

1987 February 13

(PIKIS, J)

IN THE MATTER OF THE APPLICATION  
OF PANICOS EFTHYMIU, OF NICOSIA, FOR LEAVE  
TO APPLY FOR AN ORDER OF CERTIORARI,

AND

IN THE MATTER OF AN ORDER AND/OR JUDGMENT OF  
THE RENT CONTROL COURT OF NICOSIA, DATED 10 12 1986,  
IN APPLICATIONS NOS E43/85 AND E 308/86

(Civil Appl No 23/87)

5 *Prerogative orders—Certiorari—Leave to apply—Principles applicable—Purpose of certiorari—Judgments and orders of Rent Control Court—Amenable to the jurisdiction under Article 155 4 of the Constitution—Right of audience safeguarded by Article 30 3 of the Constitution—Modification of an order issued by the said Court in proceedings in which applicant was a party by a subsequent order of that Court issued in applicant's absence in proceedings in which he was not a party—Prima facie applicant is entitled to relief—Leave granted*

10 *The applicant complains that his rights under an order of the Rent Control Court dated 20 9 85 and issued in proceedings in which he was a party, having been sued by the owners of the premises in his capacity as tenant, were prejudiced by the order impugned issued on 10 12 86 in proceedings between the owners and a third party, who had been sued as sub-tenant of the premises. Perusal of the record clearly suggest that the second order was*  
15 *made in applicant's absence*

*Held, granting leave to apply for an order of certiorari (1) Leave to apply depends on the applicant making out a prima facie case of entitlement to the remedy of certiorari. At this stage it is sufficient if the facts disclosed, pondered on their face value, justify the relief sought*

20 *(2) The judgments and orders of the Rent Control Court are amenable to judicial review under Article 155 4 of the Constitution*

*(3) The grievance of the applicant is that his rights were seriously curtailed without notice or opportunity to defend them in breach of the fundamental right of audience before a Court of Law safeguarded by Article 30 3 of the*  
25 *Constitution. Prima facie applicant appears to be entitled to relief*

*Leave granted*

*Cases referred to.*

*R v. Bodmin Justices* [1947] 1 All E.R. 109;

*Re Kakos* (1985) 1 C.L.R. 250;

*Frangos v. Medical Disciplinary Board* (1983) 1 C.L.R. 256;

*Re HjiCostas* (1984) 1 C L.R. 513.

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*Re Droushiotis* (1981) 1 C.L.R 708.

**Application.**

Application for leave to apply for an order of certiorari to bring up and quash an order of the Rent Control Court of Nicosia dated 10.12.86.

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*A. Ladas*, for the applicant.

*Cur. adv. vult.*

PIKIS J. read the following judgment. This is an application of Panicos Efthymiou, for leave to apply for an order of certiorari to bring up with a view to quashing an order of the Rent Control Court of 10th December, 1986, allegedly prejudicing his rights without opportunity having been afforded to him to be heard in the matter of the judicial cause. The order impugned modified and amended an earlier order of the Court (made on 20.9.1985) notwithstanding the fact that the parties in the two proceedings were not the same. Whereas the applicant was a party to the proceedings that led to the order of 20th September, 1985, sued by the owners in the capacity of tenant of the premises, the subsequent order of 10th December, 1986, was made in the context of proceedings between the owners and the third party sued as sub-tenant of the premises.

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It is the case for the applicant the order of 10th December, 1986, was made in his absence and in derogation of his rights safeguarded by the order of the 20th September, 1985. Seemingly the order of 10th December, 1986, purported to do away with the right acknowledged to the applicant by the order of 20th September, 1985, to a new tenancy upon payment of a sum of £9,000.- to Androulla Elia described as sub-tenant of the premises. Perusal of the record of the proceedings associated with the order of 10th December, 1986, clearly suggests the order was made in the absence of the applicant. Should the Court upon

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these facts give leave to apply for certiorari? The jurisdiction to make an order of certiorari, counsel submitted, is readily invoked in aid of a party praying for the quashing of an order made in breach of fundamental norms of the administration of justice\*.

- 5 Leave to apply for certiorari is dependent on the applicant making out a prima facie case of entitlement to the remedy of certiorari. The attributes of a prima facie case were thoroughly discussed by the Full Bench in the case of *Re Kakos*\*\*.
- 10 The applicant's case need not, at this stage, appear to be incontrovertible; it is sufficient if the facts disclosed, pondered on their face value, justify the relief sought. The range of the jurisdiction of the Supreme Court under Art. 155.4 was debated in *Frangos v. Medical Disciplinary Board*\*\*\*. It is primarily jurisdiction of a corrective character designed to enable the
- 15 Supreme Court to ensure that inferior Courts within the limits of their jurisdiction and in accordance with fundamental precepts of justice. In *Re HjiCostas*\*\*\*\* it was decided that judgments and orders of the Rent Control Court are amenable to judicial review under Art. 155.4. There are dicta to the same effect in the earlier
- 20 case of *Re Droushiotis*\*\*\*\*\*.

It follows that the order sought to be reviewed, made by the Rent Control Court on 10th December, 1986, is amenable to the jurisdiction of the Court by means of certiorari and, the complaint made of a character that could ground the remedy of certiorari.

- 25 The grievance of the applicant is that his rights were seriously curtailed without notice or opportunity to defend them in breach of the fundamental right of audience before a Court of law safeguarded by Art.30.3. Prima facie applicant appears to be entitled to relief. Therefore, leave is hereby granted to apply for
- 30 certiorari. The application must be filed within 10 days and it will be heeded by the Court on 12th March, 1987.

*Application granted.*

\**R. v. Badmin Justices* [1947] 1 ALL E R 109.

\*\* (1985) 1 C.L.R. 250

\*\*\* (1983) 1 C.L.R. 256

\*\*\*\* (1984) 1 C.L.R. 513.

\*\*\*\*\* (1981) 1 C.L.R. 708