

1975
Febr. 28

[TRIANTAFYLIDIS, P., STAVRINIDES, L. LOIZOU,
HADJIANASTASSIOU, A. LOIZOU, JJ.]

IN THE
MATTER OF
SECTION 61
OF THE COURTS
OF JUSTICE
LAW, 1960

IN THE MATTER OF SECTION 61 OF THE COURTS
OF JUSTICE LAW, 1960,

and

IN THE MATTER OF ACTIONS NOS. 539/70, 54/71,
55/71, 56/71, 57/71, 58/71 and 59/71 BEFORE THE
DISTRICT COURT OF LARNACA,

(Civil Application No. 4/75).

*Civil Procedure—Action—Transfer of action—Section 61 of
the Courts of Justice Law, 1960 (Law 14 of 1960)—
Discretion of the Court—Principles applicable—Seven
consolidated actions partly heard—Judge who has so
heard them transferred to another District Court—Appli- 5
cation for transfer of actions to such Court for further
hearing by said judge—Refused—Arrangements could
be made for judge to continue hearing where it had
commenced.*

This was an application, under s. 61 of the Courts 10
of Justice Law, 1960 (Law 14 of 1960), for an order
that seven consolidated civil actions, which were pending
before the District Court of Larnaca, and which had
already been heard in part on two occasions before 15
such District Court, should be transferred for further
hearing before the Nicosia District Court, because the
Senior District Judge before whom they had been
heard in part in Larnaca, has since then been trans-
ferred to the Nicosia District Court.

Held, dismissing the application. 20

1. In cases like the present one we have to be satis-
fied that it is necessary to exercise our discretionary
powers under s. 61.

2. We cannot accept as valid the rule that when- 25
ever a judge is transferred from one District Court to
another he is to be regarded as somehow taking with
him for further hearing before the District Court to
which he has been transferred the cases which have
been partly heard by him before his transfer. Arrange-

ments can always be made for the judge to complete a trial at the place where it was commenced.

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Application dismissed.

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Cases referred to :

5 *Prodromou v. Demetriou & Others* (1974) 1 C.L.R. 117.

Application.

Application for the transfer of seven consolidated actions from the District Court of Larnaca to the District Court of Nicosia under section 61 of the Courts of Justice Law, 1960 (No. 14 of 1960).

15 *G. Pelaghis*, for the applicant S. Karannikis, in respect of actions 54/71 - 59/71 in which he is a defendant, and, with *L. Papaphilippou*, for the same applicant in respect of action 539/70 in which he is the plaintiff.

A. Soupashis, for the respondent Klitos Constantinou, who is a party in all the actions concerned.

No appearance for any other respondent.

The decision of the Court was delivered by :-

20 TRIANTAFYLIDIS, P.: The applicant seeks an order that seven consolidated civil actions, which are pending before the District Court of Larnaca, and which have already been heard in part on two occasions before such District Court, should be transferred for further hearing
25 before the Nicosia District Court, because the Senior District Judge before whom they were heard in part in Larnaca, as aforesaid, has since then been transferred to the Nicosia District Court; it has, also, been stressed on behalf of the applicant that as all counsel who are
30 involved in the seven consolidated actions are residing and practising in Nicosia, the transfer of the actions to Nicosia will serve not only the convenience of the judge concerned, but, also, of all counsel.

35 In cases like the present one we have to be satisfied that it is necessary to exercise our discretionary powers under section 61 of the Courts of Justice Law, 1960 (Law 14/60)—see *Prodromou v. Demetriou and Others*, (1974) 1 C.L.R. 117; and, of course, each such application has to be considered in the light of its own parti-

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cular circumstances. In the *Prodromou* case we refused to make an order for the transfer of five civil actions from the Paphos District Court to the Nicosia District Court, even though there were seven other related actions pending, at the time, before the Nicosia District Court. In the present instance no other related action is pending before the Nicosia District Court.

We cannot accept as valid the rule that whenever a judge is transferred from one District Court to another he is to be regarded as somehow taking with him for further hearing before the District Court to which he has been transferred the cases which have been partly heard by him before his transfer. Arrangements can always be made for the judge concerned to complete a trial at the place where it was commenced.

Nor have we been satisfied that there exists otherwise any good and sufficient reason which warrants the making of the transfer order applied for now; surely, if there did exist such a reason an application for the transfer of the actions in question to Nicosia would have been made before the commencement of their hearing in Larnaca.

This application is, therefore, refused, but without any order as to its costs.

Application refused.

No order as to costs.