

1929.
Nov. 21.
—
EVANGELI-
DES
v.
C.M.C.

which the servant has lost by the master putting an end to it. In this case the proviso for a month's notice clearly limits those rights to the receipt of a month's wages, and as appellant has been paid more than that we think he should have judgment for nominal damages only, without costs as he sustained no actual loss.

Appeal allowed: judgment for respondent set aside: judgment for appellant for 1s. damages; without costs.

(ORIGINAL JURISDICTION.)

1929.
Dec. 7.

[BELCHER, C.J., DICKINSON AND SERTSIOS, JJ.]

Re THEMISTOCLES DERVIS AND KYROS
TH. STAVRINIDES *Respondents*,
NICOSIA ELECTRIC COMPANY *Applicant*.

Contempt of Court—Pending Proceedings—Article in newspaper—Prejudice to trial—Procedure—C.C.J.O., 1927, Clauses 40 (ii), (vi) and (vii), and 221.

While a case was pending respondents published in a newspaper an article referring to the proceedings, whose natural effect would be to create in the minds of readers an animus against applicant Company.

Held, that the article was calculated to prejudice the fair trial of the proceedings and rendered the respondents liable to attachment, and that it was immaterial that to bring about such prejudice was not the object or not the primary object of the respondents.

Held also, that the proper mode of proceeding in such a case is by way of order to show cause obtained *ex parte* in first instance.

Application for writ of attachment.

Clerides, to show cause (publication having been admitted). An application for writ of attachment was served on me instead of the procedure outlined in Clause 40 of the Order being followed. I appear under protest.

There being no jury in Cyprus, what might be prejudicial to a fair trial in England is not necessarily so here, and there is nothing before this Court from which the likelihood of prejudice can be inferred. No pleadings have been ordered, nor is the case entered for trial. The Court should consider whether the publication was with a view to pending proceedings. *Re* Labouchere, 18 Times Rep. 208, and other cases cited in Annual Practice, 1929, p. 792.

N. G. Chryssafinis (with him *G. N. Chryssafinis*) to make the order absolute. My application for writ of attachment was based on precedent.

I submit that the terms of the article are so strong as to cross the line of what may be permitted, and the latter part is calculated to prevent witnesses coming forward for the defence in the civil action.

The judgment of the Court was delivered by the Chief Justice.

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—
DERVIS
v.
N.E.C.

JUDGMENT :—

BELCHER, C.J.: On the preliminary objection we decided that applicants' proper course was to apply *ex parte* for an order nisi, and not to ask as they did for attachment forthwith: but we treated the application as one for the issue of an order nisi and directed that respondents should be called on to show cause.

The cause of complaint on the substantive issue was certain paragraphs in an advertisement written by the respondent Dervis who is Mayor of Nicosia and published by the other respondent as a detached supplement to his newspaper "Eleutheria." The supplement is an account of municipal activities during the preceding half-year, and refers to many matters. One of them is electric lighting: the gist of what is said on this head is that owing to unfair charges by the applicant Company the Municipality has been obliged to take action: the Company is referred to as a Shylock, as a "gold bug," and as making certain charges without legal warrant, and as having broken its contract with the Municipality. This was published after the writ in the action referred to had been issued.

We have come to the conclusion that the primary object was to inform the rate-payers of the Mayor's municipal activities and though (as we do not doubt) he may have been actuated entirely by a spirit of civic duty, the article complained of went far beyond the reasonable needs of the case. Very highly coloured language was used: what was said and the way in which it was said would undoubtedly tend to create an atmosphere of hostility and prejudice against the Company, which in its turn would discourage witnesses from testifying in the Company's behalf. The difference between a Court consisting solely of judges, such as we have in Cyprus, and a Court consisting of judge and jury, is one of degree only of affectability. It would be most unsafe to allow any sort of statements concerning a pending case to be made with impunity on the hypothesis that nothing said outside the case can bias a judge. Acting on the precedent of a case reported without names in C.L.R., Vol. XI., at p. 8, we impose a fine of £5 on each defendant and order them to pay the costs of the proceedings.

Order to show cause directed to issue in first instance.

Order for payment of fine and costs made on substantive issue.