

HIGH COURT OF JUSTICE.

Cartwright—Master.]

A. v. B.

[Dec. 29, 1902

Particulars—In action for seduction—Before defence filed—Cross-examination on affidavit denying plaintiff's allegations.

In an action for seduction where the defendant denied upon affidavit the plaintiff's allegations, an order for particulars to be given by the plaintiff was made before the defence was filed.

Knight v. Engle (1889) 61 L.T.R. 780, followed.

Such affidavit being filed as an evidence of good faith only and it not being the duty of the Court to determine on the motion the truth of the facts deposed to an enlargement of the motion for cross-examination was refused.

Middleton, for the motion. *T. J. Blain*, contra.

Teetzel, J.]

[Jan. 29.

RE ARBITRATION BETWEEN TOWNSHIP OF WATERLOO AND TOWN OF BERLIN.

Municipal corporations—Extension of sewers from one municipality to another—Acquisition of necessary land—Arbitration or agreement—Conditions precedent—Uncertainty—"Terms and Conditions" as between municipalities—Reference back.

Arbitrators appointed to determine under s. 555 of the Municipal Act 1903, 3 Edw. VII, c. 19 (c), the terms and conditions upon which the extension of sewers of a town into an adjacent township should be made and whether such extension should be permitted, awarded as follows:—
"That the said town of B. may enter upon take and use any land in the adjacent or contiguous municipality of the said township of W. in any way necessary or convenient for the purpose of providing an outlet for the main outfall sewer of B. and for extending the main outfall sewer of B. into or through the Township of W. and for the purpose of establishing works or basins for the interception or purification for sewer in said township and for making all necessary connections therewith but subject always to the compensation to persons who may suffer injury therefrom."

Held, that the acquisition of lands in the adjoining township is not a condition precedent to the arbitration but that the arbitration or agreement between the municipalities as to terms and conditions is a condition precedent to the dominant municipality exercising the power of expropriation of private property in the servient municipality: But

Held, that the authority of the arbitrators under section 555 to pass upon the extension of a sewer into the territory of another municipality and also the terms and conditions of such extension is predicated upon the idea