

the action the buildings and premises in question were not in the occupation of the plaintiff, but in that of her tenants.

Held, that an order for inspection by the defendants should not be made.
H. D. Gamble, for plaintiff.

Meredith, C. J.]

GUNN v. HARPER.

[July 18th.

Action—Jurisdiction—Redemption—Foreign Lands—Constructive Trustees—Limitations of Actions.

Action to have it declared that a conveyance of lands out of Ontario made in 1878 by the plaintiff to one of the defendants, though absolute in form, was in equity a mortgage, and for redemption. The grantee in 1883 made an absolute conveyance of the lands to the other defendants. All the parties resided in Ontario.

Semble, that had the plaintiff's grantee not conveyed to others, and the action been against him alone, it would have lain; but,

Held, that the Court had no power to declare the other defendants constructive trustees of foreign lands; and also that their defence of the Statute of Limitations raised a question of title, the determination of which involved the application of the law of the foreign country.

G. M. Macdonnell, Q.C., and *J. M. Farrell*, for plaintiff. *F. King*, for defendant Gunn. *Whiting*, for other defendants.

Nova Scotia.

SUPREME COURT.

Full Court.]

TOWNSHEND v. SMITH.

[May 15.

Costs—Discretion of trial judge as to, in the matter of disputed accounts—O. 63—Reasons for withholding costs held to be reviewable on appeal.

In a suit tried without a jury by the judge of the County Court for district No. 4 the only question in dispute was the settlement of mutual accounts. The learned judge found certain items in favor of each party, the final result being judgment for defendant for the balance found in his favour. No costs were given to either party, 1st, on the ground of the disputed items, and 2nd, on the ground that plaintiff had ample reason for instituting the proceeding, having been led by defendant's conduct to believe that there was a balance due him.

Held, *RITCHIE, J.*, and *GRAHAM, E.J.*, dissenting, that the reasons of the trial judge for withholding costs were reviewable on appeal.