

[TRIANTAFYLLIDES, J.]

IN THE MATTER OF ARTICLE 146 OF THE
CONSTITUTION

CHRYSTALLA CONSTANTINIDOU,

Applicant,

and

1. THE REPUBLIC OF CYPRUS, THROUGH THE
DIRECTOR OF LANDS AND SURVEYS,
2. THE ATTORNEY-GENERAL OF THE REPUBLIC
OF CYPRUS,
3. LOIZOS SOFOCLEOUS,
4. THALIA KYRIAKIDOU, CAPTAIN,

Respondents.

(Case No. 362/68).

1968
Nov. 19
—
CHRYSTALLA
CONSTANTINIDOU
v.
REPUBLIC
(DIRECTOR OF
LANDS AND
SURVEYS) AND
OTHERS

*Sale of mortgaged property—Application for provisional order
postponing forced sale—Jurisdiction—Article 146 of the Con-
stitution.*

The facts sufficiently appear in the judgment of the Court.

Cases referred to:

Charalambides and The Republic, 4 R.S.C.C. 24.

Application.

Application for a provisional order postponing the forced sale by public auction of Applicant's immovable property, pending the determination of a recourse against the validity of the decision of Respondent 1 fixing the sale for the 24th November, 1968.

E. Emilianides, for the Applicant.

G. Ladas, for Respondent No. 4.

Respondent 3 appears *in person*.

Ch. Savvides, of the District Lands Office Nicosia, present.

The following Decision was delivered by:

TRIANTAFYLLIDES, J.: In this case the Applicant applies for a Provisional Order postponing the forced sale, by public auction, of her immovable property in Nicosia town, which is subject to mortgage HO69187; such sale has been fixed for the 24th November, 1968, by the Director of the Lands Office, Nicosia, for purposes of satisfaction of a debt, secured by the aforesaid mortgage and being due by the Applicant to Respondents 3 and 4.

The relevant decision of the Director was communicated to the Applicant by means of a letter dated the 10th October, 1968 (see *exhibit 1*).

The first matter, which calls for examination, is whether or not I have competence, under Article 146 of the Constitution, to entertain at all this recourse; because if I have no such competence, then I cannot, possibly, grant the Provisional Order applied for.

In view of the decision of the Supreme Constitutional Court in *Charalambides* and *The Republic* (4 R.S.C.C. p. 24), I have no difficulty in reaching the conclusion that I have no competence to entertain a recourse against the decision communicated to the Applicant by means of *exhibit 1*; therefore, I cannot grant a Provisional Order in these proceedings.

Counsel for the Applicant has complained, also, in argument, that the £2,100 reserve price, for the property concerned of the Applicant, as fixed in the relevant notice of sale, is the product of erroneous administrative action.

This matter cannot be dealt with by this Court in the present recourse because it is quite clear, on the material before me, that, in the meantime, after the recourse had been filed, there has supervened further administrative action which has raised the reserve price to £4,915; and if the Applicant complains that even the re-fixed reserve price is too low, then she may take such appropriate steps in the matter as she may deem fit.

In the result the application for a Provisional Order has to be dismissed.

Regarding the costs for today's proceedings, I see no reason why they should not be awarded against the Applicant and in favour of Respondent 4, who is appearing through counsel; I fix such costs at £8.—

Application for provisional order dismissed; order for costs as above.