

1930

Present : Maartensz A.J.

In the Matter of an Application for a
Writ of *quo warranto*.

ALBERT DE SILVA v. MUDALIYAR
WIJETUNGE.

Village Communities' Ordinance—Resolution to have elected chairman—Committee vacating office—Subsequent resolution to have official chairman—Ordinance No. 9 of 1924, ss. 14 (2) and 16.

A resolution passed at a meeting of the inhabitants of a subdivision, held under section 14 of the Village Communities Ordinance, that the chairman of the Village Committee should be elected is not binding upon them, once the committee has vacated office through effluxion of time.

APPPLICATION for a writ of *quo warranto* in order to test the legality of a resolution passed by the inhabitants of the Dondra subdivision at a meeting held under section 14 of the Village Communities Ordinance of 1924, viz., that the chairman of the Village Committee elected at the meeting should be an official.

Soertsz (with him *R. C. Fonseka*), for petitioner.

Crossette Thambiah, C.C., for respondent.

September 29, 1930. MAARTENSZ A.J.—

At a meeting of the inhabitants of the Dondra subdivision held on June 14, 1930, it was resolved by the inhabitants present that the chairman of the committee elected at the meeting should be an official chairman, viz., the Chief Headman of the division of which the subdivision forms a part. The Chief Headman of the division is the respondent. This is an application by way of *quo warranto* to test the legality of that resolution. The legality of the resolution is impeached on the ground that on May 6, 1927, the inhabitants met in terms of section 14 of the Ordinance and declared that the chairman of the committee should be elected, and it was contended that in view

of that declaration the members of the Village Committee must from time to time elect one of their members chairman and that it was not competent for the inhabitants to decide on an *ex officio* chairman. From the way the objection is formulated in the petition, once the inhabitants decide on an elected chairman their decision binds the inhabitants for all time.

Counsel for the petitioner was not prepared to support such a rigid interpretation of section 16 of the Village Communities Ordinance of 1924. His contention was that the inhabitants could not decide on an *ex officio* chairman until they had by a formal resolution rescinded the power they had granted to the previous committee to elect a chairman. This argument is based on the provisions of sub-section (2) of section 14 of the Ordinance read with the words "or in the case of a subdivision the inhabitants of which shall by resolution duly proposed and carried at a meeting held to elect a committee under section 14 of this Ordinance have declared that the chairman of such committee should be elected, the members of the Village Committee shall from time to time elect one of their own number to be chairman of such committee"; in section 16 of the Ordinance particular stress being laid on the words "shall from time to time elect one of their own number to be chairman of such committee".

I am quite unable to uphold that contention. Sub-section (2) clearly refers to the powers of the inhabitants to withdraw the power given to the committee to make rules. This power may be withdrawn generally or with regard to any particular matter. The words "or with regard to any particular matter" mean with regard to any of the matters referred to in section 24 of the Ordinance which empowers the inhabitants to make rules. The words "from time to time" in section 16 were no doubt enacted to enable the committee to elect another chairman if the particular

elected chairman for any cause ceased to be a member of the committee". Section 16 enables the inhabitants to give to the committee the power to elect a chairman. Clearly that power is vested in that particular committee and not in a committee which ceased to exist through the effluxion of time. The power to elect a chairman must necessarily cease with it.

Apart from anything else, the resolution which is impeached by implication rescinded the authority given to the previous committee, if such rescission was necessary.

The application is dismissed with costs.

Application refused.