

1964

Present : Sri Skanda Rajah, J.

P. M. THOMAS, Appellant, and Mrs. F. A. RODRIGO, Respondent

*S. C. 31/64—C. R. Colombo, 85,784/R.E.**Rent Restriction Act—Section 13 (1) (c)—Requirement of premises both for residence and vocation—Restriction of issue to residence only—Effect—“ Vocation ”.*

Where a landlord seeks to eject his tenant, under section 13 (1) (c) of the Rent Restriction Act, on the sole issue that the premises are reasonably required for his occupation as a residence, he is not entitled to judgment on the ground that, according to his evidence, the premises are in fact required for the purpose of his profession or vocation.

Teaching of music for profit is a “ vocation ” within the meaning of section 13 (1) (c) of the Rent Restriction Act.

APPEAL from a judgment of the Court of Requests, Colombo.

G. T. Sumerawickreme, for defendant-appellant.

S. A. Marikar, for plaintiff-respondent.

August 20, 1964. SRI SKANDA RAJAH, J.—

This is an action brought by the land-lady to eject her tenant the defendant. Premises being subject to the provisions of the Rent Restriction Act, the plaintiff had to come within one of the grounds specified in the proviso to Section 13 (1). She chose to restrict the ground to only one of those specified in sub-section (c) of the proviso, viz., that the premises were reasonably required for her occupation as a residence.

But her evidence disclosed that this was really required for the purpose of her profession or vocation, namely, teaching music. I am unable to agree with the finding of the learned Commissioner which he put thus : “ I do not think that the teaching of music in a private house constitutes even a profession or a vocation ”.

The evidence disclosed that she really requires premises No. 10 occupied by the defendant in order to carry on her teaching of music. Teaching of music for profit is a “ vocation ” within the meaning of Section 13 (1) proviso (c).

Mr. Marikar found himself in a difficulty, and he suggested that it was understood that the plaintiff required the premises both for residence and for her vocation. In that event the issue should have been to that effect. But the only relevant issue was : “ Are the premises in suit reasonably required for the ‘ use and occupation as a residence ’ for the plaintiff ? ”

Therefore, I hold that the plaintiff has failed to establish that the premises in question are reasonably required for her occupation as a residence. Therefore, I set aside the judgment and decree of the learned Commissioner, and dismiss the plaintiff's action with costs here and below.

Appeal allowed.

