

IN THE MATTER OF THE JUDGMENT OF THE
PRESIDENT OF THE DISTRICT COURT OF
FAMAGUSTA IN CRIMINAL CASE No. 9093/68,
DATED THE 4.10.69,

EX PARTE
LOUCIA
KYRIACOU
CHRISTOU
MAROULLETI

and

IN THE MATTER OF AN APPLICATION BY
LOUCIA KYRIACOU CHRISTOU MAROULLETI
FOR LEAVE TO APPLY FOR AN ORDER OF
CERTIORARI.

(Civil Application No. 2/70).

Certiorari—Application for leave to apply—Leave granted—Arguable prima facie case made out—Principles applicable—Order for cancellation of registration of land in the name of the applicant; and order for registration of same land in the name of the Government of Cyprus—Order in question made by the President of the District Court of Famagusta in a criminal case—In which applicant was convicted (and sentenced) of offences relating to the registration in her name of said land—Whether order in excess of jurisdiction of the Trial Judge.

Granting the leave applied for the Court :

Held, (1). The question which falls for determination by me at this stage is whether there is a *prima facie* case made out sufficiently to justify the granting of leave to the applicant to move the Court in due course to issue an order of *certiorari*. It is not necessary for me to go now into the matter thoroughly. It is sufficient if on the face of the applicant's statement and the affidavits in support the Court is satisfied that such leave should be granted (see e.g. *Ex parte Costas Papadopoulos* (1968) 1 C.L.R. 496).

(2). At this stage it would appear the applicant has made out a *prima facie* arguable case that the trial Judge may not have had power or jurisdiction to make the order or part thereof, which he did make on October 4, 1969, in the Criminal Case No. 9093/68.

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(3). Leave to apply granted. In the meantime I direct that all proceedings in execution of the aforesaid order dated October 4, 1969 be stayed pending the hearing and determination of the application or until further order.

*Leave to apply for an order
of certiorari granted.*

Cases referred to :

Ex Parte Costas Papadopoulos (1968) 1 C.L.R. 496.

Application.

Application for leave to file an application for an order of *certiorari* quashing an order made by the President, District Court of Famagusta on the 4th October, 1969, in Criminal Case No. 9093/68.

L. Papaphilippou, for the *ex parte* applicant.

The following ruling was delivered by :—

JOSEPHIDES, J.: This is an application for leave to file an application for an order of *certiorari* quashing the following order made by the President of the District Court of Famagusta on the 4th October, 1969, in Criminal Case No. 9093/68 :

“ I further order that the existing registration No. 8257, dated 20.4.60, of the Lands Office of Famagusta, in the name of accused No. 1, to wit *Exhibit 4* in the Land Register, *Exhibit 9*, be cancelled forthwith, and that this property, i.e. plot 92, Block ‘ B ’ Ay. Ioannis Qr., Famagusta, be registered in the books of the Lands Office of Famagusta in the name of the Government of Cyprus, i.e. now the Republic of Cyprus .”

In that case the present applicant was convicted on three counts as follows : (1) For conspiring with another person, that is, the District Lands Officer, at the time in Famagusta, to commit a misdemeanour, that is, to obtain registration of a piece of land under plot No. 92 of Block “ B ” of Ayios Ioannis Quarter, Famagusta, by false pretences (contrary to sections 372 and 35 of the Criminal Code, Cap. 154) ; (2) for obtaining registration by false pretences of the aforesaid plot (contrary to section 305 of the Criminal Code, Cap. 154) ; and (3) for conspiring to defraud the Government of Cyprus, that is, obtaining registration of the plot in question, the property of the Government of Cyprus, valued at £16,500 (contrary to section 302 of the Criminal Code).

Along with the present applicant the District Lands Officer at the time was also convicted on the first and third counts, in addition to other counts. The present applicant was sentenced to pay a fine of £300 on the third count, plus costs, but no sentence was passed on her on the first two counts. The District Lands Officer was fined £500 plus costs. After imposing these sentences the learned trial Judge went on to make the order challenged in the present proceedings, which has been quoted earlier in this judgment. No appeal was lodged and the time for appeal has expired.

At the material time the plot in question appears to have been recorded in the Government Tax Register in the name of "Succession of John Langdon", but no name was recorded in the Land Register.

The question which falls for determination by me at this stage is whether there is a *prima facie* case made out sufficiently to justify the granting of leave to the applicant to move this Court in due course to issue an order of *certiorari*. As I had occasion to state in previous proceedings of this nature, it is not necessary for me to go now into the matter thoroughly, but it is sufficient if on the face of the applicant's statement, and the affidavits in support, the Court is satisfied that such leave should be granted (see e.g. *Ex parte Costas Papadopoulos* (1968) 1 C.L.R. 496).

At this stage it would appear that the applicant has a *prima facie* arguable case that the trial Judge may not have had power or jurisdiction to make the order, or part thereof, which he did make on the 4th October, 1969, in the above-mentioned criminal proceedings.

In these circumstances, I grant *leave* to the applicant to file an application for an order of *certiorari*. Meantime I direct that all proceedings in execution of the aforesaid order dated the 4th October, 1969, be stayed pending the hearing and determination of the application for an order of *certiorari* or until further order.

*Leave to apply for an order
of certiorari granted.*