

FALCONBRIDGE, C.J.

SEPTEMBER 8TH, 1902.

CHAMBERS.

MERCHANTS BANK OF CANADA v. SUSSEX.

Arrest—Ca. Sa.—Ex Parte Order—Motion to Set aside—Concurrent Writ of Ca. Sa.

Application by defendant for order setting aside ex parte order for issue of writ of ca. sa., on ground of non-disclosure of material facts on the application therefor, and for order setting aside concurrent writ of ca. sa., and the arrest of defendant thereunder, and ordering defendant's discharge from county gaol of county of Lambton, on the ground that the original writ issued upon such order to which the writ under which the arrest was made was concurrent, had expired, and that the concurrent writ had expired before the arrest was made.

J. E. Jones, for defendant.

J. H. Moss, for plaintiffs.

FALCONBRIDGE, C.J., held, that if all the facts as to the arrest had been before the Court, the order of 21st August should still have been made, and that same should not be set aside, and that, as defendant is held under writ issued pursuant to order of 21st August, and not solely under concurrent writ of 16th August, no order should be made on that branch of the motion in the absence of the sheriff. No costs.

 SEPTEMBER 8TH, 1902.

DIVISIONAL COURT.

PEOPLE'S BUILDING AND LOAN ASSN. v. STANLEY.

Execution—Motion for Leave to Appeal—Costs of—High Court—Authority to Issue Execution.

An appeal by the defendant from the order of MEREDITH, J., ante 339, 4 O. L. R. 247, was heard by a Divisional Court (FALCONBRIDGE, C.J., STREET, J.).

W. H. Bartram, London, for appellant.

D. W. Saunders, for plaintiffs.

THE COURT, at the conclusion of the argument, dismissed the appeal with costs, agreeing with the reasons of the Judge in Chambers.