

the implication of a devious contempt which ought to be frowned upon when considered in relation to the application. I am rendered completely powerless by the facts in the affidavit and I do not see how I can legally justify myself in using my discretion in favour of the applicant. I therefore dismiss the application with costs.

*Application dismissed.*

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JOHNSON v. SINGER SEWING MACHINE COMPANY LIMITED

SUPREME COURT (Betts, J.): May 23rd, 1967  
(Civil Case No. 67/66)

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[1] **Tort—damages—measure of damages—torts affecting chattels—loss of chattel used in trade—hire of replacement and loss of business where replacement less profitable:** Damages for loss or deprivation of a chattel which is used in a profitable trade include the hire of a replacement and, where the replacement is such that it cannot be used as profitably as the missing chattel, the consequent loss of business (page 168, lines 4–8).

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[2] **Tort—detinue—damages—measure of damages—chattel used in trade—damages include hire of replacement and loss of business where replacement less profitable:** See [1] above.

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The plaintiff brought an action against the defendants for the return of a sewing machine or its value, and special damages.

The plaintiff was a seamstress. The defendants took her electric sewing machine for repairs and kept it. She commenced the present proceedings in which she claimed as special damages (a) the cost of hiring a hand sewing machine and (b) loss of business by using a hand machine instead of an electric machine.

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*Marcus-Jones* for the plaintiff;  
*D.E.F. Luke* for the respondent.

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BETTS, J.:

In this case the plaintiff claims the value or the return of her Singer sewing machine, which was wrongfully detained by the defendants, and special damages.

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The facts are simple and need not be recounted in full. Suffice

it to say that, on or about April 20th, 1964, the plaintiff, by her son, delivered her sewing machine to the defendants for repairs. A deposit was paid and a receipt made out and delivered. The plaintiff was to collect her machine in two weeks, but up to the time it was produced in evidence in court it was continuously in the custody of the defendants. The plaintiff says that she had repeatedly applied for her machine, but the defendants, in spite of these applications, failed to deliver it. The defendants deny this and say that the plaintiff refused to collect the machine, though she was given sufficient indication that she could collect it whenever she desired, as all that could possibly have been done to the machine had been done. 5 10

I accept that, apart from the time the machine was taken in, the plaintiff, either by herself or someone else on her behalf, called at the Singer shop at Goderich Street, Freetown on three occasions and that on the third visit she was given to understand by the defendants' representative that she would be sent for when they were ready to make delivery. I believe that after that occasion the defendants did not fulfil this promise and did not in any way communicate again with the plaintiff. I also believe that when the plaintiff called on the third occasion the machine was not in a fit state for delivery. 15 20

The plaintiff deposed in evidence that she bought the machine in 1957 in the United Kingdom at a price of £54. It was suggested that the current price is £24. The machine was bought over 10 years before this action and the type is out of production. I think that the suggested price is, however, unrealistic. I would say that the machine could be disposed of for about £30. 25

The plaintiff admitted that she was satisfied with the two weeks' period fixed for servicing the machine. She was also satisfied when told that the parts would come from England in six to eight weeks after the expiration of the original fortnight. Later on, she was told that a Mr. Cole had gone for training outside Sierra Leone, but he would see to it immediately he returned. Whether Mr. Cole came back or not is not known, but it would appear that since June 1964, when the plaintiff went to the defendants' place of business, there has been no communication from the defendants. I would, however, consider the three months after June 1964 to be a reasonable time for completion of the training and Mr. Cole's return to Freetown. Alternative arrangements could also have been made for the repair or return of the machine to the plaintiff, who is a 30 35 40

business woman. This means that until the end of September 1964 the machine could have been returned to the plaintiff without any loss occasioned by the defendants.

I accept that the loss of business to the plaintiff was £10 or Le20 a month from September 1964 to May 1966 (21 months), Le420 in all, and the cost of renting a hand machine for the same period at Le4 per month amounted to Le84. I award these sums as special damages. I award the sum of Le60 as the current value of the plaintiff's machine and exercise my discretion for the amount to be paid instead of the return of the machine, and award costs on the magistrates' court scale. I find for the plaintiff, and have to observe that the defendants did not demonstrate great vigilance as businessmen.

*Judgment for the plaintiff.*

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THOMPSON v. NATIONAL CONSTRUCTION COMPANY

SUPREME COURT (Betts, J.): May 23rd, 1967  
(Mag. App. No. 19/66)

- [1] **Contract—implied terms—customs and usages—implied if trade familiar to parties:** Where the parties to a contract are familiar with a particular trade they may be presumed to have accepted its special and familiar customs and usages and these may be implied into the contract (page 171, lines 15–19).
- [2] **Contract—implied terms—presumed intention of parties—court will not spell out common intention from meagre words:** The courts may only imply terms into a contract where they can be presumed to be the intention of the parties, and the courts will not spell out a common intention from meagre words (page 171, lines 9–12, 28–31).
- [3] **Contract—offer and acceptance—acceptance—offeree must have knowledge of offer:** There cannot be assent to a contractual offer without knowledge of the offer and reliance on it by the offeree (page 172, lines 4–6).
- [4] **Evidence—admissibility—civil cases—document admitted without objection properly in evidence but evidential value unaffected:** A document received in evidence without objection in a civil case is properly in evidence, but its evidential value depends on its contents considered along with the rest of the evidence (page 170, lines 35–41).

The appellant brought an action against the respondent company