

FALCONBRIDGE, C.J.K.B., in Chambers, dismissing an appeal by these defendants from an order of the Master in Chambers requiring them to give further security in the sum of \$3,000 to answer the plaintiffs' costs of the action, reference, and proceedings, and staying these defendants' proceedings until such security be given.

R. S. Robertson, for the applicants.

W. Laidlaw, K.C., for the plaintiffs.

SUTHERLAND, J., in a written judgment, referred to *In re Miller's Patent* (1894), 11 R.P.C. 55, 70 L.T.R. 270, 271; *Vavasaur v. Krupp* (1878), 9 Ch.D. 351; *Apollinaris Co. v. Wilson* (1886), 31 Ch.D. 632; and *Ward v. Benson* (1901), 2 O.L.R. 366; and said that the decisions were somewhat conflicting, and the report of the Master in Ordinary, to whom a reference was directed, from which report the defendants the Profit Sharing Construction Company were appealing, involved matters of considerable importance to these defendants which might be finally determined against them unless the order for security was complied with.

Leave to appeal granted; costs of the motion to be costs in the cause.

MASTEN, J.

MAY 2ND, 1918.

FAIRWEATHER v. McCULLOUGH.

Husband and Wife—Security Given by Wife at Instance of Husband for Liability of Husband to his Employers—Husband not Acting as Agent for Employers—Absence of Duress and Undue Influence—Lack of Independent Advice—Approbation of Security after Time for Deliberation and Obtaining Advice—Prosecution not Threatened by Employers, but Husband Apprehensive of Arrest—Action to Set aside Security—Findings of Fact of Trial Judge.

Action for a declaration that a chattel mortgage made by the plaintiff in favour of the defendants was invalid, and for consequent relief.

The chattel mortgage was made upon the representation of the plaintiff's husband, since deceased, to her, that the defendants, his employers, would probably cause him to be arrested unless he gave security for a sum of \$690, representing a shortage in his accounts.

The action was tried without a jury at Toronto.

Gideon Grant and L.C. Smith, for the plaintiff.

D. O. Cameron, for the defendants.