

1975
Nov. 6

FRUIT AND
VEGETABLE
INDUSTRY ETC.

v.

HALCO LTD.
AND ANOTHER

[TRIANTAFYLLIDES, P., STAVRINIDES, MALACHTOS, JJ.]

FRUIT AND VEGETABLE INDUSTRY
(NEOPTOLEMOS S. KOUTSOKOUMNIS),

Appellant-Plaintiff,

v.

HALCO LTD. AND ANOTHER,

Respondents-Defendants.

(Civil Appeal No. 5442).

Civil Procedure—Practice—Appeals—Consolidation—Principles applicable—Subject-matters of appeals entirely different—Not convenient that they should be consolidated—Order 35, rule 28 of the Civil Procedure Rules.

The Court of Appeal after referring to the principles governing consolidation of appeals dismissed this application for consolidation on the ground that the subject matters of the two appeals are entirely different. 5

Application dismissed.

Cases referred to :

10

Hiddingh v. Denysen [1887] 12 A.C. 107.

Application.

Application by appellant-plaintiff for an order directing that Civil Appeal Nos. 5442 and 5495 be consolidated and be heard together. 15

L. Papaphilippou, for the appellant.

G. Nicolaidis, for respondent No. 1.

G. Achilles, for respondent No. 2.

The decision of the Court was delivered by :-

TRIANTAFYLLIDES, P. : Counsel for the appellant has applied that this appeal should be consolidated with Civil Appeal No. 5495 which is, also, fixed for hearing before us today. 20

He has submitted, in this respect, that both appeals are between the same parties, that they have arisen in 25

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relation to two applications made in one and the same
action by the appellant, and that there is involved, in
both of them, the same basic issue, namely whether or
not the appellant (the plaintiff before the trial Court) is
5 “a person existing in law”.

On the other hand, there is no doubt that counsel for
the respondents were right in stressing that the subject
matters of the two appeals are entirely different: The
one is an appeal against a refusal to grant an interim
10 injunction and the other is an appeal against a refusal
to grant relief under section 62 of the Partnership and
Business Names Law, Cap. 116.

It is correct that under Order 35, rule 28, of the
Civil Procedure Rules, we may order that two appeals
15 should be consolidated at any stage, if it appears con-
venient that they should be heard together; and we have
been, also, referred, to *Hiddingh v. Denysen* [1887] 12
A.C. 107; but for the reason stated in the preceding
paragraph it does not appear to us to be convenient that
20 the two appeals should be consolidated and, so, the
order to that effect applied for by the appellant is re-
fused.

Application refused.