

The application is for the sale of the land of an infant under the power now conferred on this Court by The Infants Act, 1 Geo. V., ch. 35 (Ont.); see also 2 Geo. V., ch. 17, sec. 31 (Ont.); the mode of procedure in such a case being provided for in the consolidated rules 960 to 970, and 1308. The provisions of The Devolution of Estates Act, 10 Edw. VII., ch. 56, are not applicable; the estate has been wound up by the executors; and the land has been conveyed by them to the infant, or to someone in trust for her: and the executors are not in any way parties to, or represented on, this application.

The application is supported by affidavits and by a written consent of the infant, a girl of nearly fifteen years of age; and it was said that applications had been granted in recent years upon such material; but that can hardly be in the face of the procedure plainly prescribed in the rules and enactment; notwithstanding the assent of the Official Guardian is given.

The statute, sec. 6, provides that the application shall be made in the name of the infant by her next friend or guardian. Rule 963 provides that the petition shall be presented in the name of the infant by her guardian, or by a person applying by the same petition to be appointed guardian as thereafter provided. If there be any conflict in these provisions, the later enactment, the statute, prevails. The mother of the infant is one of her guardians appointed by the Surrogate Court, according to the affidavits filed; but she is not a party to the application in any way; and no explanation of her absence and silence is given.

Under the rules the consent of the infant, if of the age of 14 or upwards, to the application, is necessary, "unless the Court otherwise directs or allows."

Rule 965 requires that the infant shall be produced before the Judge, or Master, unless otherwise directed by the Judge.

Rule 966 provides that if the infant be above the age of 14 years he or she "shall be examined apart, by the Judge or officer before whom" he or she "is produced, upon the matter of the petition and as to" his or her "consent thereto."

There is no reason why the infant cannot very well attend before the Judge as the rules provide; and there would be no excuse, that I can imagine, in this case, for dispensing with any part of the procedure so provided for. The wishes