its revenue or value addition to the service or for the development of passenger utilities.
- (b) In the event of the non-recovery of these lands for future development works of the Department could cause dissatisfaction among the employees.

## **Recommendations**

-----

- (a) Allocation of suitable alternate accommodation for Trade Unions, instead of these valuable lands.
- (b) Recovery of the excess extent of lands given.
- (c) Paying attention for a plan for the development of the lands for passenger/public facilities or for the improvement of revenue of the Department.
- (d) Taking actions to prevent sub-leasing or handing over to other parties, the lands given for trade union activities.

## **Comment of the Department of Sri Lanka Railways**

-----

"A Land Plan dated 18 September 2012 has been prepared and out of the lands allocated for the Trade Unions, the balance portion other than 23.5 perches allocated to the Jathika Sewaka Sangamaya being used as a motor vehicle park. Lease rent is not recovered as this is a Trade Union. A valuation report on the land, sub-leased for maintenance of a motor vehicle park, for the period 01 January 2008 to 31 December 2011 has been requested and a sum of Rs.2,437,460 had been recovered up to 19 September 2012 from the sub-lessee. The user was informed to settle the arrears and that legal action will be taken in the event of failure to do so."



### **3:2:2 Underutilization of Two very old Buildings on the commercially important land parcel adjoining the Platform No. 1 of the Colombo Fort Railway Station**

---

Several buildings are on the land 03 roads in extent situated between the Platform No. 1 of the Colombo Fort Railway Station and Bastian Mawatha. The main building houses the main bakery of the Department of Sri Lanka Railways and it was observed that the institution that ran the Railway Restaurant Service had been using the bakery. Actions had not been taken to improve the bakery for enhancing the Railway Restaurant Service.

Another part of the building with floor area of about 800 square feet had been given for the use of a Trade Union. Another building of about 1,500 square metres of floor space, is being used by that Trade Union for storing various materials and equipment marked for disposal.

As such these buildings remained in the old condition without being repaired and the valuable land space occupied by the buildings remained without being utilized effectively.

In addition, another building of 450 square feet parallel to the platform No. 1 of the Colombo Fort Railway Station is being used as a restroom for the Railway Staff. Yet, a few other buildings on that land are being used as official quarters of the Railway Staff.

The following observations are made in this connection.

- (a) The bakery used by the former contractor of the Railway Restaurant Service for that purpose had been handed over the new contractor for running the Restaurant Service without carrying out any repairs. As such the facilities thereon were not adequate for running high level Restaurant Service.
- (b) The building used as a restroom for the staff remained in the very old condition and it had not been repaired over a long period. As such the building had been maintained without a pleasant outlook and damaging the environment.
- (c) The Department of Sri Lanka Railways had not taken into consideration the commercial value of the lands in this area, to maintain them in a manner to provide better facilities to the passengers and add value to the Railway Service or for use for revenue generating purposes for the Department.



Land with very old Buildings situated near Platform No. 1 of the Colombo Fort Railway Station

### **Implication**

-----

- (a) The development of facilities needed for upgrading of the Railway Service remained latent.
- (b) The Railway Restaurant Service remained without being improved as the accommodation available is not being utilized for upgrading the Railway Catering Service.
- (c) Inability to provide better facilities for the Railway Staff.
- (d) Loss of potential revenue due to not paying attention for implementing alternate revenue generating areas by using such lands.
- (e) Obstructions to the maintenance of this space situated close to the Colombo Fort Railway Station considered as a centre of passenger and goods transport as a place of attraction to the tourists and passengers.
- (f) Possibility of creating environmental problems such as spread of dengue.

## Recommendations

---

- (a) Preparation of a plan for the development of the area to suit the present day conditions.
- (b) Develop the minimum facilities of the buildings for maximum utilization of the buildings until the implementation of the development plan.

## Comment of the Department of Sri Lanka Railways

---

"Full attention is paid to situation pointed out and action taken in the future will be reported."

### 3:3 Other Properties with Revenue Potential

---

- 3:3:1 The use of the Land belonging to the Department of Sri Lanka Railways by the National Transport Commission on which the Colombo Fort Private Bus Stand is situated.
- 



Private Bus Stand on Bastian Mawatha

The Cabinet of Ministers had granted approval under the Cabinet Memorandum No. 9/0315/358/014 dated 24 February 2009, the handover of the triangular land parcel 04 acres 01 rood, 10 perches belonging to the Department of Sri Lanka Railways surrounded by Manning Market, Bastian Mawatha, Olcott Mawatha in Colombo Fort, to the National Transport Commission on lease for the improvement of Provincial Passenger Terminal and several development works had been done thereafter. Nevertheless the National Transport Commission had not entered into an agreement in this connection even up to August 2010.

Grant of the lease for 05 years with effect from 01 January 2010 had been decided and an advance of Rs.200,000 had been paid on 30 September 2010. But the value of the land had not been assessed. Even though Passenger Terminal had been improved under the Passenger Transport Authority and the land had been utilized effectively, the land had not been formally transferred for the purpose.

The site inspection carried out on 02 August 2010, revealed that a large number of trade stalls had been constructed on the Olcott Mawatha end and certain trade stalls had been widened by the businessmen. Certain trade stalls had been sub-leased by the businessmen. No revenue whatsoever had been received by the Department of Sri Lanka Railways from these trade stalls. The basis of leasing was also not clear.

### **Implication**

-----

- (a) This land had been used for the maintenance of a Bus Stand even before the approval of the Cabinet of Ministers had been granted. As action had been taken without considering the lease rent receivable for that period, the Department had been deprived of a considerable amount of lease revenue that could have been earned in view of the importance of its commercial value and location.
- (b) The trade stalls maintained at the Olcott Mawatha end had not been taken into consideration in granting the lease and that problem had not been settled by the lease granted. As it was observed at the field inspection that it is difficult to recover the trade stalls from the businessman, it had become a fruitless transaction.
- (c) Even though an advance had been paid at the inception without carrying out a valuation, that advance itself is inadequate.

## **Recommendations**

---

- (a) Enter in to a lease agreement with conditions relating to the sub-leases.
- (b) Conditions relating to development work done by the lessees on the leased land should be done with the consent of the Department should be included in the lease agreement.
- (c) Action should be taken to carry out a fresh valuation of the land and get a lease rent in keeping with the commercial value of the land.
- (d) Enter into agreement ensuring the ownership of the trade stalls at the boundary of the land.

## **Comment of the Department of Sri Lanka Railways**

---

"According to the Memorandum of Understanding entered in to by the Department with the National Transport Commission, a land parcel 04 acres, 02 roods 10 perches in extent was made available on 05 August 2010. The Commission was informed in several instances to pay the arrears of lease rent according to the valuation report of the year 2010. According to the Cabinet Memorandum of 24 February 2010 the approval of the Cabinet of Ministers has been received for carrying out development of the Bus Terminus with the Public and Private Partnership. A discussion on this matter was held on 24 January 2012 in accordance with the Cabinet decision and at that discussion it was proposed to consider the arrears of lease rent as the investment of the Department for this development project and as a shareholder receiving its dividends and to decide on that by carrying out a study. Further action will be taken accordingly."

### **3:3:2 Action not taken on the Land Parcel of high value opposite the Colombo Fort Railways Station Irregularly used for Business Purposes**

---

The land parcel 0.58 perches in extent is an important location for business purposes as it is situated facing the overhead bridge across Olcott Mawatha. A business is run at present on this land made available for business purposes in the year 1981 without entering into an agreement. Even though the land should be assessed on timely basis, running of the business is allowed at an agreed minimum lease rent without carrying out



a valuation. Nevertheless, lease revenue amounting to Rs.124,000 had been in arrears by the end of the year 2006 due to the non-payment of the minimum lease rent. Thereafter the officers of the Department had not taken action for the recovery of the lease rent revenue and the businessman had taken action to widen the trade stall without approval . Without taking action in connection with that, the Department had made requests to the Survey Section of the Department to carry out Surveys for taking legal action. But that had failed. Even though the trade stall was run by obtaining electricity and water connections for the Colombo Fort Railway Station, the officers responsible had not taken action needed in that connection.

According to the above events, it is clearly evident that the failure of the Railway Security Division to intervene in the irregular use of the properties of the Department, such matters develop to very serious problems later.



Bosevana Trade Stall

## Implication

- 
- (a) Even though business is run in this trade stall situated opposite of the main entrance to the Colombo Fort Railway Station, the Department of Sri Lanka Railways is not receiving any benefit from that.

- (b) As floor space in addition to the specified floor space is being used without authority for running a business, the land problem has been further aggravated.
- (c) Inability to use the land for any other improvements to the Railway Service or for the benefit of the passengers.
- (d) Obtaining electricity and water from the Colombo Fort Railways Station has become a financial burden to the Department of Sri Lanka Railways.

### **Recommendations**

-----

- (a) If the electricity and water connections obtained without permission are still being used, action should be taken to disconnect them. As such unauthorized acts cannot be done without the collusion of the Department staff, action should be taken to ascertain as to whether such collusion exists. If so disciplinary action should be taken against them.
- (b) Survey the land and determine the area of the land.
- (c) Discuss with the Attorney General to expedite the finalization of the case.
- (d) As there is information to confirm that the land parcel had been given for use according to a preliminary agreement, disciplinary action should be taken against the officers who had acted in such irresponsible manner. In future Leases should be granted only on agreement with conditions which do not damage the interest of the Department.
- (e) Attention should be paid for the use of these lands for improvements to the facilities needed to provide a better service.

### **Comments for the Department of Sri Lanka Railways**

-----

"A plan for this land was prepared on 29 August 2012. According to a decision of the Hon. Minister, lessee has agreed to settle the arrears of lease rent amounting to Rs.268,990. Lessee was informed that legal action will be taken if not settled. A case has been filed against the lessee for no-settlement of the arrears within 06 months."

3:3:3 Lease of a Land of the Department 03 Roods and 19 Perches in extent situated near the Rail Track from Colombo Fort Railway Yard to Maradana to an External Party for maintaining a Concrete Workshop.

It was observed that a concrete products workshop is being maintained on this land from May 1993 on an agreement entered into between the lessee and the Department of Sri Lanka Railways. There was no evidence that the land had been valued before entering into the agreement and the last valuation had been done on 08 July 2010, that is, 17 years after granting the lease. That valuation amounted to Rs.2,160,000. But action had not been taken for the renewal of the lease agreement or change the agreement to suit the present conditions. According to the valuation, lease rent amounting to Rs.746,480 had been in arrears by the year 2011

### **Implication**

-----

- (a) The lessee had been allowed to utilize the land under the old terms and conditions without renewing the agreement over a period of 17 years.
- (b) Even though the lands in the Colombo Fort Railway Yard of the Department of Sri Lanka Railways and the surrounding areas are being developed, it was observed that due to the prevailing conditions, it will not be possible to recover the land for such purposes.

### **Recommendations**

-----

- (a) Renewal of the lease agreement in keeping with the present conditions and pay attention to the lease period.
- (b) Pay attention to the possibility of utilizing the land for development works of the Department of Sri Lanka Railways.

### **Comments of the Department of Sri Lanka Railways**

-----

"The arrears up to the year 2012 have been settled. Lease for the years 2011 to 2015 has been granted under a new valuation. Informed to pay the lease rent for the year 2013."



### 3:3:4 Non-revision of Lease Agreements over Long Periods

-----

The lessees of lands and buildings of the Department of Sri Lanka Railways had been utilizing those assets paying the minimum lease rents over long periods without the agreements being, revised, cancelled, or periodical renewal or revision of lease rents. As such it was observed that no attention had been paid to the agreements entered into with the lessees allowing them to reap the benefits accrued from the changed circumstances. Details appear below.

	Name of Lessees	Location	Date of Agreement
	-----	-----	-----
(i)	A State Bank	D.R. WijewardanaMawatha	01 January 2003
(ii)	A Private Bank		31 December 2005



Sampath Bank and Pepoles Bank on D.R.Wijewardane Mawatha

## **Implication**

-----

- (a) Loss caused to the Department of Sri Lanka Railways due to the non-valuation of the properties periodically and the computation and recovery of lease rents on the original lease rents.
- (b) Even the minimum lease rent remaining in arrears over long periods.

## **Recommendations**

-----

- (a) Periodical valuation of the leased properties and renewal of the lease agreements.
- (b) Include clauses to the lease agreement for the purpose of control non-payment of lease rentals.

## **Comments of the Department of Sri Lanka Railways**

-----

"The State Bank has paid the arrears of lease rent up to 31 December 2012. A valuation report for the ensuing 05 years has been called and the agreement will be renewed for the ensuing 05 years and the lease rent recovery on the new valuation."

The lease agreement on the government valuation had been renewed for the Private Bank for the period 01 July 2007 to 30 June 2012 and again for the period 01 July 2007 to 30 June 2017. Arrears of lease rent up to 30 February 2013 has been settled.

### **3:4 Administrative Weaknesses**

-----

#### **3:4:1 Lack of Proper Co-ordination among the different Sections of the Department dealing with Lease of Lands and Buildings.**

-----

The lease of lands and building of the Department of Sri Lanka Railways is handled by several Sub-departments and the functions of each of these Sections are very important for the management of such properties. These Sections include the Lands Division, Commercial Superintendent's Division, Railway Accounts Division, Security Division and the Sub-department in charge of the relevant land or building.

Even though the Railway Commercial Superintendent's Division handles the leasing of lands and buildings and the legal matters relating thereto and maintain the files relating to those matters, that Division does not maintain the Revenue Schedules, Registers of Progress of Cases and the updated maps.

As such the absence of a separate Legal Section to handle this aspect was observed.

### **Implication**

-----

- (a) The lack of proper co-ordination among the different Division is an obstacle in arriving at decisions for the effective utilization of the lands and buildings of the Department of Sri Lanka Railways.
- (b) The efficiency of taking action on each case by maintaining the relevant registers and records is at a minimum level.
- (c) In view of the inadequacy of the contribution from the relevant Division, very serious problems had surfaced with regard to the lands and buildings in the Colombo Fort area subjective to audit. This position is established from the particulars in the above paragraphs.

### **Recommendations**

-----

- (a) Introduction of a Control System with a work Distribution Plan ensuring proper co-ordination among the Division of the Department of Sri Lanka Railways dealing with lands and buildings and the responsibilities for specified functions and the supervision of its operation.
- (b) Make necessary changes when changes occur in the responsibilities such as retirement or transfer of officers to ensure a work distribution and assignment of work.
- (c) Regularize the control system by taking disciplinary action against officers who shirk responsibility in order to prevent recurrence.

- (d) Establishment of a Legal Section for the preparation of terms and conditions of agreements to prevent challenges to the title of the Department for the properties and to prevent such terms and conditions leading to situations adverse to the Department. Formulation of agreement formats on the advice obtained from the Department of Attorney General.

### **Comments of the Department of Sri Lanka Railways**

---

"The functions of the Office of the Commercial Superintendent have been decentralized for expediting the work under 03 Sections namely Land Section of the office of the Commercial Superintendent, the Reservations Management Unit under the supervision of the Transport Superintendent and a Lands Section in charge of the lands from Rambukkana to Matale and Badulla. Accordingly the work on lease rent collection and proper maintenance is progressing. A Separate Legal Section has been established under the supervision of the General Manager of Railways, to advise on the problems arising from the leasing of lands as well as those already surfaced."

### **3:4:2 Non – Providing Adequate Physical and Human Resources**

---

The proper management of the lands and buildings of the Department of Sri Lanka Railway could, through proper management, help in minimizing the financial difficulties faced by the Department to a certain extent. The Department should have adequate physical and human resources for the effective management of such properties. Non – Providing adequate physical and human resources is a hindrance to maintaining such management. Lack of Surveying and Planning Officers in adequate numbers was observed in that connection. In addition, the survey maps of the Department are very old, decayed and beyond use. Though the maps need renovation, that had not been done due to lack of funds. The dearth of new equipment and facilities for the Survey Section needs early attention for carrying out proper surveys.

## **Implication**

-----

The failure to fulfill the needs of the Sections dealing with problems emerging in relation to lands tend to aggravate the existing problems.

## **Recommendations**

-----

Action should be taken for the preparation of the plan for the improvement of facilities in each Sections and providing funds for the purpose with a view to improving the quality and efficiency of the work of those Sections.

## **Comments of the Department of Sri Lanka Railways**

-----

"It is expected to take action to improve the quality and efficiency of those Sections by improving the facilities. Action is also taken to inform the Heads of Sections to formulate the strategies to function with proper co-ordination and regularize the existing methodology."

#### 04. Overall Conclusion

-----

The Department of Sri Lanka Railways possesses lands and buildings adequate for the maintenance of its daily operations as well as for the future needs. The lands and buildings of high value situated in Colombo Fort remain in the possession of the Department from the inception of the Railway Service. But it is evident that those are not effectively utilized at present.

According to the map of the lands of the Department drawn in the year 1918, it is observed that a considerable extent of those lands are being utilized by external parties at present and that problems had arisen in connection with most of those lands. It is due to the failure to lease those properties according to proper legal procedures and the lax terms and conditions followed in leasing. As such problems had been caused to the Department with regard to the title to the properties as well as the lease rent revenue receivable by the Department. The management inefficiencies emerging in the regularization of the unsatisfactory state of affairs are as follows.

- (a) Inability to identify accurately the lands and buildings belonging to the Department of Sri Lanka Railways.
- (b) Entering into agreements with terms and conditions unfavorable to the Department in granting leases of properties.
- (c) Lack of a long term plan for the effective utilization of properties.
- (d) Agreements entered into remained without being renewed over long periods.
- (e) Failure to take prompt action as and when problems occur.
- (f) Process for settlement of problems through discussion with the State Institutions being at an unsatisfactory level.
- (g) Inadequacy of registers maintained.
- (h) Non-regularization of the activities of this subject through a proper distribution of work.
- (i) Attention not paid to the commercial value of lands and buildings.

- (j) Failure to take action legally on external influences made on lands and buildings.
- (k) Failure to take follow up action on decisions of cases delivered in favour of the Department.
- (l) Lack of evidence of any meaningful action taken over the last several decades to search for and collection from all sources the title documents for the lands and buildings of the Department, conserve and preserve them and ensure their protection.
- (m) Lack of evidence of any action taken against officers for serious lapses in ensuring the proper management of the land and buildings of the Department.

Attention should be paid for the additional revenue that can be generated from lands and buildings through proper management in addition to the passenger revenue which is the major revenue source of the Department of Sri Lanka Railway and for value addition to the service provided at present by the Railway Service through the effective utilization of the property of the Department.