

SUTHERLAND, J.:—The writ of summons in this action was issued on the 22nd January, 1909, at Kenora, then the district town of the provisional judicial district of Rainy River. By ch. 38 of the Ontario statutes of 1909, part of that district was separated therefrom, and a new district created under the name of Fort Francis. The new district was to come into actual existence later by proclamation, and did so on the 20th March, 1909, and its district town is Fort Francis.

The plaintiffs in their statement of claim, dated the 15th May, 1909, and filed at Kenora, laid the venue at Fort Francis, but all subsequent pleadings were also filed at Kenora. Notice of trial was served on behalf of the plaintiffs on the 3rd December, 1909, for the sittings at Fort Francis commencing on the 13th of that month, and on the same day a præcipe to enter the action for trial for the said sittings was left with the local registrar at Fort Francis.

On the 9th December, 1909, by special leave obtained from the local Judge at Fort Francis, a notice of motion was served by the defendant returnable on the 11th December, for an order that the statement of claim be struck out, on the ground that it disclosed no reasonable cause of action, and that, except for the purposes of the order to be made on the application, all proceedings in the action be stayed as against the defendant, or for an order that certain paragraphs of the plaintiffs' statement of claim be struck out as embarrassing and irrelevant, or for such further or other order as might be deemed meet.

The action is against one John C. Scott, the grantee in a tax deed from the municipality or township of McIrvine, and the plaintiffs, who claim to be the owners of the land covered by the deed, did not join the municipality as defendants. The hearing of the motion was adjourned until the 13th December, and on that day the local Judge at Fort Francis made an order that the defendant be at liberty to add the municipality of McIrvine as parties defendant to the action by inserting their name as defendants in the style of cause, and by serving their clerk with a copy of the plaintiffs' statement of claim within 15 days from the date of the order; and, further, that, in case the defendant should add the said municipality as party as aforesaid, the plaintiffs be at liberty within 15 days thereafter to make such amendments to their statement of claim as they might be advised; and, further, that the defendant be at liberty to make such amendments to his statement of defence as he might be advised, within 8 days after such amendment, if any, by the plaintiffs; and, further, that the said municipality of McIrvine, if added as parties defendant, should