

THE COURT affirmed the order for security, but reduced the amount to \$100 if money be paid into Court or \$200 if a bond be given. Liberty reserved to the defendants to apply hereafter to increase the amount. All costs to be costs in the action. Security to be given within four weeks from the 12th December, 1916.

SECOND DIVISIONAL COURT.

DECEMBER 14TH, 1916.

\*RE SANDERSON AND TOWNSHIP OF SOPHIASBURGH.

*Municipal Corporations—Motion to Quash Resolution of Council Requiring Removal of Obstructions from Land Alleged to be a Highway—Municipal Act, R.S.O. 1914 ch. 192, secs. 282, 283—Determination of Question of Highway or no Highway—Originating Notice—Rules 10 (2), 605, 606 (1)—Dedication—Evidence.*

Appeal by James N. Sanderson from an order of MIDDLETON, J., 10 O.W.N. 222, dismissing the appellant's motion to quash a resolution of the Municipal Council of the Township of Sophiasburgh directing the overseer of highways for the township to notify Sanderson to remove all obstructions from what was said to be a public road in the village of Northport, and "after proper notice if the obstructions be not removed the overseer to move the same."

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, KELLY, and MASTEN, JJ.

E. G. Porter, K.C., for the appellant.

E. M. Young, for the township corporation, respondents.

MEREDITH, C.J.C.P., read a judgment in which he said that the question whether the land in dispute was or was not a highway could not be determined upon an application made under the provisions of the Municipal Act respecting the quashing of by-laws and resolutions for illegality. He was unable to agree in the finding of Mr. Justice Middleton that the place in question was a highway. The order dismissing the motion to quash must stand, but stand upon different grounds, and without costs here or in the Court below.