

1973

Present : Rajaratnam, J.

E. LORDON, Petitioner, and THE DIRECTOR OF MACHINERY
AND EQUIPMENT, IRRIGATION DEPARTMENT,
RATMALANA, Respondent

S. C. 455/73—Application for an Injunction

*Conciliation Boards Act—Whether the State is bound by its provisions—
Interpretation Ordinance, s. 3.*

The State is not bound by the Conciliation Boards Act in reference
to civil rights.

APPPLICATION for an Injunction.

Sunil Cooray, for the petitioner.

K. M. M. B. Kulatunga, Senior State Counsel, for the
respondent.

July 10, 1973. RAJARATNAM, J.—

This is an application made by the Petitioner for an interim injunction under Section 20 of the Courts Ordinance, Chapter 6, for an enjoining order preventing the respondent from taking any steps to eject the Petitioner from the aforesaid premises, that is, to take certain steps justified and allowed by law under Act No. 7 of 1969 as amended by Act No. 3 of 1971 (Government Quarters Recovery of Possession Amendment Act).

The Petitioner states that there is a certificate that has been sent to the District Court filed of record, under the provisions of the Conciliation Boards Act. Therefore, at the moment there is a Decree of Court, and in those circumstances no further steps can be taken by the respondent.

Learned Counsel for the State, Mr. Kulatunga, has the file of the Department of Irrigation and he states from the Bar that the Competent Authority, Mr. Mudalige, the respondent in this case, was summoned as an offender to the Conciliation Board and in the guise of certain powers, a situation had been created in the Conciliation Board to effect a settlement, and flowing from this settlement, the certificate abovementioned was sent to the District Court. It has been brought to my notice that a copy of this settlement, although applied for according to law, was not given to the respondent although he was entitled to the same under Section 12 (1) of the Conciliation Boards Act. When Mr. Mudalige, in the circumstances of this case, issued a quit notice he did so under the provisions of the law, and I cannot understand how he could have been treated as an offender by the Conciliation Board which sent out the summons on him. Everything that happened in the Conciliation Board, is in my view illegal and unknown to the law. I may also make an observation, that is, that the State is not bound by the Conciliation Boards Act by reason of Section 3 of our Interpretation Ordinance.

I may refer to the Privy Council case of *The Province of Bombay v. The Municipal Corporation of Bombay*¹—1947 A.C. page 58, which laid down the principle we find in Section 3 of our Interpretation Ordinance. In the case of *Saravanamuttu v. De Mel*²—49 N. L. R. 529 at page 566, Dias, J., referred to this case in the following words:—“Their Lordships pointed out that the argument that when a statute is enacted for the public good, the Crown though not expressly named, must be held to be bound by its provisions cannot now be regarded as sound except in a

¹ 1947 A. O. 58.

² (1948) 49 N. L. R. 529 at 566.

strictly limited sense. If it can be affirmed that at the time the statute was passed, and received the Royal sanction, it was apparent from its terms that its beneficent purpose must be wholly frustrated unless the Crown was bound, then it may be inferred that the Crown has agreed to be bound.”

In this case Mr. Kulatunga, on behalf of the State, states that the Crown is not bound by the Conciliation Boards Act in reference to at least Civil rights. I agree with this position. All steps taken to take the Competent Authority to the Conciliation Board has been a deliberate attempt to defeat the statute. Moreover, this is not an appropriate case to grant an injunction as the Petitioner has no cause of action known to the law on the basis of which he could come to any Court in the face of the clear legal provisions that exist in our law, under Act No. 7 of 1969.

In these circumstances, I refuse this application with costs fixed at Rs. 315.

Application refused.