

parties is before the Court in the original action. Until it has been finally determined, any other proceeding would seem to be vexatious if not an abuse of the process of the Court. The very absolute character of a consent order or judgment was pointed out and acted on by the Court of Appeal in *Re Canadian Pacific R. W. Co. and City of Toronto*, 27 A. R. 54 at p. 63, where the order of Armour, C.J., giving certain directions to the referee, was reversed, as being *ultra vires*. This second action is a distinct violation of the consent judgment. Any good that could possibly result from it can be far more quickly had under Rule 827. By the provisions of that Rule any security to which plaintiff is entitled will undoubtedly be given him as a term of stay of execution if defendants make default on the 15th June. It certainly seems to me that in any case the plaintiff was bound to wait until it was shewn that defendants were going to make default. They may be, they say they are, able to pay the whole \$900 into Court to abide the result of the appeal, if so ordered by the Court.

I think, therefore, that for these three reasons the present action should be stayed:—

1st. Because it is a breach of the agreement in pursuance of which the consent judgment was made.

2nd. Because the time for payment, as finally fixed, of the amount due by defendants, has not yet arrived.

3rd. Because any relief the plaintiff could get thereby will be more effectually obtained by application to the Court of Appeal under sub-sec. (2) of Rule 827.

The action should be stayed at least until 16th June, with liberty to plaintiff to apply for leave to proceed, if so advised. The costs of this motion should be to the defendants in any event.

CARTWRIGHT, MASTER.

JUNE 9TH, 1903.

CHAMBERS.

LAKE SUPERIOR POWER CO. v. HUSSEY.

Consolidation of Actions—Refusal to Direct Stay—Direction to Enter together for Trial.

Motion by defendant to stay the action until the determination of a similar action by the same plaintiffs against Martha Baldwin, on the ground that the validity of a certain tax sale is the only question to be decided in each action.

W. E. Middleton, for defendant.

R. U. McPherson, for plaintiffs.