

1989 June 22

(KOURRIS, BOYIADJIS, ARTEMIDES, JJ.)

ARTO ESTATES LTD.,

Applicants,

v.

NITSA THRASYVOULOU,

Respondent.

(Civil Application No. 84/89).

Costs — Leave to appeal from an order relating thereto — The Civil Procedure Rules 0.35, rule 20 — Action dismissed, but «in the circumstances» no order for costs made — Failure to explain the circumstances — Leave granted.

5 The facts of this case appear sufficiently from the hereinabove headnoted.

Application granted.

Application.

10 Application for leave to appeal from a decision of the District Court of Limassol as regards the order for costs.

Y. Yasemis, for the applicant.

15 KOURRIS J. read the following judgment of the Court. By this application applicant asks for leave to appeal from a decision of the District Court of Limassol solely on the ground of a wrong decision in regard to costs. It is based on Order 35, rule 20 of the Civil Procedure Rules.

20 The applicant was a defendant in the action before the District Court and the plaintiff's claim was dismissed without any order as to costs. The plaintiff's claim was for £432 being commission for securing tenants to the shops of the defendant.

Counsel for the applicant said that the trial Judge stated that «in the circumstances of the case» he should make no order as to costs, but he failed to explain the circumstances of the case on

which he relied to make no order as to costs, and because there is a rule of practice that the costs follow the event the Court should grant leave to appeal against costs.

In considering this matter, it should be borne in mind that leave to appeal from a decision solely on the ground of a wrong decision in regard to costs can only be given if it is made to appear according to Order 35 Rule 20. that the direction 5

(a) was contrary to the provisions of any law or rule; or

(b) it was based on a misconception of fact; or

(c) it directed a party to pay costs incurred or occasioned without a sufficient reason by the other party. 10

We think that the applicant succeeded to bring himself within the provisions of Order 35, rule 20 and we accordingly grant the application and we extend the time for filing an appeal against costs within 10 days from today. 15

Application granted.