

bringing the actions, but continued therein up to the time of an application for security for costs, and it appeared that they had a *bond fide* cause of action, an order staying proceedings until a new next friend within the jurisdiction should be found was reversed.

*W. J. Elliott* for the plaintiffs.

*J. S. Denison* for the defendants.

Q. B. Div'l Court.]

[Oct. 23.

MASON *v.* COOPER.

*Judgment—Partnership—Unauthorized appearance—Irregularity—Execution—Creditors' Relief Act—Sheriff.*

After service of the writ of summons upon one of the partners in an action against a partnership in the firm name, an appearance was entered by a solicitor in the names of both partners individually, but upon the instructions of one partner only and without the authority of the other. Upon motion by the latter to set aside the appearance and subsequent proceedings,

*Held*, that the appearance and the plaintiffs' judgment founded thereon were irregular.

After the judgment had been set aside, several creditors of the defendants obtained judgment against them and placed writs of *fi. fa.* in the sheriff's hands, under which he sold the defendants' goods. Upon a motion by the plaintiffs, made in their own action and also in the several actions in which judgments had been obtained, for an order directing the sheriff to pay the proceeds of the sale into court, instead of making the usual entries under the Creditors' Relief Act, in order to preserve the priority of the plaintiffs' judgment, in case it should be restored upon appeal ;

*Held*, that there was no power, upon the plaintiffs' application, to interfere with the sheriff's proceedings upon writs of *fi. fa.* regularly in his hands.

*D. E. Thomson*, Q. C., for the plaintiffs.

*Shepley*, Q. C., for the defendant Cooper and for the Molsons Bank.

*Langton*, Q. C., for the sheriff.

Court of Appeal.]

[Oct. 27.

GOODEVE *v.* WHITE.

*Discovery—Transferee of judgment debtor—Examination—Rule 928.*

Upon an application under Rule 928 for an order for the examination of the wife of the judgment debtor as a person to whom he had made a transfer of his property, the affidavit of the applicant, the judgment creditor, stated that the action arose out of the sale of a stock of goods by the plaintiff to the defendant, and referring to a verified copy of the judgment debtor's examination, taken under Rule 926, that, on such examination, the latter admitted that he had transferred to his wife a sum of money, part of the proceeds of the sale of the same stock of goods. In the examination, the judgment debtor stated that in buying the stock from the plaintiff he was acting as agent for