

1981 December 15

[LORIS, STYLIANIDES, PIKIS, JJ.]

MODESTOS PITSILLOS,

Appellant-Plaintiff,

v.

ANDREAS HADJINICOLAOU AND OTHERS,

Respondents-Defendants.

(Civil Appeal No. 6215).

*Constitutional Law—Right to vindicate one’s rights before the Courts—
Article 30.2 of the Constitution—Trial of Civil Action—Adjourn-
ment for an indefinite period until plaintiff retracted an irrelevant
statement he had made in the course of cross-examining a witness
—Adjournment contrary to the above Article—Directions for* 5
the continuation of the hearing.

In the course of cross-examination of a witness the appellant-
plaintiff, who was appearing in person, made an irrelevant
suggestion to the witness in strongly worded language; the
trial Judge invited him to retract the irrelevant statement and 10
when the appellant refused to do so the Judge adjourned the
trial of the case until the appellant saw fit to retract the offensive
statement.

Upon appeal by the plaintiff:

Held, that in effect the trial Judge adjourned the case for an 15
indefinite period of time suspending in reality the right of the
plaintiff to pursue his case before the Courts of the Country;
that he had no right to do so, for by virtue of the provisions
of Article 30.2 of the Constitution the citizen has an unfettered
right to vindicate his rights before the Courts which in turn 20
are duty bound to take cognizance of the dispute and proceed
to a judicial determination within a reasonable time; accordingly
the appeal must be allowed with directions that the hearing
should continue, the soonest possible, before the same Judge.

Appeal allowed. 25

Per curiam:

Nothing that is said in this judgment should encourage litigants to make irrelevant statements in Court, or statements which come close to misbehaviour in Court; on the other hand the Court has many ways open to it to stop such deviations, without neutralizing the judicial process.

Appeal.

Appeal by plaintiff against the judgment of the District Court of Nicosia (Papadopoulos, P.D.C.) dated the 24th November, 1980 (Action No. 2685/76) whereby the trial of the above action was adjourned until the plaintiff saw fit to retract an offensive statement made by him during the cross-examination of a witness.

Appellant appeared in person.

N. Pelides, for the respondent.

LORIS J. gave the following judgment of the Court. In the course of cross-examination of the second witness for defendants, the plaintiff-appellant in these proceedings, appearing in person, made a suggestion to the witness in strongly worded language, accusing the witness of being a member of a criminal gang that plotted to kill him, an allegation that had no relevance to the *sub judice* issues, notably the case of assault under trial. The learned trial Judge (Papadopoulos P.D.C.) invited the appellant to retract his irrelevant statement; thus the appellant refused to do whereupon the Court adjourned the trial of the case until the appellant saw fit to retract the offensive statement. In effect the Judge adjourned the case for an indefinite period of time suspending in reality the right of the plaintiff to pursue his case before the Courts of the country. Thus, with respect, he had no right to do, for by virtue of the provisions of Article 30.2 of the Constitution the citizen has an unfettered right to vindicate his rights before the Courts who in turn are duty bound to take cognizance of the dispute and proceed to a judicial determination within a reasonable time.

Very rightly learned counsel for the respondents felt unable to support this ruling and in our view there is no alternative

but to allow the appeal and give directions for the continuation of the hearing, the soonest possible, before the same Judge.

Nothing that is said in this judgment should encourage litigants to make irrelevant statements in Court, or statements which come close to misbehaviour in Court; on the other hand the Court has many ways open to it to stop such deviations, without neutralizing the judicial process. 5

In the result the appeal is allowed. Directions are given for the continuation of the hearing before the same Judge; the costs of this appeal will be costs in cause but in no event against the appellant. 10

Appeal allowed; hearing of the case to continue before the same Judge; order for costs as above.