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MEREDITH, C. J.

MARCH 2ND, 1903.

CHAMBERS.

VALENTINE v. JACOB.

Administration—Distribution of Fund in Court—Period for Ascertainment of Class — Vesting Order — Costs— Unnecessary Litigation.

Motion on behalf of plaintiff and defendants Hesson and McGregor in an action to remove trustees and for administration, for an order dispensing with payment into Court of \$595.84 and for distribution pursuant to the report of the local Master at St. Thomas dated 6th December, 1902.

W. J. Tremear, for applicants.

W. E. Middleton, for other defendants.

MEREDITH, C.J.—The order must be refused. The report is wrong in finding that such of the brothers and sisters of defendant Madeline Valentine named in paragraph 3 as survive her are the only persons who are entitled to share in the corpus of the trust fund. As much as \$6,000 not having been realized from the sale of the trust property, defendant Madeline Valentine is entitled to the whole income of the fund for her life, and the trust as to the corpus is, if at her death there are surviving brothers and sisters, to divide it equally between them, but if all the brothers and sisters be then dead, the corpus is to go to their respective heirs. The class that is to share in the corpus is, therefore, not ascertainable until the death of Madeline, and there should be no order for distribution until that event has happened and the class has been ascertained.