

1968
Oct. 7
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NICOLAS
KYRIAKOU
MILLIOTIS
v.
REPUBLIC
(MINISTER OF
INTERIOR)

[STAVRINIDES, J.]

IN THE MATTER OF ARTICLE 146 OF THE
CONSTITUTION

NICOLAS KYRIAKOU MILIOTIS,

Applicant,

and

THE REPUBLIC OF CYPRUS, THROUGH
THE MINISTER OF THE INTERIOR,

Respondent.

(Case No. 208/68).

Administrative and Constitutional Law—Recourse under Article 146 of the Constitution—Legitimate interest required by Article 146.2—Recourse against the refusal of the Registrar of Motor Vehicles to issue licence for use of a motor vehicle—Vehicle not registered in the name of Applicant—Registered in the name of, and belonging to, his wife—Therefore, the Applicant does not possess “a legitimate interest of his own” as required by Article 146.2 of the Constitution.

Motor Vehicle—Licence etc. etc.—See above.

Motor Vehicles and Road Traffic (Amendment) Law, 1965 (Law No. 3 of 1965)—Proviso to section 2(6) not unconstitutional.

This is a recourse whereby the Applicant complains against the refusal of the Registrar of Motor Vehicles to issue a licence for the use of a motor vehicle which is registered in the name of, and belongs to, the Applicant's wife. The Court, therefore, dismissed the recourse on the ground that the Applicant possesses no “legitimate interest of his own” as required by Article 146.2 of the Constitution.

Application dismissed with £10 costs against the Applicant.

Cases referred to:

Miliotis v. The Police (1966) 2 C.L.R. 62 at pp. 69–70.

The facts sufficiently appear in the Judgment of the Court.

Recourse.

Recourse against the refusal of the Registrar of Motor

Vehicles to issue a licence for the use of Applicant's motor vehicle.

Applicant in person.

S. *Georgiades*, Counsel of the Republic, for the Respondent.

Cur. adv. vult.

The following Judgment was delivered by:-

STAVRINIDES, J.: The Applicant is complaining of a refusal by the Registrar of Motor Vehicles to issue a licence for the use of a motor vehicle for the period from April 1 until September 30, 1968. From the statement of facts made by him it transpired that the vehicle in question is registered, not in the name of the Applicant, but in that of his wife; and this not for any other reason, but because it is in fact her own property. It follows that the Applicant does not possess a "legitimate interest of his own" as required by art. 146, para. 2, of the Constitution, and therefore this application must fail. However, it must also fail on other grounds, and although it is not necessary for the purposes of this Judgment to deal with them, I propose explaining them briefly, so that the Applicant should not leave the court under the impression that a case which should have succeeded failed on a technicality.

The Applicant sought to support this application on two grounds. The first is that the following proviso, which by s. 2(6) of the Motor Vehicles and Road Traffic (Amendment) Law, 3 of 1965, replaced "the first proviso to para. 2B (of Part 1 of the Schedule to the principal Law)..." is unconstitutional. According to the English translation published by the Ministry of Justice the substituted proviso reads:

"Provided that no licence shall be issued in respect of a yearly or nine-monthly or six-monthly or three-monthly period, as the case may be, unless a licence was already issued in respect of the same motor vehicle for the immediately preceding yearly or nine-monthly or six-monthly or three-monthly period, as the case may be, or unless—

(a) written notice had been given by the registered owner of the motor vehicle to the Registrar, before

1968
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—
NICOLAS
KYRIAKOU
MILLIOTIS
v.
REPUBLIC
(MINISTER OF
INTERIOR)

1968
Oct. 7

—
NICOLAS
KYRIAKOU
MILLIOTIS

v.
REPUBLIC
(MINISTER OF
INTERIOR)

any period in respect of which no application for the issue of a licence has been made, to the effect that the vehicle aforesaid shall not circulate or be used during such period; and

- (b) the registrar has certified that the steps indicated for the immobilization or the sealing of the vehicle have been taken by him or that he has been satisfied that the vehicle aforesaid has not circulated or been used during such period.”

As I pointed out to the Applicant in the course of the argument, on this point there is a decision to the contrary given by this court on appeal by the present Applicant himself (*Miliotis v. Police*, (1966) 2 C.L.R. 62 at pp. 69–70).

The second point is that the above proviso does not apply in a case such as the present, where the person in whose name the vehicle stood registered at the time of the Registrar’s refusal is not that in whose name it had been standing registered during “the immediately preceding ... period”. It is clear that such an interpretation is neither borne out by the wording of the proviso nor warranted by the logic of the matter.

For the above reasons the application is dismissed with £10 costs against the Applicant.

Application dismissed.
Order for costs as aforesaid.