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[MALACHTOS, J.]

CHRISTOS
PERICLEOUS
v.
COMARINE LTD.
AND ANOTHER

CHRISTOS PERICLEOUS,

Plaintiff,

v.

COMARINE LTD. AND ANOTHER,

Defendants.

(Admiralty Action No. 70/75).

Jurisdiction—Admiralty—Action in personam—Claim for damages for personal injuries—Name of ship involved not referred to in the concise statement of claim—Reference to territorial waters—Claim within the Admiralty Jurisdiction of the Supreme Court—Section 19 of the Courts of Justice Law, 1960 and s. 1(1)(f) of the English Administration of Justice Act, 1956. 5

Admiralty—Practice—Action in personam—Form and commencement of proceedings and issue of writ of summons—Name of ship involved need not be referred to in the concise statement of claim—Rules 2 to 14 of the Cyprus Admiralty Jurisdiction Order, 1893. 10

Admiralty—Jurisdiction.

By an action in personam plaintiff prayed for the following relief which he set forth in the concise statement of claim in the body of the writ: "Special and general damages for personal injuries, loss and damage which the plaintiff suffered on or about the 11th January, 1975, within the territorial waters in Limassol while being in the service of the defendants and/or either of them, and during and in the course of his employment, as a result of the negligence and/or breach of their statutory duties and/or breach of contract on behalf of the defendants, their servants and/or agents". 15 20

After entering a conditional appearance defendants 1 applied for an order to set aside the issue and service of the writ on the ground that the Court had no jurisdiction to try this case. Their main contention was that the writ of summons does not fall within the claims contained in sub-section 1(f) of section 1 of the English Administration of Justice Act, 1956 or within any category of that sub-section; that the fact that the accident occurred within the territorial waters of Limassol was not 25

5 sufficient; that the name of the Ship that was involved ought to be referred to in the concise statement of the claim in the writ of summons; and that unless it was clear on the writ of summons that the claim fell within one of the categories enumerated in paragraphs (a) to (r) in sub-section 1 of section 1 of the 1956 Act this Court had no jurisdiction.

10 *Held*, as there is no doubt that this is an action in personam the name of the Ship involved need not be referred to in the concise statement of the claim (see rule 7 of the Cyprus Admiralty Jurisdiction Order, 1893). From the said concise statement of the claim in the present case and the reference to the territorial waters made therein it is obvious that the Supreme Court in its Admiralty Jurisdiction, is the proper Court that can adjudicate on the plaintiff's claim.

15 *Application dismissed with costs.*

Application.

20 Application by defendant No. 1 for an order setting aside the issue and service of the writ of summons in an admiralty action whereby the plaintiff claimed special and general damages for personal injuries he received whilst in the service of the defendants.

Fr. Saveriades, for the applicant.

A. Anastassiades, for the respondent.

The following judgment was delivered by:-

25 MALACHTOS, J.: The plaintiff in this Action on 11.11.75 instituted legal proceedings against the defendants claiming special and general damages for personal injuries he received whilst in their service on or about the 11th day of January, 1975.

30 On 12.12.75, the day named in the writ of summons for appearance, counsel appearing for defendant No. 1 applied and obtained leave to enter conditional appearance and was given three weeks time within which to file an application in order to set aside the issue and service of the writ. On 29.12.75
35 the present application on behalf of defendant No. 1 was filed claiming an order of the Court setting aside the issue and service of the writ of summons in this action as wrongly and irregularly made. In the accompanying affidavit in support of the application it is stated that this Court has no jurisdiction to try this
40 case since the matters raised in the writ are not within the matters on which this Court can adjudicate by virtue of section

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19 of the Courts of Justice Law, 1960 (14/60), and the English Administration of Justice Act 1956 section 1(1).

By virtue of section 19 of Law 14/60 the High Court, now the Supreme Court of Cyprus, shall, in addition to the powers and jurisdiction conferred upon it by the Constitution, have exclusive original jurisdiction as a Court of Admiralty vested with and exercising the same powers and jurisdiction as those vested in or exercised by the High Court of Justice in England in its Admiralty jurisdiction on the day immediately preceding Independence Day. The admiralty jurisdiction exercised by the High Court of Justice in England on the day immediately preceding our Independence Day, is defined by section 1 of the Administration of Justice Act 1956.

The plaintiff opposed the above application and in his affidavit in support of the opposition alleges that this Court has jurisdiction to try the present action as it falls within the provisions of section 1(1)(f) of the English Administration of Justice Act 1956. Subsection 1 (f) of section 1 of this Act reads as follows:

“(1) The Admiralty jurisdiction of the High Court shall be as follows, that is to say, jurisdiction to hear and determine any of the following questions or claims:-

(a) to (e)

(f) any claim for loss of life or personal injury sustained in consequence of any defect in a ship or in her apparel or equipment, or of the wrongful act, neglect or default of the owners, charterers or persons in possession or control of a ship or of the master or crew thereof or of any other person for whose wrongful acts, neglects or defaults the owners, charterers or persons in possession or control of a ship are responsible, being an act, neglect or default in the navigation or management of the ship, in the loading, carriage or discharge of goods on, in or from the ship or in the embarkation, carriage or disembarkation of persons on, in or from the ship.”

The concise statement of the claim of the plaintiff and the relief sought, set forth in the body of the writ is as follows:-

“ α) Ειδικάς και Γενικός άποζημιώσεις δια σωματικής βλάβας, άπώλειαν και ζημίαν τας όποιας ό Ένάγων ύπέστη κατά η περι την 11ην Ιανουαρίου 1975 έντός της αίγιαλίτιδος ζώνης

5 ἐν Λεμεσῷ ἐνῶ ἦτο εἰς τὴν ὑπηρεσίαν τῶν Ἐναγομένων καί/ἢ
ἐκατέρου τούτων καὶ κατὰ τὴν ἐκτέλεσιν τῶν καθηκόντων τῆς
ἐργασίας του, ὡς ἀποτέλεσμα τῆς ἀμελείας καί/ἢ παραβάσεως
θεσμίων καθηκόντων καί/ἢ ἀθετήσεως συμβάσεως ἐκ μέρους
τῶν ἐναγομένων τῶν ὑπηρετῶν καί/ἢ ἀντιπροσώπων των”.

10 (Special and general damages for personal injuries, loss
and damage which the plaintiff suffered on or about the
11th January, 1975, within the territorial waters in Limassol
while being in the service of the defendants and/or either
of them, and during and in the course of his employment,
as a result of the negligence and/or breach of their statu-
tory duties and/or breach of contract on behalf of the
defendants, their servants and/or agents).

15 The main contention, and in fact the only argument of sub-
stance, of counsel for the applicant is that the writ of summons
issued in this action does not fall within the claims contained
in subsection 1(f) of section 1 of the English Administration of
Justice Act 1956 as alleged by the respondent or within any
20 other category of that subsection. The fact that the accident
occured within the territorial waters of Limassol is not sufficient.
The name of the ship that was involved ought to be referred to
in the concise statement of the claim in the writ of summons
and we cannot go by guess and say that a ship was involved.
Unless it is clear on the writ of summons that the claim falls
25 within one of the categories enumerated in paragraphs (a) to (r)
in subsection 1 of section 1 of the Act of 1956 then this Court
has no jurisdiction and the issue and service of the writ has to
be set aside.

30 The form and commencement of proceedings and the issue
of a writ of summons in Admiralty actions is governed by the
Rules of the Supreme Court of Cyprus in its Admiralty Jurisdic-
tion, rules 2 to 14. In particular rule 7 reads as follows:

35 “7. Every writ of summons shall set forth at the head
thereof the name of the Court and the name of every
plaintiff and defendant where the action is in personam,
and in the case of an action in rem the name of the ship
or the nature of the property sought to be affected by the
action.

40 Where the plaintiff sues or any defendant is sued in a
representative capacity such capacity shall be stated.”

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In the present case there can be no doubt that this is an action in personam and according to the above rule the name of the ship involved need not be referred to in the concise statement of the claim. From the said concise statement of the claim in the present case and the reference to the territorial waters made therein, it is obvious that the Supreme Court in its Admiralty Jurisdiction, is the proper Court that can adjudicate on the plaintiff's claim.

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Therefore, this application is dismissed with costs.

Application dismissed with costs. 10