

GEORGHIA CONSTANTINOY,

Appellant,

v.

PANAYOTIS SYMEONIDES,

Respondent.

GEORGHIA
CONSTANTINOY
v.
PANAYOTIS
SYMEONIDES

(Civil appeal No. 4672)

Practice—Adjournment—Summary dismissal of an application for affiliation order after repeated adjournments of hearing and refusal of trial Court to grant further adjournment—Appeal against such dismissal—Appeal allowed on certain terms.

Trial in civil cases—Adjournments of hearing—Repeated adjournments—Summary dismissal of an application for affiliation order—Appeal—See above.

Affiliation Order—Application—Dismissal after repeated adjournments—See above.

The facts of the case sufficiently appear in the judgment of the Court.

The appellant filed an application, on February 3, 1966, to the District Court of Nicosia, under section 8(a) and (b) of the Illegitimate Children Law Cap. 278 and Order 48, rule 2(1) of the Civil Procedure Rules, initiating affiliation proceedings against respondent.

The respondent opposed the application, the hearing of which was adjourned several times, at the instance of the appellant.

On 17.10.1967 the Court granted, on appellant's instance again, a last adjournment, for 1.12.1967.

On 1.12.1967, when the application came up for hearing, appellant's advocate stated that he was not ready to proceed with the hearing and applied for another adjournment. Respondent's advocate opposed the application; eventually the Court refused the adjournment and dismissed the application summarily, making no order as to costs. Hence the present Appeal.

1968
Mar. 22
May 7
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GEORGHIA
CONSTANTINO
v.
PANAYIOTIS
SYMEONIDES

Appeal.

Appeal against the order of the District Court of Nicosia (Santamas Ag. D.J.) dated the 1st December, 1967 (Application No. 1/67) whereby applicant's application for adjournment of the hearing of affiliation proceedings was dismissed.

L. Papaphilippou for the appellant.

A. Indianos with *A. HadjiIoannou* for the respondent.

VASSILIADES, P.: In order to be able to proceed with this Application, Mr. Papaphilippou, you must satisfy this Court on two points: The first is to explain the reasons why the case has taken this course which shows several adjournments at the instance of your client. The second is that you have to satisfy us that your client has a *prima facie* case, and has evidence to support it.

As to the first point, we have heard your explanations. We do not think it is necessary to hear the other side because if you are not able to show that you have evidence to support your client's case, this Court is not prepared to consider reopening the proceedings.

What we propose doing now is to adjourn the hearing of this appeal so as to give you the opportunity to file affidavit-evidence showing that your client has an arguable case and the evidence to support it. When this material is on record we shall consider the matter, hearing in due course the other side as well. You will, no doubt, supply them with copies of the affidavits filed, in time to enable them to prepare for the hearing.

We propose adjourning this appeal to the *7th May, 1968*; and we take it that by the 25th of April you will be able to supply the other side with copies of the affidavit-evidence on which you propose to argue this appeal.

The following judgment was delivered by:-

VASSILIADES, P. : This case presents considerable difficulty owing to circumstances which have already been referred to in the course of the argument, and which, we hope, indicate sufficiently to counsel concerned, what may follow applications for adjournment made without really sufficient grounds.

In this appeal we have heard counsel of both sides. We appreciate, on the one hand, the substance in the reasons for this attempt on behalf of the appellant to have one more opportunity of pursuing a claim of this nature before the Court, and, on the other hand, we appreciate the reasons for which learned counsel for the respondent are anxious to get their client clear of such a claim, the earliest possible.

In the circumstances, we think that the best we can do in the interests of justice, is to allow the appeal and set aside the order of the District Judge refusing the application for adjournment and summarily dismissing the application on the 1st December, 1967; with directions for the earliest possible trial on the merits; in any case, before the vacations. The applicant to take all necessary steps for the purpose, forthwith.

As regards the costs of this appeal, these to be costs in cause, but in no event against the respondent.

*Appeal allowed.
Order of the District Court
appealed against, set aside.
Directions for the earliest
possible trial on the merits.
Order for costs as aforesaid.*

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