

1946

Present : Nagalingam A. J.

JOSEPH, Petitioner, and KASUPATHY, Respondent.

*Application for the transfer of C. R. Batticaloa, 3,152, to the District Court.**Court of Requests—Claim in reconvention—Beyond jurisdiction of Commissioner—Transfer to District Court—Courts Ordinance, s. 79.*

Where in an action in a Court of Requests a claim in reconvention is made by the defendant which is beyond the jurisdiction of the Court a transfer to the District Court will be allowed where the claims of the plaintiff and defendant are so intimately connected that convenience demands that both claims should be tried together.

APPPLICATION for the transfer of a case from the Court of Requests, Batticaloa, to the District Court.

G. Thomas, for the defendant, petitioner.

C. T. Olegasegarem, for the plaintiff, respondent.

December 4, 1946. NAGALINGAM A.J.—

This is an application by the defendant for the transfer of these proceedings from the Court of Requests to the District Court of Batticaloa on the ground that the claim in reconvention exceeds the monetary jurisdiction of the Court of Requests.

Learned Counsel for the plaintiff-respondent states that the plaintiff's claim in convention was one which concerns the possession of land but on examination of the plaint it is found that the tenancy of the defendant, which was admitted by the latter, has in no way been terminated and the plaintiff cannot therefore be entitled to possession. In the circumstances, the claim in convention which is one for compensation for rent is opposed by a claim in reconvention for compensation in respect of certain improvements made under a certain agreement entered into between the parties.

The true position would appear to be that if the claim for ejectment cannot be sustained, the defendant's claim in reconvention also cannot be adjudicated upon at this stage; that is to say, till there is an order for the ejectment of the defendant from the premises. It may very well be that notwithstanding the fact that the plaintiff has not set out the legal position for his relief for ejectment of the defendant yet by way of amendment or otherwise of the pleadings, the plaintiff may yet properly claim it and the Court may come to the conclusion that the plaintiff is entitled to an order of ejectment in his favour.

In this state of facts where the claims of the plaintiff and the defendant are intimately connected with each other, it seems to me that convenience demands that both claims should be dealt with together. I would, therefore, allow the application for the transfer and order accordingly. The defendant will be entitled to the costs of the application.

Application allowed.
