

1955

Present : Fernando, J.

KUTTAJEE, Appellant, and KANAPATHY CHETTY,  
Respondent

*S. C. 101—C. R. Colombo, 51,611*

*Landlord and tenant—Requirement of premises for purposes of business of the landlord—Rent Restriction Act No. 29 of 1948, s. 13 (c).*

A landlord cannot avail himself of section 13 (c) of the Rent Restriction Act to eject a tenant merely because he thinks it convenient that employees in a business carried on by him at a place not far from the rented premises should reside in the rented premises. The matter of the place where the employees in a business reside is generally unrelated to the efficient carrying on of the business itself.

**A**PPPEAL from a judgment of the Court of Requests, Colombo.

*H. W. Jayewardene, Q.C.*, with *N. C. J. Rustomjee*, for the defendant appellant.

*Walter Jayawardene*, for the plaintiff respondent.

*Cur. adv. vult.*

December 15, 1955. FERNANDO, J.—

The defendant appeals against a decree for ejection which has been entered against him on the ground that the premises occupied by the defendant are reasonably required by the plaintiff landlord for the purposes of the landlord's business.

The defendant became the tenant of the premises in September 1951 at a rental of Rs. 13·70 per month and notice to quit was given to him in November 1953. The plaintiff allegedly requires the premises in order that workmen at his neighbouring rubber store and the clerks employed by him at a Petrol Station can be accommodated in the premises. In so far as the workmen at the rubber store are concerned Counsel for the plaintiff-respondent has admitted that the judgment cannot be supported on the ground that the premises are required for occupation by them. It remains to consider whether the plaintiff is entitled to eject the defendant on the ground that he requires the premises for occupation by the clerks employed at his Petrol Station.

There is no clear evidence as to the distance from the Petrol Station to the premises but it is clear that they are not in close proximity, the former being at No. 291 Skinners Road South and the latter at No. 284 Grandpass Road. The plaintiff had admitted that the clerks work from 8 a.m. to 6 p.m. and then leave for their homes. No specific reason was urged to show that there is any necessity for the clerks to reside at the premises in question, but I will assume that the plaintiff reasonably considers it convenient in the interests of his business at the Petrol Station that the clerks should reside at a place owned by the plaintiff and not far distant from the Petrol Station.

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Even on that footing I do not think that section 13 of the Act contemplates that the landlord should have the right to eject a tenant merely because he thinks it convenient that some employees of his should reside on the premises occupied by the tenant. The matter of the place where the employees in a business reside is on its face so unrelated to the efficient carrying on of the business itself that there must first be, either some compulsion by law or some particular necessity or even ordinary usage in businesses of the type concerned, before it can be said that the purpose of providing accommodation for employees constitutes a reasonable requirement for the purposes of the business. In this case none of the three conditions which to my mind might be relevant has been shown to be present.

I would therefore allow the appeal and set aside the decree for ejection of the defendant. He will be entitled to his costs in both Courts.

*Appeal allowed.*

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