

If this were the case, we should order an amendment, if asked for, subject to directions as to costs.

But no amendment would be of any use, because the Plaintiff was not ready and willing to do her share when she brought her action, and therefore could not, in this action, compel the Defendant to do her share.

The judgment must be reversed and the appeal allowed with costs.

*Appeal allowed.*

TYSER, C.J.  
&  
BERTRAM,  
J.  
—  
GIULSUM  
OSMAN  
v.  
ZEHRA  
AHMED  
—

[TYSER, C.J. AND BERTRAM, J.]

THE COMMITTEES OF THE ELEMENTARY SCHOOLS OF  
NICOSIA FOR THE YEARS 1905-1906, 1906-1907,  
1907-1908,

v.

THE COMMISSIONER OF THE NICOSIA DISTRICT.  
EX PARTE CHRISTODOULOS MICHAELIDES AND MICHAEL  
TOPHARIDES BOTH PERSONALLY AND AS TRUSTEES FOR  
THE CHURCH OF PHANEROMENE.

TYSER, C.J.  
&  
BERTRAM,  
J.  
1908  
—  
Dec. 28  
—

PRACTICE—MANDAMUS—RIGHT OF PERSONS AFFECTED BY ORDER OF MANDAMUS TO BE HEARD—ORDER IX RULE 11—MANDAMUS LAW, 1890.

Persons whose interests may be affected by the issue of an order of Mandamus to a public officer ought to have an opportunity of being heard before the issue of the order.

Such persons may be joined as Defendants under Order IX rule 11.

Where the persons applying to be heard are numerous, the Court should make an order for the conduct of the case by one or more of them in a representative capacity under Order IX rule 6A.

An action was instituted for an order of Mandamus against the Commissioner of Nicosia calling upon him to collect the arrears of education rate for the past three years. The Applicants, as rate-payers and as trustees of a church liable to pay a large sum for rates if the order issued, applied to be joined as Defendants, so as to be heard in opposition to the issue of the order.

HELD: That the Applicants were entitled to be joined as Defendants.

This was an appeal from a decision of the Nicosia District Court, confirming a decision of the President.

The action was a claim under the Mandamus Law, 1890, that an order of Mandamus should be issued against the Commissioner of the District of Nicosia calling upon him to collect the arrears of education rate, for the years 1905, 1906, 1907, which the Commissioner in view of the uncertainty which had prevailed as to the legal status of the Education Committee for those years had refrained from collecting.

The Applicants intervened both in their personal capacity, as rate-payers, and as Trustees of Phaneromeni Church, which in the event of the Mandamus issuing would be called upon to pay a considerable sum as education rate, and applied under Order IX rule 11 to be joined as Defendants in order that they might contest the legality of the claim made by the Plaintiffs.

TYSER, C.J. The President dismissed the application, holding that the Applicants had no *locus standi*, and the full Court, on appeal, confirmed this decision.

&  
BERTRAM,  
J.

THE COM-  
MITTEES  
OF THE  
ELEMEN-  
TARY  
SCHOOLS  
OF  
NICOSIA  
v.  
THE  
COMMISS-  
SIONER  
OF  
NICOSIA

The Applicants appealed.

*Chryssafines* for the Appellants.  
*Theodoiou* for the Plaintiffs in the action.  
*Bucknill, K.A.*, for the Commissioner.

The Court allowed the appeal.

*Judgment.* CHIEF JUSTICE: The Applicants in this case apply to be joined as parties on the ground that their interests will be seriously affected by the order of Mandamus asked for and contended that under Order IX rule 11 it is proper that they should have an opportunity of being heard.

The object of the Mandamus Law, 1890, is to grant a remedy similar to that given under the English law by the issue of the prerogative writ of Mandamus.

It has always been a principle of that procedure in England that where a writ of Mandamus is asked for all persons whose interests may be affected by its issue should have an opportunity of being heard.

By rule 61 of the Crown Office Rules, 1886, it is provided that "notice shall be given by the order *nisi* for a mandamus to every person who, by the affidavits on which the order is moved, shall appear to be interested in or likely to be affected by the proceedings, and to any person who in the opinion of the Court or Judge ought to have such notice." Rule 63 of the same rules provides that "any person, whether he has had notice or not, who can make it appear to the Court or Judge that he is affected by the proceeding for a writ of mandamus may shew cause against the order *nisi* or summons and shall be liable to costs in the discretion of the Court or a Judge if the order should be made absolute, or the prosecutor obtain judgment."

No rules of procedure seem to have been so far made under the Mandamus Law, 1890, but the Court has power to join the Applicants as parties under the rule under which this application is made, and this seems to be a case in which that power should be exercised.

The appeal must be allowed. Costs to be costs in the cause.

BERTRAM, J.: I agree.

It is obvious that if it was not open to any person whose interests might be prejudiced by an order of mandamus addressed to a public officer to be heard in opposition to the issue of the order, the procedure might in many cases become a very oppressive one.

It would no doubt be very inconvenient in a case like the present, where the order would affect a considerable community, if a large number of the persons affected applied to be heard, but in such a case the Court would have power under Order IX rule 6A to make an order for the appointment of one or more of them to conduct the case of all in a representative capacity.

*Appeal allowed.*