

less the order or judgment is set aside or is varied in some other respect.

Irrespectively, however, of that almost universal rule, I am of opinion that the plaintiff at least cannot complain of the order as to costs. . . . It is perfectly plain that the plaintiff had got all that he bargained for from Victoria Davis, i.e., a deed from her; that the omission to make the affidavit of execution was at his instance; and that any relief he could be entitled to is given by the Registry Act, R. S. O. 1897 ch. 136, secs. 47, 50, unless indeed the defendant forbade Mr. Mills to give up the deed, in which case the cause of action would not be for the execution by the defendant of a new conveyance, but the effective delivery of the old one.

Had the case gone on to trial, I think it should have been dismissed with costs; and I think, therefore, that the plaintiff has no ground of complaint in respect of the disposition of the costs made by the order appealed from.

The appeal should be dismissed with costs.

RIDDELL, J., IN CHAMBERS.

OCTOBER 19TH, 1910.

RE BROOM AND GODWIN.

Landlord and Tenant—Overholding Tenants Act—"Legal Procedure in a Court of Law"—Interference with Tenant's Possession — Injunction — Jurisdiction of County Court Judge — Term of Tenancy—Construction of Receipt.

Motion by James Broom for an order prohibiting MORGAN, Junior Judge of the County Court of York, and others, from enforcing an order for possession made under the Overholding Tenants Act.

In May, 1910, the applicant began an action in the High Court of Justice against Godwin and wife for damages for breach of the covenant for quiet enjoyment contained in a lease of apartments made by them to him, and for an injunction, etc. On the 27th June the applicant delivered his statement of claim in that action, and upon the 30th June moved for an interim injunction restraining the defendants from interfering with his possession. The Court, upon "the defendants . . . undertaking not to inter-