

1931

*Present : Drieberg J.*

IBRAHIM v. EDIRISINGHE.

35—*P. C. Nuwara Eliya, 4,037.*

*Indian labour—Definition of employer—  
Owner of estate—Ordinance No. 27 of  
1927.*

The definition of “employer” in section 2 of the Indian Labour Ordinance includes the owner of an estate, although he has taken no part in the engagement of labourers.

**A**PPEAL from a conviction by the Police Magistrate of Nuwara Eliya.

*N. E. Weerasooria*, for appellant.

*Crossette Thambiah, C.C.*, for the Crown.

February 11, 1931. DRIEBERG J.—

The appellant was charged in this case with failing to exhibit in a conspicuous place on his estate a notice setting forth the minimum wages applicable to his estate as required by section 10 (3) of the Indian Labour Ordinance, No. 27 of 1927. He was also charged in two other cases, *P. C. Nuwara Eliya*, Nos. 4,038 and 4,039, with other offences under the same Ordinance. The evidence relating to all three charges was recorded in the proceedings in this case and I shall deal with the appeals in the three cases in this judgment.

In this case it is clear that on June 17, 1930, there was no board with the required notice on this estate. The inspecting officer recorded the statements of the acting superintendent, the head kangany, and a cooly that there was no such notice posted anywhere. If there was such a notice as is referred to in the letters D1 and D2, it must have been faded or undecipherable and would not be in compliance with the requirements.

This estate is in the Nuwara Eliya District and the appellant who is the owner lives in Galle, where he holds the office of Deputy Fiscal. He employs a superintendent who engages labour and he has nothing to do directly with the working of the estate. It is contended that he cannot be made liable under this section.

The word "employer" for the purpose of this section is defined in the Ordinance as including any person who enters into any agreement expressly or impliedly with any labourer and the duly authorized agent or manager of such person.

According to the rules of construction of words in statutes, this definition means that the word "employer" shall in addition to its ordinary meaning extend and apply to the persons there set out; an owner of an estate even though he takes no part in the engagement of labourers would, according to the ordinary meaning of the word, be an employer of those labourers. Mr. Weerasooria contends, however, that as section 1 of the Ordinance provides that it shall be read and construed as one with Ordinance No. 13 of 1889, which may be considered the principal Ordinance, the word must be considered in the light of the definition in that Ordinance; an employer is there defined in section 3 "as the chief person for the time being in charge of an estate and includes the superintendent". This definition would not extend to such an owner as the appellant.

Each definition, however, must be restricted to the Ordinance for which it is provided.

The appellant has been rightly convicted.

In case No. 4,038, appeal No. 36, the appellant is charged with failing to issue clean and unblended rice free of cost at the rate of  $\frac{1}{3}$  of a bushel to each working man and each widow with non-working children as required by clause 3 of the notification No. 23 made under section 10 (1) of the Ordinance.

In case No. 4,039, appeal No. 37, he is charged with failing to keep proper records of the wages paid to labourers as required by section 12 (2) of the Ordinance.

The effect of not issuing this free rice was that the labourers were paid less than the minimum wage; section 11 (1) of the Ordinance makes this an offence on the part of the employer as well as of the person making the payment. The duty to keep proper records of wages is put on the employer by section 12 (2).

The appellant would therefore be liable if those charges are proved, and I agree with the learned Police Magistrate that they have been proved.

The appellant did not supervise the working of the estate himself and his superintendent was not competent to do so. The superintendent admitted that he did not know what the minimum wage was and did not understand the minimum wage regulations.

The head kangany was paid at a certain rate for the plucking and weeding

which he did with the registered labourers of the estate. The appellant thought that for this reason he was freed from all responsibility and claims that under these circumstances he was not the employer of the labour.

The charges in these two cases, Nos. 4,038 and 4,039, have been proved and the appellant has been rightly convicted.

I dismiss the appeal in this case.

*Affirmed.*