

GOVERNMENT AGENT, S. P., v. JAMES.

1903.  
October

P. C., Galle 22,125.

Ordinance No. 2 of 1896—Declaration under the Ordinance—Liability of coolies or workmen.

Where it was contended that coolies or workmen working at a mine were not responsible for the failure of their employers to make declaration under the Ordinance No. 2 of 1896,—

*Held*, that this Ordinance makes no exception in favour of coolies or workmen, who may mine for plumbago at the instance of their employers, who have not made the necessary declaration.

THE Government Agent of the Southern Province charged six men under section 6 of Ordinance No. 2 of 1896 with working a mine without giving the Government Agent the declarations required under that Ordinance. Of the accused, the second, third, fourth, and fifth were admittedly the coolies, and the sixth the manager, of Mr. Amarasuriya, the owner of the land containing the mines.

The first accused was an arachchi. The other five, being experts in plumbago mining, took what is known as a *haya-hawul* to dig plumbago on Mr. Amarasuriya's land. Mr. Amarasuriya got his ground share from the accused.

The first accused was acquitted, and the rest were convicted and sentenced to pay Rs. 20 each.

They appealed.

The case came up for argument before Grenier, A.J., on 30th September, 1903.

*Morgan de Saram*, for appellant.—Coolies are not liable, but the persons who employed them. The persons liable to punishment are those who fail to give the necessary declaration, and it is only the employers who can do this. The second accused, being a cooly, is therefore not liable.

*Rāmanāthan, S.-G.*—It is proved that the accused are not coolies but shareholders. The case is that the accused were shareholders and were warned three times. None of them furnished the Government Agent with a declaration. Even if they are coolies, the Ordinance makes no exception in their favour.

*Cur. adv. vult.°*

3rd October, 1903. GRENIER, A.J.—

The Ordinance (No. 2 of 1896) makes no exception in favour of coolies or workmen, who may mine for plumbago at the instance of their employers, who have not made the necessary declaration.

1903. If the appellant with the other accused who have not appealed  
*October 3.* were the servants of Mr. Amarasuriya or the sixth accused, which  
GREVILLE, A. J. I doubt, they cannot shield themselves behind either of them,  
because mining operations, as found by the Magistrate, were  
going on on the land in July in a pit belonging to the accused,  
and Mr. Amarasuriya did not make the declaration till the 15th  
August. It may be that Mr. Amarasuriya has also made himself  
liable under the Ordinance, but as he has not been charged in this  
case I will say nothing more. Affirmed.

---