

M. Grant, for the plaintiff.

F. W. Harcourt, K.C., Official Guardian, for the defendants.

RIDDELL, J.:—The sole question in this case is the effect, if any, of a paragraph in the will of the late Leonard Smith.

The will, after revoking all previous testamentary dispositions and directing all debts, etc., to be paid, proceeds thus: "I give devise and bequeath all my real and personal estate of which I may die possessed in the manner following, that is to say:" Then follows a devise to J. S. for life of 100 acres, S. E. $\frac{1}{2}$ of lot 2, con. 13 of the township of Lobo, with remainder to two grandsons named; then a devise to B. S. for life of the S. E. $\frac{1}{4}$ of lot 3, con. 12, Lobo, with remainder to G. S. Then follows the devise in question: "I give devise and bequeath to my grandson M. S., son of J. S., the S. W. 50 acres of lot one, con. 12, Lobo, absolutely, subject to the payment of \$40 per annum for the support of my wife during the term of her natural life." A provision is made for the support of the wife. Then—"I give devise and bequeath to my three grandsons, G., M., and R., equally, all the remainder of my estate and personal property, to be sold and equally divided between them"—then a provision for the use by the wife for her life of the household furniture and household effects; and then: "All the residue of my estate, not hereinbefore disposed of, I give devise and bequeath unto my three grandsons before mentioned."

The testator did own 50 acres of lot 1 in the 12th concession of Lobo, but not the S. W. 50 acres. His deed runs "the south-westerly half of the north-westerly half, otherwise known as the north-west quarter . . . ;" and he never at any time owned any other part of lot 1. It is perfectly apparent that the testator intended to devise the 50 acres he did own; and the whole question is, has he succeeded in doing so?

The concession roads in Lobo do not run quite east and west, but N. $45^{\circ} 10'$ E., i.e., practically half between N. and E. or N. E.

On the plan A B C D is lot 1 in the 12th concession, and A E F G the portion owned by the testator; this might, with some propriety, be called the N. W. $\frac{1}{4}$, but by no stretch of the use of language be called the S. W. $\frac{1}{4}$, which is D K L C.

In *Re Clement*, ante 127, I considered a matter not unlike the present, and came to the conclusion that the law in Ontario was that, where a testator had used language efficient to pass the disputed land if the wrong description were deleted, the devise was effective and the wrong description falsa demonstratio.

Here the testator has used such words in the beginning of the will—"I give devise and bequeath all my real and personal estate