

The  
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HIGH COURT DIVISION.

KELLY, J., IN CHAMBERS.

JULY 17TH, 1916.

EASTERN TRUST CO. v. MACKENZIE MANN & CO.

*Foreign Judgment—Action on Judgment of Supreme Court of Nova Scotia—Finality of Judgment—Pending Appeal to Privy Council—Motion for Summary Judgment—Order—Terms—Security.*

Appeal by the defendants from an order of the Master in Chambers, upon summary application, allowing the plaintiffs to enter judgment against the defendants for \$81,719.98 and costs in an action on a judgment recovered in the Supreme Court of Nova Scotia. The order contained these provisions: that the defendants should transfer to the plaintiffs certain shares of stock; and that execution for the \$81,719.98 and costs should not issue until the plaintiffs should have deposited security in the sum of \$100,000 to perform such order as His Majesty in Council should see fit to make on an appeal pending before the Judicial Committee from the Nova Scotia judgment upon which this action was brought.

R. B. Henderson, for the defendants.

O. H. King, for the plaintiffs.

KELLY, J., read a judgment in which he said that it was contended by the defendants that the judgment of the Supreme Court of Nova Scotia was not a final judgment, an appeal therefrom having been taken.

As to what is "a final judgment," the learned Judge referred to *Nouvion v. Freeman* (1889), 15 App. Cas. 1, 9, 13; and said that it was not contended that the Nova Scotia Court had any power to set aside or vary its judgment—so far as that Court was concerned, the judgment was final; and that was the finality necessary to make the judgment a proper subject of an action in this Court.