

1972 Present : H. N. G. Fernando, C.J., and W. Jayatilake, J.

E. S. L. PERERA, Petitioner, and B. M. D. B. BANNEHEKE (Chairman,
Conciliation Board of Bingiriya), Respondent

*S. C. 686/71—Application for a Mandate in the nature of a Writ of
Mandamus*

*Conciliation Boards Act—Sections 6 and 14—Wrong decision by Board that it had no
jurisdiction to hear a dispute—Writ of mandamus—Availability.*

Where, in a dispute concerning the “ande” cultivation of a paddy land, the Chairman of a Conciliation Board wrongly issued a certificate that it was not possible to settle the dispute peacefully because the Board had no jurisdiction to inquire into disputes concerning “ande” cultivators—

Held, that the Chairman could be compelled by *mandamus* to take proper proceedings under sections 6 and 14 of the Conciliation Boards Act.

APPPLICATION for a writ of *mandamus*.

Nimal Senanayake, with Miss A. P. Abeyratne and Melvin Silva, for the petitioner.

Sunil de Silva, Crown Counsel, for the respondent.

January 19, 1972. H. N. G. FERNANDO, C.J.—

In this case the present petitioner had made certain complaints to the Conciliation Board regarding an alleged trespass committed in respect of a land, including a large extent of paddy, of which the petitioner claimed to be the owner. After an inquiry into one of these complaints the Chairman of the Conciliation Board informed the petitioner that the inquiry into the dispute had been stopped by the Board because "the Permanent Secretary to the Ministry of Justice had given instructions that the Conciliation Boards have no right to inquire into the ejection of *ande Cultivators*". Thereafter the Chairman of the Board issued a certificate to the petitioner stating that the committee had no power to inquire into the complaint because it related to a dispute with an *ande cultivator*, and that it was not possible to settle the dispute peacefully.

The petitioner appears to have been advised perhaps rightly that this certificate would not satisfy the terms of Section 14 of the Conciliation Boards Act, because that Section contemplates a certificate which is issued after a proper attempt to settle a dispute. That being so, an application was made to this Court for a mandamus and when the application was first taken up counsel stated that the mandamus is sought to compel the Chairman of the Conciliation Board to take proper proceedings under Section 6 of the Conciliation Boards Act.

Learned Crown Counsel appearing on behalf of the Chairman states that for the purposes of this case he is not taking up the position that the Conciliation Board has no power to inquire into a dispute concerning the *ande cultivation* of paddy fields and to issue a certificate under Section 14 of the Act in relation to such a dispute. I may myself in passing observe that even though the true position may be that a District Court had no jurisdiction to inquire into a dispute concerning right to cultivate a paddy field, the question whether or not the Court does have jurisdiction appears to me to be one which should properly be decided by the Court itself; and that a Conciliation Board has no right to prevent a District Court from deciding such a question by declining to hold inquiries or issue certificates under the Conciliation Boards Act.

In terms of the amended prayer in the petition, a mandamus will issue directing the Conciliation Board to inquire into all the complaints concerning this land which have hitherto been made by the petitioner, and if the disputes cannot be settled to issue a certificate or certificates in terms of Section 14 of the Act. It is obvious that the institution of the petitioner's proposed action has been much delayed by an attitude of the Conciliation Board which for present purposes has been conceded to be wrong. That being so, the Board will no doubt realise its duty to deal with this matter in preference to all matters which arose after the complaints made by the petitioner.

WJAYATILAKE, J.—I agree.

Application allowed.