

**IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA**

In the matter of an application for orders in
the nature of writs of Certiorari in terms of
Article 140 of the constitution of the
Democratic Socialist Republic of Sri Lanka.

D.M.M. Dissanayake
Dissanayake Textiles,
Main Street,
Rambukkana.

-Petitioner-

VS.

1. K.P. Ranasinghe
Dharmapala Mawatha,
Rambukkana.
2. The Rent Board of Review,
G 10, Sri Vipulasena Mawatha,
Colombo 10.

-Respondents-

CA writ 784/09

Rent Board of Review Appeal No. 5794

Rent Board of Rambukkana

Application No. RB/RB/PE/2003/06

BEFORE

: S. SRISKANDARAJAH, J.

D. S. C. LECAMWASAM, J.

COUNSEL

: B.C. Balasuriya for the petitioner

Ganga Udaya Kumari for the 1st respondent

ARGUED ON

: 15/ 12/ 2010

WRITTEN SUBMISSIONS ON

: 27/ 01/ 2011 by the 1st respondent

DECIDED ON

: 22/02/2011

D. S. C. Lecamwasam J.

The Respondent in this case filed an application before the Rent Board of Rambukkana, seeking a declaration declaring him as the tenant of premises bearing Assessment No.144, Kurunegala Road, Rambukkana and seeking permission of the Rent Board to deposit the monthly rent with the Pradeshiya Sabha as the landlord refuses to accept payment. After inquiry the Rent board held with the Respondent (applicant in that application) and being dissatisfied with the above decision the petitioner (respondent in that application) appealed to the Board of Review which in turn affirmed the decision of the Rent Board and dismissed the appeal. Now the petitioner in this application is seeking writs of certiorari to quash the decision made by the Rent Board of Review and to set aside the order of the Rent Board of Rambukkana.

The petitioner's main contention is that the Board of Review has failed to consider the fact that there is no contract of tenancy in existence in relation to premises bearing Assessment No.144 and the board of review has not considered the documents filed in this case in the proper perspective.

On a perusal of the proceedings and documents before the Rent Board, it is apparent that there is a measure of confusion as to assessment numbers. This confusion had arisen due to the issuance of rent receipts by the father of the petitioner, i.e. the previous landlord, in which the assessment No. is stated as 146 instead of 144. But in all those receipts "**kone kamaraya or kelawara kotasa**" is stated, alluding to the fact that the room in question is the room at the corner or the very end of the premises. It is therefore evident that the respondent was in occupation of only one room and not more than one room. Hence whether the assessment number is 144 or 146, tenancy rights are only claimed in respect of one room.

Having established this it is also evident that although the petitioner's father created a confusion by stating No.146 on the receipts, receipts issued by the Electricity Board since 1997 and the receipts issued by the Pradeshiya Sabha in respect of taxes for 1984, 1985, 1989 and 1991 give the number as No.144. Even if there was some confusion, the petitioner himself has erased any doubt by issuing letter dated 01st March 2003 addressed to the respondent, requesting the respondent to hand over possession of No.144. Therefore petitioner himself knew and accepted that the particular room in question was 144 and not 146, and on the strength of such acceptance is estopped from denying the existence of a tenancy in respect of room bearing assessment No. 144.

Therefore on an overall consideration of facts before this court and before the Rent Board and the Rent Board of Review I find that the above Boards had come to the correct conclusion on the facts available before those two boards and hence I find that there is no merit in this application and the application for writs of certiorari is dismissed without costs.

Judge of the Court of Appeal

Sri Skandarajah, J

I agree

Judge of the Court of Appeal