

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN COMMON LAW

SUIT NO. C.L. B.447 OF 1977

BETWEEN DAVID BANKERSINGH PLAINTIFF

A N D RIOT COMPENSATION AUTHORITY DEFENDANT

Mr. A. J. Dabdoub for plaintiff

Messrs. E. L. Johnson and E. H. Oniss for defendant.

HEARD: November 18 & 19, 1985; July 7, 1986.

PANTON, J.

This suit arises from the refusal of the Riot Compensation Authority for the parish of St. Andrew to award compensation to the plaintiff for damage which was done at 21 Ashoka Road, Kingston 11, during a riot on December 15, 1976.

The particulars of damages read thus:

"Ford truck licensed KJ495	- stoned and burnt out	\$12,000.00
Bedford truck licensed P6696	- stoned and burnt out	4,000.00
Mercury Montego motor car	- stoned and burnt out	12,000.00
Furniture damaged		208.00
Damage to house		884.00
Loss of one pair shoes		35.00
Loss of four new shirts		32.00
Loss of three new pants		48.00
Money missing		145.00
Transportation		20.00
Loss of use of trucks from the 15th December, 1976 to 13th October, 1977 (36 weeks at \$300.00 per week)		10,800.00
TOTAL DAMAGES		<u>\$29,372.00"</u>

It will be readily seen that the total amount claimed as stated above (\$29,372.00) is incorrect as a proper addition of the various sums will give a total of \$40,172.00.

In order to appreciate the basis of the suit, it is necessary to take a look at certain provisions of the Riot Act which was enacted in 1857.

Section 8 provides:

"Where any machinery, or any house, shop or building (including any premises appurtenant to the house, shop or building) has, wholly or partly, been demolished or pulled down by persons riotously and tumultuously assembled together, compensation shall be payable subject to, and in accordance with, the provisions of this Act".

Section 9(1) provides:

"The compensation provided for by this Act shall be payable, in proper cases, to persons who prove to the satisfaction of the Authority established by the provisions of section 10, that they have sustained loss by any such demolition or pulling down".

Section 10(1) provides for the establishment of the Riot Compensation Authority which is constituted in each parish by the Resident Magistrate (who is chairman), the Chairman of the Parish Council (in Kingston and St. Andrew, the Mayor), and the Collector of Taxes.

Section 14(1) provides:

"Where any person who claims compensation under the provisions of this Act and of any regulations made thereunder, is aggrieved either by -

- (a) the refusal or failure of the Authority to award compensation on his claim; or
 - (b) the amount of the compensation so awarded,
- he may sue the Authority concerned for the purpose of receiving compensation in respect of the matters contained in his claim for an amount not exceeding the sum therein claimed."

As mentioned earlier, the incident which gave rise to this suit occurred on December 15, 1976, which happened to have been General Elections Day.

The Riot Compensation Authority heard evidence on the 6th September, 6th October and 13th October, 1977, and found that there had been no riot and that the word "machinery" in section 8 of the Riot Act did not include "vehicles".

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At the beginning of the proceedings before me, the attorney-at-law for the plaintiff asked the Court for assistance in interpreting section 14 of the Riot Act. Specifically, he inquired whether the proceedings before the Court were in the nature of an appeal or whether it was "commencement de novo". I answered that query by saying that the proceedings were not in the nature of an appeal and that the matter would proceed as any other civil action would have proceeded.

Before me, the evidence led on behalf of the plaintiff established that at about 5 p.m. a crowd of at least 100 persons, some armed with sticks, were making noise and throwing stones on Ashoka Road; after some time had passed, they dispersed but later regrouped in the same area. Some went into the plaintiff's premises and damaged doors and windows of his house, as well as furniture therein. They also set fire to at least two trucks and a motor car that were parked in the premises. The occupants of the premises had to seek refuge elsewhere that night. The police were informed. They arrived while one of the trucks was ablaze. One of the men who set the trucks ablaze was identified and later charged with a criminal offence but that case was adjourned sine die in the Resident Magistrate's Court, St. Andrew, sitting at Half-Way-Tree.

The defence called no evidence.

As I understand the submissions made on behalf of the plaintiff, I am being asked to say that -

- (1) there was a riotous and tumultuous assembly of persons on Ashoka Road; and
- (2) this assembly, either wholly or partly, demolished or pulled down machinery and a house belonging to the plaintiff.

I am also being asked to interpret the word "machinery" to include motor vehicles.

I have no difficulty whatsoever in agreeing that the facts that were established clearly indicate that there was a riotous and

tumultuous assembly of persons at 21 Ashoka Road. The situation was one of sheer terror, on the basis of the facts that I found proven.

I find that the five elements set out in Field and Others v The Receiver of Metropolitan Police (1907) 2 K.B. 853 are fulfilled.

These elements are:

- (1) presence of at least three persons;
- (2) assembly for a common purpose;
- (3) execution or inception of the common purpose;
- (4) intent to help one another by force if necessary against any person who may oppose them in the execution of their common purpose; and
- (5) force, or violence, not merely used in demolishing, but displayed in such a manner as to alarm at least one person of reasonable firmness and courage.

So far, however, as the demolition or pulling down of machinery and the house is concerned, I cannot say that the plaintiff has satisfied me that his claim is well-founded.

I'll deal firstly with the contention that 'machinery' includes motor vehicle. In my judgment, there are at least two reasons, probably three, why this contention cannot succeed.

Let us turn again to section 8 of the Riot Act. It reads:

"Where any machinery, or any house, shop or building (including any premises appurtenant to the house, shop or building) etc."

The Act does not define machinery. Its English counterpart, the Riot (Damages) Act, 1866, does; see section 6(b). There being no definition in our Act, the word "machinery" ought to be given its ordinary meaning. In the Sussex Peerage Case, Tindal, C.J., said: "if the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense".

The Concise Oxford Dictionary defines machinery as "machines; work of a machine, mechanism; contrivances, esp. supernatural persons and incidents used in literary work". It defines machine as "apparatus

for applying mechanical power, having several parts each with definite function (the kind often being specified as sewing, printing ...); bicycle, tricycle".

Nowhere in these definitions is there the slightest hint that a motor car or a motor truck is contemplated. It seems to me, and I so hold, that in its natural and ordinary sense, "machinery" means a device or contrivance used for example in a factory or in enterprises such as manufacturing or agriculture; it does not include motor cars or trucks.

I now go on to contemplate the context in which the word appears in section 8. In Re Bidie (1948) 2 A.E.R. 995 at 998, Lord Greene, M.R., in interpreting the word "representation", said:

"The first thing one has to do, I venture to think, in construing words in a section of an Act of Parliament is not to take those words in vacuo, so to speak, and attribute to them what is sometimes called their natural or ordinary meaning. Few words in the English language have a natural or ordinary meaning in the sense that they must be so read that their meaning is entirely independent of their context. The method of construing statutes that I prefer is not to take particular words and attribute to them a sort of prima facie meaning which you may have to displace or modify. It is to read the statute as a whole and ask oneself the question: 'in this state, in this context, relating to this subject - matter, what is the true meaning of that word? The real question which we have to decide is: What does the word mean in the context in which we find it here, both in the immediate context of the sub-section in which the word occurs and in the general context of the Act, having regard to the declared intention of the Act and the obvious evil that it is designed to remedy?'"

In the instant case, the word 'machinery' is used in conjunction with "house", "shop", "building" and "any premises appurtenant to the house, shop, or building". In this context, it seems to me that "machinery" has no relationship with motor vehicles. Rather, it seems to bear reference to a fixed structure on land.

So, in its ordinary sense as well as the context in which it is used in section 8, I am driven to the conclusion that the word 'machinery' does not include motor vehicles. In my judgment, this disposes of the contention of the plaintiff. However, there is probably a third reason

and I shall not fail to mention it.

There is a general rule of construction of statutes to the following effect: "words are taken to be used in the sense they bore at the time the statute was passed" (Odgers' Construction of Deeds and Statutes - 5th edition page 255). This rule arises from a statement of Darling, J. in R. v. Casement (1917) 1 K.B. 98 at 139 quoting from the 5th edition of Maxwell on the Interpretation of Statutes. This view has received approval from Lord Reid in Rookes v. Barnard (1964) A.C. 1129 at 1174 where he said, "words must be construed in the light of the facts known to Parliament when the Act was passed".

The historical perspective ought not to be forgotten as there may be matters that the Court may or ought to take judicial notice of. Bearing this in mind, the Court cannot ignore the historical fact that in 1857 when this Act was being passed, motor trucks and cars were unheard of in Jamaica. It is therefore unthinkable that Parliament had such objects in contemplation when the Riot Act was passed.

So far as the house is concerned, there is no evidence that it was demolished either wholly or partly. To 'demolish' a thing involves destruction (partial or total). There was some damage to windows, doors and furniture; however, such damage cannot be regarded as demolition. The evidence led did not even put a value to this damage.

For these reasons, I dismissed the claim and entered judgment in favour of the Riot Compensation Authority with costs to be agreed or taxed.