

1914

Present: Pereira J.

PETER SINNO v. DORASAMY et al.

319-326—P. C. Avissawella, 16,305.

*Village Communities Ordinance, No. 24 of 1889—Natives—Indian Tamils—Jurisdiction of Village Tribunal.*

Indian Tamils resident in Ceylon, though they may not be domiciled, are natives within the meaning of section 28 of the Village Communities Ordinance.

THE accused were convicted on a charge of unlawful gaming. They appealed.

*Bawa, K.C.*, for accused, appellants.—The Gansabhawa has exclusive jurisdiction in a case of gambling (*Jansz v. Perera*<sup>1</sup>. The Magistrate is wrong in holding that the Village Tribunal has no jurisdiction to try five accused who were Indian Tamils. Indian Tamils are "natives" within the meaning of section 28 of the Village Communities Ordinance (No. 24 of 1889). Section 3 of the Ordinance defines natives as those resident in the country other than Europeans and Burghers.

*Cooray, Acting C.C.*, for the respondent.

*Cur. adv. vult.*

June 9, 1914. PEREIRA J.—

In this case objection has been taken to the right of the Magistrate to try the accused, on the ground that the case was within the jurisdiction of the Gansabhawa, and the case of *Jansz v. Perera*<sup>1</sup> has been cited. It appears that some such objection was taken before the Magistrate himself, because the Magistrate notes as follows:—"The objection was taken to my trying the fifth and seventh accused along with the other accused. First, second, third, fourth, and sixth accused are all Indian Tamils, and are not triable in the Village Tribunal. The offence itself was committed on Mahaoya estate, near to the Sanitary Board of Dehiowita." I do not know on what authority the Magistrate says that Indian Tamils are not triable by the Gansabhawa. Crown Counsel who appeared for the respondent was certainly not able to cite any. The Village Communities Ordinance, 1889, applies to all natives, and "natives" has been defined in it to mean all persons resident (not domiciled, it must be remembered) in the country other than persons commonly known as Europeans or as Burghers. Indian Tamils are

not commonly known as Europeans or Burghers, and I fail to see why the Ordinance should not be deemed to apply to them. Then, while stating that the offence was committed on Mahaoya estate, near the Sanitary Board of Dehiowita, the Magistrate does not definitely hold that the offence was committed (if such was the case) outside the territorial limits of the jurisdiction of the Gansabhawa.

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I remit the case to the Magistrate for a fuller and more precise statement of his reasons for not making order under section 34 of the Ordinance.

*Sent back.*

