

COSTAS PATSAIDES,

*Applicant,*

v.

ANDREAS KYRIAKIDES,

*Respondent.*

(Civil Application No. 9/72).

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*Civil Procedure—Reserved judgment—Remaining reserved for more than six months—Application for directions—Proviso to rule 2, of Order 35 of the Civil Procedure (Amendment) Rules, 1965—Judgment delivered after filing of application—Filing of application not precluding delivery of judgment—Application, therefore, lapsed.*

*Reserved judgment for more than six months—Application for directions etc. etc.—Does not preclude delivery of judgment.*

The facts sufficiently appear in the ruling of the Court, whereby it was ruled that, judgment having been reserved for more than six months, the filing of an application for directions under rule 2, of Order 35 of the Civil Procedure (Amendment) Rules, 1965 does not preclude delivery of judgment.

### **Application.**

Application for directions, under the proviso to rule 2 of Order 35 of the Civil Procedure (Amendment) Rules, 1965, in relation to an application for summary judgment in Case No. 4869/71 in the District Court of Nicosia, the decision of which remained reserved for more than six months.

*L. Papaphilippou*, for the applicant.

*Ch. Kyriakides*, for the respondent.

The judgment of the Court was delivered by :—

TRIANTAFYLLIDES, P. : The applicant has applied, under the proviso to rule 2 of Order 35 of the Civil Procedure Rules, as amended by the Civil Procedure (Amendment)

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Rules, 1965, seeking directions from this Court in view of the fact that the decision in relation to an application for summary judgment in case 4869/71 in the District Court of Nicosia, which was reserved on the 12th November, 1971, remained reserved for more than six months and had not yet been delivered by the 28th September, 1972, when this application was filed. We have been informed today that this decision was eventually delivered on the 11th November, 1972.

Though the decision in question was delivered before the hearing of this application counsel for the applicant has nevertheless insisted that the application should be heard and determined by this Court, because, according to his submission, once the present application was filed the District Court was precluded from issuing subsequently its reserved decision and it had to await the outcome of these proceedings before us.

We find nothing in the relevant provision to warrant such a view and, therefore, in our opinion there was nothing to prevent the reserved decision from being delivered even after the filing of this application ; in order to accept as correct the submission of counsel for the applicant we would have to construe the provision concerned in a manner defeating its object, which is to avoid delay in the delivery of reserved decisions.

As the reserved decision in question has already been delivered, this application has lapsed and there is no direction or order which we could usefully make other than one dismissing it, with no order as to costs.

*Application dismissed. No  
order as to costs.*