

1928.

Present : Drieberg J.

SARAVANAMUTTU v. GOVERNMENT AGENT, NORTH-CENTRAL PROVINCE.

86—C. R. Anuradhapura, 15,609.

Assessment—Action to reduce assessment—Evidence of ground of objection not urged before Government Agent—Special leave—Liability of new building for assessment—Ordinance No. 16 of 1865, s. 40A (1).

In an action to reduce the assessment of premises under section 40A (1) of the Police Ordinance, leave to adduce evidence of a ground of objection not stated in writing to the Government Agent must be specially given.

Section 37 of the Ordinance does not exclude the liability of a new building to assessment because the land on which it stands has already been assessed and notice of assessment issued to the owner.

A PPEAL from a judgment of the Commissioner of Requests, Anuradhapura.

N. E. Weerasooriya, for plaintiff, appellant.

Rodrigo, C.C., for defendant, respondent.

October 15, 1929. DRIEBERG J.—

The appellant is the owner of certain premises which were assessed under the Police Ordinance, No. 16 of 1865, for 1928 at an annual value of Rs. 324 ; he had paid rates on this basis for the first and second quarters. Some time prior to August 29—there is no evidence of how long before—he pulled down an old house on the land and put up an upstairs building on the site of it.

The Government Agent then assessed the annual value at Rs. 720, and notice of this was served on the appellant on September 8. On September 19 the appellant wrote a letter to the Government Agent, which has not been produced ; from the reply of the Government Agent of September 26 it would appear that this was an inquiry why the assessment was raised, for the Government Agent's reply is a statement of his reasons for doing so. The appellant then wrote the letter of September 29 to the Government Agent stating in detail eight grounds on which he objected to the new assessment ; he agreed, however, that in view of the new building, which he compared with others, the premises should be assessed at Rs. 480.

The Government Agent fixed a date for inquiry into his objections, and it was postponed at his request. On the adjourned date the appellant failed to attend, and the Government Agent confirmed the assessment of Rs. 720. The appellant then brought this action within a month under section 40A (1) of the Ordinance to have the assessment reduced to Rs. 480.

The only question before the Court, therefore, was whether the assessment was correct, and on this point the appellant should have been confined to the grounds of objection placed before the Government Agent in his letter of September 29.

In addition to the issue whether Rs. 720 or Rs. 480 was the correct annual value, the appellant's Proctor suggested certain other issues, viz., whether the assessment of Rs. 720 was illegal and unauthorized by the Ordinance, whether notice of assessment under section 40 was served on the appellant, and whether the assessment of Rs. 324 was final for the year. An objection by the respondent's Proctor to these issues was overruled. The objection was a good one, for these were not grounds of objection stated to the Government Agent, and I assume that in overruling the objection the Commissioner intended to give the appellant leave to advance these grounds under the power conferred by section 40A (2). This should, however, have been done, not by overruling the objection, but by expressly giving leave.

It has been found, and, I think, rightly, that notice of the assessment was duly served.

The other two points raised proceed upon the requirement that notices of assessment should be given as soon after the commencement of the year as may be ; but this implies that the thing assessed must then exist and be capable of assessment. Where it comes into existence as an assessable and taxable unit, notice must be given as soon as may be, that is, as soon as is possible after the commencement of the year. The object of the provision is only to ensure notice being given as early as possible in the year of the taxes payable for that year.

The fact that these premises had already been assessed at Rs. 324 does not mean that assessment is finally fixed for the year regardless of what buildings might be erected on it thereafter. Under section 37 all houses, buildings, lands, and tenements are subject to assessment, and there is nothing to exclude the liability of a new building to assessment and taxation because the land on which it stands has already been assessed and notice of assessment issued to the owner.

The appeal is dismissed with costs.

Appeal dismissed.

1929.

DRIEAKES J.

*Saravanan-
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Government
Agent,
North-
Central
Province*