

1962

Present : Sri Skanda Rajah, J.

R. E. S. DE SOYSA, Petitioner, and J. V. FONSEKA (Commissioner of Agrarian Services) and 3 others, Respondents

S. C. 436 of 1962—Application for the issue of a Mandate in the nature of a Writ of Mandamus in terms of Section 42 of the Courts Ordinance

Paddy Lands Act No. 1 of 1958—Appeal to Board of Review—Right of appellant to obtain certified copy of the proceedings held by the Commissioner—Mandamus.

The right of appeal granted by the Paddy Lands Act carries with it the rights incidental thereto such as the right to obtain a certified copy of the proceedings from which an appeal is preferred.

APPPLICATION for the issue of a Writ of Mandamus on the Commissioner of Agrarian Services.

G. T. Samerawickreme, for Petitioner.

H. L. de Silva, Crown Counsel, for the 1st Respondent.

November 27, 1962. SRI SKANDA RAJAH, J.—

This is an application for the issue of a Writ of Mandamus on the 1st Respondent the Commissioner of Agrarian Services by the landlord-petitioner.

It would appear that on a complaint made by one I. M. Abeyratna the tenant of the landlord-petitioner to the Commissioner of Agrarian Services the landlord was called upon to show cause, if any, why the tenant should not be restored to possession. The landlord made representations to the Commissioner, in this case to the Assistant Commissioner, who held an inquiry. Thereafter, by writing the Commissioner communicated his decision to the landlord.

The landlord is given the right of appeal to the Board of Review. This right has to be exercised within 30 days of the communication by the Commissioner.

The landlord exercised this right of appeal. But, when he made an application to the Commissioner to issue a certified copy of the proceedings, the Commissioner wrote back on the 31st of August, 1962, "regretting that the copy of the inquiry proceedings could not be provided". Thereafter, the landlord made an application to the 2nd, 3rd and 4th respondents, who formed the Board of Review, to order the Commissioner to issue a certified copy of the proceedings. The Board of Review indicated that they had no authority to issue an order to the Commissioner to issue a certified copy. So the landlord has petitioned this Court praying for this Writ. Learned Crown Counsel has referred me to two authorities—*Attorney-General v. K. Jeet Singh*¹ and *Buddhadasa v. Mahendra*². The former was an application for a certified copy of the first complaint to the police. It was ordered to be issued by this Court. The latter is one in which an application for a certified copy of a statement to the police was refused. It will be seen that the applications in those two cases were in respect of statements made to the police under the provisions of Chapter 16 of the Criminal Procedure Code. In my view, these decisions can be distinguished from the matter that is before me.

In this case there is a right of appeal granted to the landlord. In my view, such a right also confers on the appellant rights that are incidental thereto. One of the rights that would be incidental thereto would be to obtain a certified copy of the proceedings in order that the appeal may be prosecuted properly.

Therefore, the questions whether this is a "public document" and whether there is a "right of inspection of the public document" are not necessary to be considered in this application. I wish to make it quite clear that these matters are not decided in this application.

It has been pointed out that there are special provisions in the Criminal and Civil Procedure Codes to grant certified copy of proceedings in the event of appeal and that no specific provision has been made in this Act, namely, the Paddy Lands Act, No. 1 of 1958. But, as I said earlier, the right of appeal carries with it the rights incidental thereto such as the right to obtain a certified copy of the proceedings from which an appeal is preferred. Therefore, I allow this application with costs fixed at Rs. 157.50.

Application allowed.

¹ (1956) 57 N. L. R. 289.

² (1956) 58 N. L. R. 8.