

Present : Jayewardene A.J.

1928.

NADAR v. LEON.

176—P. C. Colombo, 35,481.

Village Communities—Excepted person—Indian Tamil—Ordinance No. 9 of 1924, s. 60.

An Indian trader living temporarily in Ceylon is not an excepted person within the meaning of section 3 of the Village Communities Ordinance of 1924.

A PPEAL from an order of the Police Magistrate of Colombo.

J. S. Jayewardene, for complainant, appellant.

May 8, 1928. JAYEWARDENE A.J.—

The complainant S. Doresamy Nadar of Galle road, charged one Leon of Dehiwala with causing hurt to him on November 19, 1927, at 9 P.M. at the complainant's boutique by striking him with a piece of firewood, under section 314 of the Penal Code. The accused pleaded that the Village Tribunal had exclusive jurisdiction and the learned Magistrate upheld his plea. The complainant is an Indian temporarily living in Ceylon, though not born in Ceylon. He is a boutique-keeper. It was agreed that the offence, if any, was committed outside the Municipal limits.

The Village Communities Ordinance, No. 9 of 1924, enacts that a Village Tribunal shall have jurisdiction to try all offences enumerated in the Schedule section 55, Head B (b). The first offence mentioned in the schedule is that of voluntarily causing hurt under the Penal Code. No Village Tribunal, however, has jurisdiction to try any case in which any of the parties are excepted persons, unless all the parties consent thereto in writing (Ordinance No. 9 of 1924), section 60). The question arises whether the complainant is an excepted person.

1928.
 JAYEWAR-
 DENE A.J.
 Nadar v.
 Leon

Excepted persons are defined in section 3 as meaning persons resident in the Colony, and being (a) persons commonly known as Europeans, (b) persons commonly known as Burghers, (c) labourers as defined in Ordinance No. 13 of 1889, including any woman or child related to any such labourer or any aged or incapacitated relation of any such labourer. The complainant does not come under any of these categories. A labourer is defined in Ordinance No. 13 of 1889 as meaning any labourer and kangany (commonly known as Indian coolies) whose name is borne on an estate register. and includes the Muhammadans, commonly known as Tulicans. The complainant's name is not borne on any estate register. The complainant is thus not an excepted person, and cannot claim the benefit of section 60, so as to exclude the jurisdiction of the Village Tribunal. It was argued that under the repealed Village Communities Ordinance, No. 24 of 1889, Village Tribunals could exercise jurisdiction only in cases in which both parties were natives and that the complainant cannot be said to be a native of Ceylon. The word "natives" is defined in Ordinance No. 24 of 1889, section 3, as meaning those resident in the country other than persons commonly known as Europeans or Burghers. The complainant is resident in the country, and would not be known as European or Burgher. He would be comprised within the definition even under the Ordinance No. 24 of 1889, and the Village Tribunal would have jurisdiction over him. But the language of Ordinance No. 9 of 1924 is clear and admits of no doubt, and the task of interpretation or the need for reference to the earlier Ordinance can hardly be said to arise. *Absoluta sententia expositore non indiget.* Such language best declares, without more, the intention of the lawgiver and is decisive of it (*R. v. Holt*¹). The Legislature must be intended to mean what it has plainly expressed and consequently there is no room for construction (*R. v. Banbury*²). It is stated in the petition of appeal that the appellant is not conversant with the vernacular, although no such statement was made in the Police Court. Section 46 of the Village Communities Ordinance provides that the proceedings shall be conducted in the vernacular language, but (subject to the approval of the Government Agent) the record may be kept in English or in the vernacular language at the discretion of the President or of the Committee. The words "vernacular language" here mean the language of the locality. Counsel for the appellant argued that it was the intention of the Ordinance to exclude from the jurisdiction of the Village Tribunals those ignorant of the particular vernacular, which is the language of the Court. When the words admit of but one meaning, the Court is not at liberty to speculate on the intention of the Legislature (*York and N. Midland*

¹ 1 T. R. 96.

² 1 A. and E. 142.

*Railway Co.*¹⁾ Further, the language of the Court need not necessarily be the language of the parties to the suit. In India proceedings are conducted in various languages according to section 137, Indian Civil Procedure Code, 5 of 1908, and section 356, Indian Code of Criminal Procedure, 5 of 1898, but the knowledge or ignorance of the language of the Court is not one of the tests of jurisdiction. We ought to apply to this case what has been called the golden rule of construction, namely, to give to a statute the plain, fair, literal meaning of its words, where we do not see from its scope that such meaning would be inconsistent or would lead to manifest injustice (*Mattison v. Hart* ²⁾).

The complainant is not an excepted person under the Ordinance, and the Village Tribunal has jurisdiction over him. The Magistrate is right, and this appeal is dismissed.

Appeal dismissed.

1928.

JAYEWAR-
DENE A.J.

Nadar v.
Leon

