

MABEE, J.

OCTOBER 17TH, 1906.

CHAMBERS.

GYORGY v. DAWSON.

(TWO ACTIONS.)

*Security for Costs — Plaintiff Leaving Jurisdiction pendente Lite — Application for Security after Trial — New Trial Ordered—Delay in Applying.*

Appeal by plaintiff from orders of local Judge at Welland requiring plaintiff to give security for costs of these actions.

R. McKay, for plaintiff.

W. M. Douglas, K.C., for defendants.

MABEE, J.:—The actions were commenced on 12th November, 1903, tried on 15th May, 1905, and dismissed. Upon plaintiff's appeal, a Divisional Court in November, 1905, set aside the trial judgments, and granted new trials, and the Court of Appeal in February, 1906, refused to disturb the disposition made of the actions by the Divisional Court. An order was made by Teetzel, J., on 24th April, 1906, upon appeal by plaintiff from an order made by the local Judge at Welland, under which defendants were given leave to examine plaintiff for discovery "in case the plaintiff shall return to the province of Ontario on or before 15th June, 1906," and an affidavit of plaintiff's solicitor filed upon that motion stated that plaintiff had for some time prior to that date been out of the jurisdiction of the Court, being at Sarkosbylok, in Hungary. Plaintiff did not return. The order of 24th April gave defendants leave to issue a commission to Hungary for his examination in the event of his not returning by 15th June; they did not avail themselves of that term of the order, but on 1st October instant they served notice of motion for the orders now in appeal. It was not suggested that plaintiff was not still in Hungary. It is said the delay in applying for these orders deprives defendants of their right to security. I think defendants could not have reasonably made an application for security before 15th June, and the cases shew that the delay from that date to 1st