

GEORGHIOS CHRISTOFI,

Applicant,

v.

POLYVIOS SOCRATOUS,

Respondent.

GEORGHIOS
CHRISTOFI
v.
POLYVIOS
SOCRATOUS

(Civil Application No. 9/62).

Practice—Appeal—Extension of time required for filing an appeal—The Court will not grant extension unless there are very special circumstances.

The applicant applied to the High Court for an order extending the time within which to file an appeal from the judgment delivered on June 23, 1962 on the ground that counsel was absent from Cyprus.

The High Court in dismissing the application :

Held, (1) the grounds put forward by the applicant do not, in our opinion, justify the Court to grant the relief which has been sought. The appellant ought to have proceeded more promptly if he really desired to appeal and it was too late, after the writ of execution was issued and part payment of the amount recoverable was effected under it, to bring this application.

(2) Unless there are some very exceptional circumstances, and there were none before this Court in this case, an application of this kind cannot succeed.

(3) We should also mention another ground which has been put forward on behalf of the applicant, namely that new evidence of great importance came to the knowledge of the applicant's counsel and which he would like to produce before the Court.

The nature of this evidence was not disclosed in the affidavit filed in support of the application as it should have been, but, after hearing a statement of applicant's counsel, it is quite obvious that it is not of the nature that would justify the granting an application to adduce new evidence or extend the time for appealing so that it might perhaps be put before the Court.

Application dismissed with costs.

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GEORGHIOS
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Application.

Application for an extension of time within which to file an appeal against the judgment of the District Court of Nicosia (sitting at Morphou) in Action No. 481/60 dated the 23.6.62.

A. Pantelides for the applicant.

M. Kyprianou for the respondent.

WILSON, P. : This is an application for an order extending the time within which to file an appeal from the judgment which was delivered in this action on June 23, 1962.

The grounds on which relief is sought are that counsel for the applicant was absent from Cyprus when the notes of judgment were delivered and that he applied for an extension of time for appealing upon his return to Cyprus. That was the main ground upon which the application was based.

The respondent contends that arrangements could have been made for the undertaking of the appeal in the absence of counsel for the applicant and also that there was no intention on the part of the appellant to appeal from the judgment of the trial Court ; and, furthermore, it was not until after September 13, 1962, when part of the costs had been recovered in respect of the action—which was dismissed with costs—that the applicant decided to appeal and that this appeal appears to be simply for the purpose of delaying the defendant in the action from recovering his costs. When the money was collected on account of the costs there was no reservation of any rights.

The grounds put forward by the applicant do not, in our opinion, justify the Court to grant the relief which has been sought. The appellant ought to have proceeded more promptly if he really desired to appeal and it was too late, after the writ of execution was issued and part payment of the amount recoverable was effected under it, to bring this application. Unless there are some very exceptional circumstances, and there were none before this Court in this case, an application of this kind cannot succeed.

I should also mention another ground which has been put forward on behalf of the applicant, namely, that new

evidence of great importance came to the knowledge of the applicant's counsel and which he would like to produce before the Court. The nature of this evidence was not disclosed in the affidavit filed in support of the application, as it should have been, but, after hearing a statement of applicant's counsel, it is quite obvious that it is not of the nature that would justify the granting of the relief asked. It does not come within the class of cases in which the Court could be justified in granting an application to adduce new evidence or extend the time for appealing so that it might perhaps be put before the Court.

For these reasons this application must be dismissed with costs.

Application dismissed with costs.

1963
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