

1978 November 21

[TRIANTAFYLIDIS, P., A. LOIZOU, MALACHTOS, JJ.]

STATE MACHINERY IMPORT CO.,

Appellants-Plaintiffs,

v.

LIMASSOL LICENSED PORTERS ASSOCIATION
AND OTHERS,

Respondents-Defendants.

(Civil Appeal No. 5834).

Civil Procedure—Practice—Appeal against order adding new co-defendants—Stay of proceedings pending determination of appeal—No wrong exercise of discretion by trial Judge in granting stay because respondents, as defendants in the action, will be affected by outcome of said appeal.

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On March 11, 1978, the District Court of Limassol made an order in Action No. 1748/77 by which there were added ninety-six new co-defendants. Against that order there was filed civil appeal No. 5825 on March 20, 1978. On March 29, 1978, the respondents in this appeal applied for stay of the proceedings in the action pending the determination of appeal No. 5825 and in the exercise of its discretion the trial Court made an order to that effect on April 8, 1978. Hence the present appeal.

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Held, that it is clear that, depending on whether or not the order for the addition of the ninety-six co-defendants is upheld, the respondents, as defendants in the action, will have to frame their statement of defence accordingly; that they will, therefore, be affected by the outcome of appeal No. 5825, which was made against that order, especially as the action cannot be proceeded with separately against, respectively, the respondents and the ninety-six new defendants, who will continue to be defendants if the order for their addition is upheld in appeal No. 5825; that it has not been established to the satisfaction of this Court that the trial Judge, who granted the appealed from order for stay of proceedings, has exercised his discretion in a wrong manner, so

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as to render it necessary for this Court to intervene in favour of the appellants; and that, accordingly, the appeal must be dismissed.

Appeal dismissed.

5 Appeal.

Appeal by plaintiffs against the order of the District Court of Limassol (Hadjitsangaris, S.D.J.) dated the 8th April, 1978 (Action No. 1748/77) by virtue of which the proceedings in the action were stayed pending the determination of civil appeal
10 No. 5825 which arose out of that action.

— G. Mitsides, for the appellant.

— G. Cacoyiannis, for the respondent.

— TRIANTAFYLLIDES P. gave the following judgment of the Court. This is an appeal against an order made by the District
15 Court of Limassol in action No. 1748/77.

— By virtue of such order the proceedings in the action were stayed pending the determination of civil appeal No. 5825 which arose out of that action.

The procedural context in which the present appeal was made
20 is as follows:

On March 11, 1978, the trial Court made an order in the aforesaid action by which there were added ninety-six new co-defendants. Against that order there was filed civil appeal
25 No. 5825, on March 20, 1978. On March 27, 1978, the appellants in the present appeal applied, as respondents in appeal No. 5825, that the appellants in that appeal should be ordered to give security for costs. That application was heard on April 11, 1978, but has not yet been determined in view of the complexity of certain legal issues which were raised during its hearing
30 and which are directly related to some of the main substantive issues in the action in question; and as a result, appeal No. 5825 has, also, remained pending in the meantime.

On March 29, 1978, the respondents in the present appeal applied for stay of the proceedings in the action pending the
35 determination of appeal No. 5825 and, in the exercise of the discretion of the trial Judge, an order to that effect was made on

April 8, 1978; and against that order the present appeal has been filed.

It is clear that, depending on whether or not the order for the addition of the ninety-six co-defendants is upheld, the respondents, as defendants in the action, will have to frame their statement of defence accordingly; they will, therefore, be affected by the outcome of appeal No. 5825, which was made against that order, especially as the action cannot be proceeded with separately against, respectively, the respondents and the ninety-six new defendants, who will continue to be defendants if the order for their addition is upheld in appeal No. 5825. 5 10

We, consequently, cannot hold that it has been established to our satisfaction that the trial Judge, who granted the appealed from order for stay of proceedings, has exercised his discretion in a wrong manner, so as to render it necessary for us to intervene in favour of the appellants. 15

As a result, the present appeal is dismissed with costs.

Appeal dismissed with costs.