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

P. WILLIAM, Petitioner, *and* S. SOMASUNDERAM and 3 others, Respondents

S. C. 195/67—Application for a Mandate in the nature of a Writ of Certiorari and/or Mandamus

Rent-controlled premises—Sub-division of premises—Subsequent re-consolidation—Authorised rent—Computation—Rent Restriction Act, as amended by Act No. 10 of 1961, ss. 5 (1), 16A, 21 (11).

Certain premises which were assessed for rates in 1941 were subsequently sub-divided into two separate premises. Thereupon, both the landlord and the tenant made applications to the Rent Control Board to fix the rent of the two premises as separately assessed. The Rent Control Board made order on 27th July 1963 fixing the authorised rent of each of the two premises. An appeal to the Board of Review from the order of the Rent Control Board was dismissed in October 1963. In 1964 the two premises were again consolidated into one for the purpose of assessment of rates, and one new asses ment for the premises was then made by the Municipal Council. Subsequently, the question of determining the authorised rent of the consolidated premises arose before the Rent Control Board and, on appeal, the Board of Review.

Held, that section 21 (11) of the Rent Restriction Act debarred the Rent Control Board as well as the Board of Review from altering the order of 27th July 1963. Accordingly the authorised rent of the consolidated premises was the total of the former authorised rents of the premises, as separately assessed.

"The new Section 16A does not empower the Rent Control Board to *fix* the authorised rent of any premises, but only to *determine* the authorised rent, that is to say, to ascertain what according to law is the authorised rent of any premises."

APPLICATION for a writ of *certiorari* and/or *mandamus*.

N. E. Weerasooria, Q.C., with *M. S. M. Nazeem* and *M. T. M. Sivardeen*, for the Petitioner.

No appearance for the 1st to 3rd Respondents.

F. C. Perera, for the 4th Respondent.

October 22, 1968. H. N. G. FERNANDO, C.J.—

The premises to which this application relates were assessed for rates in 1941. At some time thereafter the premises were sub-divided into two separate premises bearing assessment numbers 308 and 308A, Deans Road, Maradana. In consequence of this sub-division and separate assessment into two premises, both the landlord and the tenant made applications under the proviso to Section 5 (1) of the Rent Restriction Act to the Rent Control Board to fix the rent of the two premises as separately assessed. Upon these applications the Rent Control Board made order on 27th July, 1963, fixing the authorized rent of No 308 at Rs. 71·50 per month and No. 308A at Rs. 8·93 per month.

The order did not specify what the 1941 assesement had been or what the value of the improvements effected thereafter had been, but the Board stated in its order that it accepted the evidence of two witnesses that improvements and additions had been effected to the premises, and it is quite clear that the total amount of Rs. 80·43 for the two premises which was fixed by the Board was in excess of the 1941 rent, and this for the reason that the board accepted the landlord's evidence as to the value of improvements made between 1941 and 1963. An appeal to the Board of Review from this order was dismissed in October 1963.

It appears that in 1964 the two premises were again consolidated into one for the purpose of assessment of rates and one new assessment for the premises was then made by the Municipal Council. Subsequently, the tenant made an application to the Rent Control Board under the new Section 16A of the Rent Restriction Act, for the Board to determine the authorised rent of the consolidated premises. It should be noted that the new Section 16A does not empower the Rent Control Board to *fix* the authorised rent of any premises, but only to *determine* the authorised rent, that is to say, to ascertain what according to law is the authorised rent of any premises. In this particular case there had been a previous order of the Rent Control Board and the appeal against that order was dismissed by the Board of Review ; in the result, under Section 21 (11) of the Act, the decision of the Board of Review affirming the authorised rent as fixed by the Rent Control Board in 1963 became final and conclusive. That being so, even if another Rent Control Board had again power under Section 16A of the Act to determine the authorised rent of the premises, that Board was then bound, in determining the rent, to give effect to the prior final and conclusive order.

Counsel for the tenant has argued that because two premises, which had been separately assessed in 1963, were consolidated for the purposes of assessment in 1964, the authorised rent of the consolidated premises is not merely a sum equal to the authorised rent of the former two premises but can be fixed afresh by the Board. As I have pointed out, the Board has only power under Section 16A to ascertain what is the proper rent in law, and there is nothing in the Act which declares that the authorised

rent of two separate premises which are consolidated into one for the purpose of assessment is to be determined in any manner otherwise than by the addition together of the former authorised rents of the premises, as separately assessed.

The Rent Control Board in the present case has in its order of 18th April, 1966, correctly determined the authorised rent by having regard to the former order of the earlier Board made on 27th July, 1963. The Board of Review in disregarding the former order of July, 1963, has erred in law because Section 21 (11) of the Act declares that order to be final and conclusive.

For these reasons we quash the order of the Board of Review made on 23rd February, 1967, with costs. The order of the Rent Control Board made on 27th July, 1963, will therefore be restored.

WIJAYATILAKE, J.—I agree.

Order quashed.