

1965 Present : Manicavasagar, J.

D. P. L. EDMUND, Appellant, and M. K. MURUGESUPILLAI,
Respondent

S. C. 88/1964-C. R. Colombo, 84507

Rent Restriction Act-Section 13 (7) (d)-Meaning of the words " with him " .

Proviso (d) to section (13) (1) of the Rent Restriction Act does not authorise the ejection of a tenant if he does not himself reside in the premises in question but an employee of the tenant who resides therein has been convicted of using the premises for an illegal purpose. The words "with him" in the proviso cannot be interpreted to mean " under him " .

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

G. T. Sameraurickreme, Q.C., with A. K. Premadasa and W. S. Weera-sooria, for plaintiff-appellant.

S. Sharvananda, with Kanthasamy, for defendant-respondent.

August 27, 1965. **MANICAVASAGAR, J.-**

The decision of this appeal turns on the meaning of two simple English words, viz., "with him" in the context in which these occur in the proviso (d) to section 13(1) of the Rent Restriction Act. The words of the section- I quote only that which is relevant to this case-are as follows :-

" . No action or proceedings for the ejection of the tenant of any premises to which this Act applies shall be instituted in or entertained by any Court, unless the board has in writing authorised the institution of such action or proceedings :

Provided, however, that the authorisation of the board shall not be necessary when the tenant or any person residing or lodging with him or being his sub-tenant has been convicted of using the premises for an immoral or illegal purpose " (The italicizing is mine).

In this case the appellant who is the landlord of the premises was unsuccessful in obtaining a decree of court to eject his tenant, the respondent to this appeal.

The facts are as follows :-The respondent is the tenant of premises bearing numbers 86, and 88/5, Sri Katheresan Street, Colombo : this action is in respect of premises No. 86. The respondent does not reside in the premises which is used as an eating house : one Atchulingam is an employee of the respondent, and according to the appellant, he resides in the premises : the respondent does not admit the residence of Atchulingam at No. 86 : his evidence is that he lives in Kollupitiya. I shall assume, however, that he resides in premises No. 86. It is common ground that Atchulingam was convicted for selling Government arrack on the premises without a licence

: he has therefore used the premises for an illegal purpose.

Mr. Samerawickreme for the appellant submits that the words " with him " should be interpreted to mean " under him " (the tenant): in other words it is immaterial if the tenant does not reside in the premises in respect of which there has been a conviction for using it for an illegal purpose, as long as the person convicted resides or lodges in it : he contends that unless this interpretation is given the tenant in circumstances such as those established in this case cannot be ejected; he submits that the object of the legislature is to prevent the illegal use of the premises.

The answer to Counsel's submission is that if the legislature meant to have the tenant ejected it would have said so : and it could have achieved this by the omission of the words " with him " and substituting the words "therein ". The words as they now occur are so plain that they can admit of only one meaning, namely, that the person convicted resides or lodges with the tenant in the premises. An elementary rule in construing a statute is when the words are plain and unambiguous, as in this case, and not obscure, the intention of the legislature must be gathered from the words themselves, and given effect to : it is not the province of the courts, where the words admit of only one meaning, to give it a meaning contrary to that, on the ground that the object of the legislature was something different and would be frustrated unless that meaning is given. Applying this test, what is the sense, the natural import of the words " with him "? It can only have one meaning, that which I have given expression to : if the legislature meant to eject a tenant in the circumstances established in this case it should have said so in plain words. The appeal is dismissed with costs.

Appeal dismissed.

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