

1920.

[IN REVISION.]

*Present* : De Sampayo J.

THEGIS *v.* AGONIS.

*P. C. Avissawella, 30,633.*

*Criminal trespass—Civil dispute—Accused discharged—Accused ordered to bring civil action—Irregular.*

The accused was charged with criminal trespass. The Magistrate thought that the case involved a civil dispute and discharged the accused, but ordered that he should bring a civil action.

*Held*, that the Magistrate had no right to make the order relating to possession and directing the accused to bring a civil action.

*H. V. Perera*, for the applicant.

*J. Joseph*, for the respondent.

May 14, 1920. DE SAMPAYO J.—

The accused were charged in this case with having committed criminal trespass in respect of a field which the complainant claimed to be his own. The Magistrate, after some inquiry, rightly came to the conclusion that the case involved a civil dispute, and should be settled in a civil court. But at the same time he examined a Vidane Arachchi, and thought that the complainant had had possession previously, and, after discharging the accused, ordered that the accused should bring a civil action, and as counsel for the complainant admitted, this means that the complainant was to be restored to possession as the result of this order and the accused driven to the civil court. The Magistrate had no right to make such an order as this, and in revision I set aside the portion of the order relating to possession and requiring the accused to bring an action.

*Set aside.*

