

1971 *Present: Sirimane, J., and Thamotheram, J.*

L. L. P. SAMERAWICKRAMA, Appellant, *and* I. M. SEBASTIAN,
Respondent

S. C. 529/68 (F)—D. C. Colombo, 920/R. E.

Conciliation Boards Act No. 10 of 1958—Section 14—Civil dispute relating to immovable property—Mode of proving that the property is situated in a Conciliation Board area—Absence of any evidence of a reference to Board—Effect.

Where, in an action instituted in a District Court for rent and ejection relating to premises situated in a Conciliation Board area, the defendant takes the point that the plaintiff has failed to obtain a certificate from the Conciliation Board as required by section 14 of the Conciliation Boards Act, it would be sufficient if, without calling any evidence, he invites the attention of the Court in the course of his address to the relevant extracts from the Government Gazette showing that the premises in question are situated in an area in which the Conciliation Boards Act is in operation. In such a case it is not necessary that there should be evidence that the dispute had been referred to the Board by the Chairman of his own motion or by one of the parties.

APPEAL from a judgment of the District Court, Colombo.

Michael Wannappa, for the defendant-appellant.

E. A. G. de Silva, for the plaintiff-respondent.

January 15, 1971. SIRIMANE, J.—

This is an action for rent and ejection.

The defendant raised the point that the plaintiff had failed to obtain a certificate from the Conciliation Board as required by Section 14 of the Conciliation Boards Act No. 10 of 1958. The plaintiff stated in his evidence that he did not know whether these premises were situated in an area to which a Conciliation Board had been appointed. The defendant's counsel called no evidence but in the course of his address, he had apparently invited the Court's attention to two extracts from the Government Gazette and marked them as D1 and D2. These two documents proved quite conclusively that the premises are situated in an area in which the Conciliation Boards Act is in operation.

The learned Judge held against the defendant on this question following the decision in *W. A. L. Wickremaratchi v. Inspector of Police, Nittambuwa*.¹ He said that there was no evidence that any dispute had been referred to the Board by the Chairman of his own motion, or by one of the parties and that he was bound by the decision referred to above. That case has now been over-ruled by a Divisional Bench of this Court in *W. A. Nonahamy v. K. A. Halgrat Silva*.² This decision is binding on us.

The judgment of the learned District Judge, which is based on the earlier decision, must therefore be set aside. The plaintiff's action is dismissed with costs in both Courts.

THAMOTHERAM, J.—I agree.

Appeal allowed.

¹ (1968) 71 N. L. R. 121.

² (1970) 73 N. L. R. 217.