

1966 Present : H. N. G. Fernando, S.P.J.

P. D. S. DASSANAYAKE, Petitioner, and W. E. PERERA,  
Respondent

*S. C. 322/65-Application for the transfer of C. R. Colombo 90236 to  
D. C. Colombo*

*Rent Restriction Act-Distinction between key money and sums paid in excess of rent-- Right of  
tenant to set off latter against rents due.*

Money paid by the tenant in excess of the authorised rent is not key money. Such sums can be set off by him against rents due.

APPLICATION for the transfer of a case from the Court of requests. Colombo, to the District Court.

*V. Thillainathan*, for the Defendant-Petitioner.

*D. R. P. Goonetilleke*, for the Plaintiff-Respondent.

*Cur. adv. vult.*

April 5, 1966. **H. N. G. FERNANDO, S.P.J.-**

I had reserved my order in this case with a view to considering whether this was a suitable opportunity to seek an authoritative decision which might resolve the conflict of opinion on the question whether a tenant who knowingly makes to his landlord excessive payments prohibited by the Rent Restriction Act is entitled to sue for the recovery of amounts so paid. I find however that in this case the unauthorised payment was not key money but only sums in excess of the authorised rent. There are numerous decisions which have allowed such sums to be set off against rents due. I regret the delay in dealing with this matter.

The application for a transfer to the District Court of Colombo is allowed.

*Application allowed.*

- End -