

1966
Feb. 11,
June 15, 29,
Dec. 31

[TRIANTAFYLIDIS, J.]

IN THE MATTER OF ARTICLE 146 OF THE
CONSTITUTION

MODESTOS SAVVA
PITSILLOS
(No. 2)

MODESTOS SAVVA PITSILLOS (No. 2),

Applicant,

and
THE REPUBLIC
OF CYPRUS,
THROUGH

and

THE REPUBLIC OF CYPRUS, THROUGH

1. THE MINISTER OF AGRICULTURE
AND NATURAL
RESOURCES,
2. MANAGER OF
THE WATER
BOARD
OF NICOSIA

1. THE MINISTER OF AGRICULTURE AND
NATURAL RESOURCES,

2. THE MANAGER OF THE WATER BOARD
OF NICOSIA,

Respondents.

(Case No. 148/64).

Constitutional Law—Article 29 of the Constitution—Duty of the public authorities to deal with and reply expeditiously to complaints submitted by the subject—Omission—Applicant's complaint against an alleged omission of respondents to examine duly his applications—Not upheld—Because proper replies etc. were given—And no question of any omission either in the sense of Article 29 of the Constitution, or otherwise, arises in relation thereto.

Administrative Law—Contracts—Competence under Article 146 of the Constitution—Matters arising out of a contract, in this case arising out of a water-supply agreement, are matters within the domain of private law—And, therefore, not within the competence under Article 146 of the Constitution.

Private Law—Public Law—Matters of private Law are not within the competence under Article 146 of the Constitution—See, also, under Administrative Law, above.

Contracts—Water-supply agreement with the public authority concerned—Governed by private law—Outside the competence under Article 146 of the Constitution—See, also, above.

Competence—Competence under Article 146 of the Constitution—See above.

Abuse of the Process of Supreme Court—Costs—Applicant ordered to pay the costs of the respondents—On the ground that his

recourse has come quite close to being nothing more than an abuse of the process of the Supreme Court.

Costs—Applicant ordered to pay the costs of the respondents—See under “Abuse of the Process of the Supreme Court,” above.

Supremé Court—Abuse of its process—See above.

Recourse—Recourse under Article 146 of the Constitution—Abuse of the process of the Court—See above.

Practice—Costs—See above.

The facts sufficiently appear in the judgment of the Court.

Recourse.

Recourse against the decision of the Respondents to demand from Applicant payment of £44,200 mils in relation to water supplied to him.

Applicant appearing in person.

L. Loucaides, Counsel of the Republic, for Respondent 1.

A. Triantafyllides with Chr. Artemides for Respondent 2.

Cur. adv. vult.

The following Judgment was delivered by:—

TRIANTAFYLLIDES, J.: By a Decision given in this Case on the 15th June, 1966, the first claim of the motion for relief in the Application was dismissed for the reasons given in such Decision;* the said reasons need not be repeated herein, but they should be regarded as adopted hereby.

There followed, then, further hearing of this Case on the remaining two claims, the second and the third; it is now proposed to give Judgment thereon.

By his second claim the Applicant complains against an omission on the part of Respondents to examine duly his applications dated 14th April, 1964, 6th August, 1964, 3rd October, 1964 and 20th October, 1964. (The relevant documents are *exhibits* 7(a), 9, 10(a) and 11).

By his third claim the Applicant complains against the replies received from the Ministry of Agriculture and Natural

*Decision reported in this Part at p. 589 *ante*.

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Resources, in answer to his aforesaid applications; such replies are dated 8th September, 1964, 26th September, 1964, 15th October, 1964 and 27th October, 1964. (The relevant documents are *exhibits 3, 7(b), 6(f) and 2*).

Having perused all the relevant documents (some of which were put in twice, as exhibits, both as originals and as copies, in an *ex abundanti cautela* effort of the parties to make available all the material in their own possession) I have reached the conclusion that the applications—or rather complaints—of the Applicant, did receive proper replies and that no question of any omission, either in the sense of Article 29 of the Constitution, or otherwise, arises in relation to such complaints.

Regarding the replies, as such, which Applicant received, and about which he complains by the third claim of the motion for relief, they are all part and parcel of the dispute of the Applicant with Government, arising out of the relevant water-supply agreement, *exhibit 1*, and as held already by the Decision dated the 15th June, 1966, in the present Case, such matters are within the domain of private law and not within the competence under Article 146 of the Constitution.

Even if, however, a view contrary to the above were to be taken, then again this recourse would be bound to fail, under Article 146, because it would be out of time as against the contents of the letter dated the 8th September, 1964 (*exhibit 3*) and the contents of the letters dated the 26th September, 1964 to 27th October, 1964 could not be held to be executory acts or decisions against which a recourse could lie; the said three letters are, in effect, confirmatory acts of the stand taken by the Ministry of Agriculture by means of the letter of the 8th September, 1964.

For all the above reasons, and the reasons already set out in the aforesaid Decision of the 15th June, 1966, this recourse fails in toto and is hereby dismissed.

As this recourse has come quite close to being nothing more than an abuse of the process of this Court I hereby order that Applicant should bear the costs of both Respondents, to be assessed by a Registrar, subject to any order for costs already made not being affected.

Application dismissed.

Order as to costs as aforesaid.