

## ERNST v. SARAM.

139—M. C. Colombo, 2,101.

Loos J.—

The accused-appellant was convicted in M. C. Colombo, No. 1,724, of having re-erected four tenements without plans, drawings, and specifications being approved in writing by the Chairman of the Municipal Council, Colombo, in breach of section 5 of Ordinance No. 19 of 1915, and punishable under section 13 (1) (c) and (e) of that Ordinance. The Chairman has now applied to the court in terms of section 13 (2) of that Ordinance to make a mandatory order requiring the accused to demolish those tenements. It is not seriously disputed that the discretion exercised by the Magistrate in this case is not a reasonable one. The only point really pressed was that the present prosecution was unnecessary, and that the application for the mandatory order should have been made in the same case in which the accused had been convicted. It appears to me that such a contention cannot be supported in view of the language used in section 13. It is not necessary to decide that point now, however, for it has already been decided by this Court in the case of *Anthonisz v. Salmon Fernando*.  
The appeal must be dismissed.

<sup>1</sup> L. B. 24 Q. B. D. 712.<sup>2</sup> I. L. R. 34 Cal. 341.<sup>3</sup> L. B. 9 Ch. D. 677.