

1988 October 26

[PIKIS, J.]

IN THE MATTER OF ARTICLE 146 OF CONSTITUTION

NICOS TZIAKOURIS,

Applicant,

v.

1. THE AGRICULTURAL INSURANCE ORGANIZATION,
2. THE DIRECTOR OF THE AGRICULTURAL INSURANCE ORGANIZATION,

Respondents.

(Case No. 169/87).

Agricultural Insurance Organization—Assessment of damage to crops due to hail—A matter requiring special knowledge—Applicant failed to persuade the Court that the respondents exercised their discretion in a defective manner.

5 The facts of this case appear sufficiently from the judgment of the Court.

Recourse dismissed.

Recourse.

10 Recourse against the decision of the respondents whereby the damage caused to applicant's grain as a result by a hail storm was assessed as not exceeding 10%.

A. Papacharalambous, for the applicant.

Ch. Kyriakides, Senior Counsel of the Republic, for the respondents.

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Cur. adv. vult.

PIKIS J. read the following judgment. Nicos Tziakouris, the applicant, is a grain grower. In the agricultural season 1985-1986, he planted an area of 270 donums with hard grain of the Arona variety at Lefkara. On 21st May, 1986, Lefkara were struck by a hail storm that damaged crops and plantations in the vicinity. Shortly afterwards the applicant submitted an application to the Agricultural Insurance Organization (established under the Agricultural Insurance Law 1987, and Regulations made thereunder), for compensation for damage caused to his crops. He submitted that his plantation had been devastated by hail reducing considerably the anticipated yield from an area of 200 donums affected by the storm. In an affidavit sworn to in support of his application he alleged that whereas the anticipated grain yield should be in the region of 32,000 bushels, the quantity harvested was only about 10,000 bushels. Consequently, he suffered damage equivalent to the value of 22,000 bushels of grain.

The agricultural inspectors who carried out a local inspection with a view ascertaining the sustenance of damage and its assessment, concluded that the crops of the applicant were little affected by the hail storm. In one of the three areas where damage had allegedly been suffered it was virtually impossible to carry out effective inquiry for the reason that the crop had been harvested; whereas in the other two localities damage from hail was very limited. Birds had done more damage to the crops than hail. In their assessment the damage occasioned to the applicant by hail did not exceed 10% of the anticipated yield.

Applicant objected to the assessment, whereupon a second inspection was carried out by another team of two agricultural inspectors as provided by the Regulations*. The inquiry had the same outcome as the first, confirming that damage did not exceed 10% of the anticipated yield. In an affidavit sworn to by Savvas Ioannides, an Agricultural Inspector, details are given of the quantity of seeds planted and the quantity of grain ultimately delivered by the applicant.

* Agricultural Insurance Regulations Κ.Π.Δ. 67/77, Reg. 5 et. seq.

5 It must be appreciated that the ascertainment and assessment of damage to crops by a natural disaster is a field requiring specialized knowledge and a degree of experience. The only material before us tending to controvert the findings of the inspectors, derives from the applicant and primarily rests on his impressions of the extent of the damage caused and his expectations about the anticipated yield. Nothing placed before me persuades me that the inquiry carried out was defective or the decision invalid for any reason.

10 I, therefore, conclude that the sub judice decision is not vulnerable to be aside on any valid ground. It is, therefore, confirmed pursuant to the provisions of para. 4(a) of Art. 146 of the Constitution.

Recourse dismissed.