

1968 *Present* : H. N. G. Fernando, C.J., and Abeyesundere, J.

E. COATES & CO. LTD., Appellant, and A. F. JONES
& CO. LTD., Respondent

S. C. 173 (Inty.)/66—D. C. Galle, 3447/M

Conciliation Boards—Scope of their functions—Conciliation Boards Act, No. 10 of 1958, ss. 2, 6, 14.

The Conciliation Boards Act, No. 10 of 1958, does not apply to an action upon a contract which was made in an area prior to the date when it became a Conciliation Board area and in respect of which the dispute between the parties also arose prior to that date.

APPPEAL from an order of the District Court, Galle.

C. Ranganathan, Q.C., with *Ananda Paranavitane*, for the Defendant-Appellant.

H. W. Jayewardene, Q.C., with *Nimal Senanayake, Bala Nadarajah* and *Mark Fernando*, for the Plaintiff-Respondent.

February 11, 1968. H. N. G. FERNANDO, C.J.—

This is an action upon a contract which was made after the enactment of the Conciliation Boards Act No. 10 of 1958, but before the Wards of the Municipality of Galle were declared by order under Section 2 of that Act to be a Conciliation Board area. It appears that the dispute between the parties also arose before that order was made.

The point taken by the defence was that Section 14 of the Act applies in relation to the present action. That section only applies to a dispute referred to in Section 6 of the Act. Section 6 of the Act *prima facie* applies only to disputes arising after a particular area becomes a Conciliation Board Area, and paragraph (c) of that Section appears *prima facie* to apply to disputes in respect of contracts made in an area after it becomes a Conciliation Board Area. We hold therefore that since the contract in the present case was made before the Galle Municipality Area became a Conciliation Board Area and since the dispute also arose before that time, the provisions of Section 6 do not apply in this case. Accordingly Section 14 also does not apply.

The learned District Judge has held that the Conciliation Boards Act No. 10 of 1958 is *ultra vires* of the powers of Parliament. But in view of the opinion we have formed that the Act does not apply in regard to the present action, it is unnecessary to decide the constitutional question as to the validity of the Act, and the judgment of the learned District Judge must not be regarded as having decided it.

The appeal is dismissed with costs, and the case will go back to the District Court for trial on the remaining issues.

ABEYESUNDERE, J.—I agree.

Appeal dismissed.