

1929

*Present* : Fisher C.J. and Driberg J.BRITISH-CEYLON CORPORATION  
v. LIONEL EDWARDS, LTD.197—*D. C. Colombo*, 33,424.*Agent—Service of summons—Defendant a foreign company—Company acting as agent—Service on agent—Civil Procedure Code, s. 65.*

Where the appellant company acted as the agent of a company resident abroad,—

*Held*, that in an action against the foreign company, summons may be served under section 65 of the Civil Procedure Code on the appellant company as its agent.

IN this case the plaintiff-respondent sued the United States Shipping Board Merchant Fleet Corporation and the Roosevelt Steamship Company of New York, U. S. A., for the recovery of damages for an alleged breach of a contract of affreightment constituted by the refusal of the defendants to carry certain cargo at certain rates which the plaintiff company alleged had been fixed by contract.

Summonses addressed to the defendants were left with the assistant to the acting manager of Lionel Edwards, Ltd., the appellant company.

The appellant company entered appearance and contended that it had no authority to accept the summonses which were meant for the defendants, and that therefore the service of summons was bad in law. The District Judge held that Lionel Edwards, Ltd., were the agents of the defendants and that the service of the summonses on Lionel Edwards, Ltd., was good.

Against this order Lionel Edwards, Ltd., appealed.

*H. V. Perera* (with him *N. K. Choksy*), for the appellant-company.—The plaintiff's contention that section 65 of the Civil Procedure Code applied is wrong. That section cannot refer to corporations but to individual persons. It is one of a series of sections dealing with the service of summons on individuals and so "person" and "personally" in section 65 cannot include corporations.

The provisions of section 471 of the Code alone applied to the case of a corporation. It is a special provision, like the provisions in the cases of the Crown and of Naval and Military men. In each such case the provision is exhaustive.

Counsel cited *Singer Manufacturing Company v. The Sewing Machines Company*.<sup>1</sup>

*F. H. Hayley, K.C.* (with him *H. E. Garvin*), for plaintiff, respondent.—Under the Interpretation Ordinance "person" includes a corporation.

Section 471 cannot over-ride the provisions of section 65 which apply to the special case of a defendant resident abroad.

December 12, 1929. FISHER C.J.—

In my opinion this case is one which falls under section 65 of the Civil Procedure Code, which appears to be equally applicable to a person and a company. It is an action relating to a business against a company which does not reside within

<sup>1</sup> 2 C. L. R. 200.

the local limits, and that business is carried on here by Edwards and Company, who are their agents. I see no reason for holding that the use of the word "personally" precludes this section from applying to limited companies. The learned Judge's order, therefore, in my opinion, is right, and the appeal must be dismissed with costs.

As regards the time for the second defendant filing answer, that had better be made the subject-matter of an application to the District Judge.

The record will be at once returned to the District Court for that purpose.

DRIEBERG J.—I agree.

*Appeal dismissed.*