

1963

*Present : Sri Skanda Rajah, J.*

A. GAUDER, Appellant, and P. MURUGIAH, Respondent

*S. C. 159/61—C. R. Matale, 13371/RE*

*Rent Restriction (Amendment) Act, No. 10 of 1961—Section 13 (3)—Applicability of term “ proceedings ” to an application for writ of ejectment.*

Where, in an action for ejectment, the application for writ of ejectment was made on 29th November, 1960, two years after judgment of consent was entered on 18th September, 1958—

*Held*, that the application for writ of ejectment could not come within the phrase “ proceedings instituted after the 20th July, 1960 ” in section 13 (3) of the Rent Restriction (Amendment) Act, No. 10 of 1961.

**A** PPEAL from an order of the Court of Requests, Matale.

*L. Kadirgamar*, for Defendant-Appellant.

*S. Sharvananda*, for Plaintiff-Respondent.

January 28, 1963. SRI SKANDA RAJAH, J.—

This is an action for ejectment on the ground that the defendant-appellant was in arrears of rent for five months. The action was instituted on the 5th of May, 1958. Judgment, of consent, was entered on the 16th of September, 1958. Writ was not to issue for a period of two years, provided damages were paid regularly. Application for writ of ejectment was made on the 29th of November, 1960.

Section 13 (1) of the Rent Restriction (Amendment) Act, No. 10 of 1961, came into force on the 6th of March, 1961. Section 13 runs as follows:—

“(1) Notwithstanding anything in the principal Act, the landlord of any premises to which this Act applies shall be entitled to institute any action or proceedings for the ejectment of the tenant of such premises only on any one or more of the following grounds:—

- (a) that the rent of such premises has been in arrear for three months;
- (b) that such premises have been used by such tenant or by any person residing or lodging with him or being his sub-tenant for an immoral or illegal purpose;
- (c) that such tenant or any person residing or lodging with him or being his sub-tenant has caused wanton destruction or damage to such premises.

(2) The provisions of sub-section (1) shall be deemed to have come into operation on the twentieth day of July, 1960, and shall continue in force for a period of two years commencing from that date.

(3) Where any action or proceedings instituted in any court on or after the twentieth day of July, 1960, for the ejectment of a tenant from any premises to which the principal Act applies on any ground other than a ground specified in sub-section (1) of this section is or are pending on the day immediately preceding the date of commencement of this Act, such action or proceedings shall be deemed at all times to have been and to be null and void.

(4) No suit or prosecution shall lie against the landlord of any premises to which the principal Act applies by reason only of any act done, or any action or proceedings instituted, by such landlord to or against the tenant of such premises for the purpose of ejecting such tenant from such premises on any ground other than a ground specified in sub-section (1) of this section during the period commencing on the twentieth day of July, 1960, and ending on the day immediately prior to the date of commencement of this Act.”

It is submitted by the defendant-appellant that this application for writ is a proceeding for ejection, and as such it is barred by the provisions of Section 13, because this application for writ was made on the 29th of November, 1960, i.e., after the 20th of July, 1960, referred to in Section 13 (3). It has been held in the case of *Guneratne v. Perera*<sup>1</sup> that an application for writ of ejection could not come within the phrase "proceedings instituted after the 20th of July, 1960". I am in respectful agreement with this view. Therefore, I dismiss the appeal with costs.

*Appeal dismissed.*

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