

1975

*Present : Sirimane, J., Wijesundera, J., and
Weeraratne, J.*

J. WEERASINGHE, Appellant and REV. PANDIT DICKWELLA
NAYAKA THERO, Respondent

S. C. 193/71—D. C. Matara 2929/M

*Conciliation Boards Act—Section 6—Arising of a “dispute” confers
jurisdiction on Conciliation Board—“Dispute” arises partly in one
Conciliation Board area and partly in another area—Either Board
has jurisdiction.*

(1) It is the arising of a “dispute” within the meaning of section 6(b) of the Conciliation Boards Act No. 10 of 1958 as amended by Act No. 12 of 1963 in a particular area that gives the Conciliation Board of that area jurisdiction and not necessarily the arising of a “cause of action”. A “dispute” can give rise to more than one “cause of action”, such causes arising in different areas.

(2) Where a “dispute” arises partly in one Conciliation Board area and partly in another Conciliation Board area, either Board would have jurisdiction to inquire into such “dispute”.

A PPEAL from a judgment of the District Court of Matara.

N. D. M. Samarakoon, for the Defendant-Appellant.

P. A. D. Samarasekera, with W. P. Gunatilaka for the Plaintiff-Respondent.

March 4, 1975. SIRIMANE, J.—

The plaintiff-respondent, who is the Viharadhipathi of Sri Sumanaramaya, Godauda, instituted this action against the defendant-appellant, who was the Chairman of the Dickwelle Village Committee at the relevant period, claiming damages on three causes of action namely—

- (a) that on 21.4.69 the appellant moved a resolution in the Dickwelle Village Committee which was defamatory of the respondent.
- (b) that the appellant sent to the respondent a letter dated 23.4.69 (marked X) containing the said resolution and further defamatory statements, with copies to the Prime Minister, The Minister of Home Affairs, The Minister of Cultural Affairs and The Viharadhipathies of the Vihares and Temples in the Dickwella region.
- (c) That by sending the letter X to the respondent the appellant caused the respondent pain of mind and humiliation.

The respondent annexed to his plaint a certificate from the Conciliation Board of Kottegoda. The appellant claimed that this certificate was invalid as the said Board had no jurisdiction and that the respondent cannot therefore maintain his action. This matter was tried as a preliminary issue and the learned District Judge held that the 1st and 2nd causes of action arose outside the jurisdiction of the Conciliation Board of Kottegoda but that the 3rd cause of action arose within its jurisdiction and consequently the certificate filed was a valid one and sufficient to maintain the action on all three causes. From this decision the appellant appeals.

The relevant section in the Conciliation Boards Act No. 10 of 1958 as amended by Act No. 12 of 1963, reads :

“6(a)

- (b) Any dispute in respect of any matter that may be a cause of action arising in that Conciliation Board area for the purpose of institution of an action in a Civil Court.”

This would mean that (i) there must be a dispute in respect of any matter arising in the Conciliation Board Area and (ii) such dispute may be a cause of action for the purpose of institution of an action in a Civil Court. So that it is the arising of a “dispute” in a particular area that gives the Conciliation Board of that area jurisdiction and not necessarily the arising of a “cause of action”. It may well be that the “dispute” and

the “cause (or causes) of action” arise in the same area, as indeed they frequently do, but it is not always necessarily so as a “dispute” can give rise (as in this case) to more than one “cause of action” such causes arising in different areas. The question therefore is not so much where the “cause of action” arose but where the “dispute” (that may be a cause of action) arose.

It was established that the appellant resides and the Village Committee office (where the offending resolution was passed) was situate within the Dickwelle Conciliation Board Area and that the respondent resides within the Kottegoda Conciliation Board area. In the case of *Chandra de Silva vs. Ambawatte* (71 N.L.R. 348) Samerawickrame, J., stated that “A unilateral act, however, even if it is a wrongful one, cannot be considered to be a dispute. A dispute involves a controversy between two parties at least and imports conflicting acts and statements by them”. If in the instant case the respondent had ignored the acts of the appellant no dispute would have arisen. It is because the respondent denied the various allegations and statements and resented them that a “dispute” arose. It was therefore the attitude of the respondent that would be decisive as to whether a dispute arose or not and since the respondent was resident within the Kottegoda Conciliation Board area the “dispute” would arise in that area, once the respondent contradicted, denied or resented the allegations and statements made by the appellant. Even otherwise both, the allegations and statements made by the appellant on the one hand, and the contradiction, denial and resentment of the respondent on the other hand taken together constitute the dispute that arose, and in this view of the matter the said dispute therefore arose partly in the Dickwelle Conciliation Board area and partly in the Kottegoda Conciliation Board area. In a case where a dispute arises in more than one Conciliation Board area I am of the view that either Board would have jurisdiction to inquire into such dispute. It must be remembered that the Conciliation Board Act was meant to afford parties an opportunity of settling their disputes expeditiously and inexpensively by the method of Conciliation without having recourse to the Courts. It was never meant to place obstacles in the way of persons who wanted to resort to the ordinary processes of the Law Courts. In cases, therefore, where the parties have had an opportunity (as in this case) of settling their dispute by Conciliation before a Conciliation Board but chose not to do so (and thus substantially complied with the provisions of the Conciliation Boards Act) technicalities should not prevent or hinder them in bringing such dispute before the ordinary Courts of this country.

For the reasons stated earlier I am of the view that both the Dickwelle Conciliation Board and the Kottegoda Conciliation Board had jurisdiction to inquire into the dispute that arose between the parties in this case and that a certificate from either of the said Conciliation Boards is a sufficient compliance with Section 14 of the Conciliation Boards Act and enables the plaintiff to maintain an action in respect of all causes of action (wherever they arose) arising from the said dispute. The appeal is therefore dismissed with costs.

WIJESUNDERA, J.—I agree.

WEERARATNE, J.—I agree.

Appeal dismissed.

