1929.
Dec. 13.

NICOLAIDES
v.
S.O.C.

BELCHER, C.J., DICKINSON AND FUAD, JJ.]

PERICLES P. NICOLAIDES

v.

THE STANDARD OIL COMPANY OF NEW YORK.

Civil Procedure—Discovery—Affidavit in answer—What is sufficient disclosure—Order XII, Rules 6 and 9.

In an action for wrongful dismissal, defendant was ordered to disclose various classes of documents but not any particular document. In his affidavit he denied having any document of the classes called for.

Held, that sufficient disclosure had been made.

Appeal by plaintiff from order of Divisional Court of Nicosia–Kyrenia (No. 195, Nicosia 243/28) dismissing an application of the plaintiff to have defence struck out for failure to comply with an order for discovery.

The action was one for damages for wrongful dismissal. Plaintiff obtained an order for discovery ; and an affidavit in answer was filed by Mr. J. C. Clerides, as agent of the defendant Company. The application to strike out the defence was based on Mr. Clerides' not being an officer of the Company, and on inadequacy of the answers in the affidavit. When the matter first came before the Supreme Court on appeal it was adjourned to enable an affidavit to be made by the manager of the defendant Company at Beirut (where part of the cause of action was alleged to have arisen). This was done. The order for discovery called for disclosure as to (*a*) regulations of the Company as to employees, and (*b*) documents relating to plaintiff's engagement. The manager's affidavit denied the existence of any regulations as to engagement and dismissal of employees affecting plaintiff, but disclosed a form of letter, not in use at material times, now given by the defendant to its employees on engagement. This form contains a reference to obedience by employees of "all rules and regulations of the Company." The affidavit stated these rules and regulations to be instructions issued from time to time, written or verbal, relating to conduct and performance of duties by employees.

G. N. Chryssafinis (for *Triantafyllides*) for appellant.

Clerides for respondent.

The judgment of the Court was delivered by the Chief Justice.

JUDGMENT :—

BELCHER, C.J. : The appeal must be dismissed. The order for discovery as asked for and granted was firstly as to regulations *re* appointments and their termination,

pensions, and generally, and secondly as to particular documents regarding the appointment of the plaintiff: besides the usual order as to "all documents." The defendant's Manager swears there never were any general regulations in plaintiff's time, nor any particular documents affecting plaintiff's engagement, and he says he has no documents material to the case. We do not see what further disclosure he could have made. It is not as if plaintiff had specified any one or more particular documents: not only does he not do so when applying for discovery but he does not even allege in his statement of claim that he was employed on a written agreement.

Appeal dismissed: costs in cause.

[BELCHER, C.J., DICKINSON AND SERTSIOS, JJ.]

FATMA ISMAIL AND ANOTHER

v.

THE ATTORNEY-GENERAL.

Civil Procedure—Action against Crown—Fiat—Costs—Discretion of Court—C.C.J.O., 1927, *Clauses* 39 *and* 44.

Plaintiffs obtained a fiat in respect of a writ for proceedings against the Crown, in which writ no claim was made for costs. The action was dismissed by the District Court, but plaintiffs successfully appealed to the Supreme Court which adjudged them their costs. On application by the Crown to amend the judgment on the ground that there was no power to award costs,

Held, that there was such power.

Application by defendant under Order XVII., Rule 2, to amend judgment of Supreme Court.

Pavlides, Acting Solicitor-General, for Crown: There was no claim for costs in the writ, and the fiat was limited to what we understood was asked for. There can be no amendment of a writ of summons on which a fiat has been granted.

Fadil for respondents (appellants in the appeal).

The decision of the Court was delivered by the Chief Justice.

JUDGMENT:—

BELCHER, C.J.: The Court has always a discretion as to costs, even where not claimed in the writ, and the fiat here must be taken to have been given with due regard to the existence of that discretion.

Application dismissed.