

NOVEMBER 13TH, 1914.

***JOSS v. FAIRGRIEVE.**

Practice—Ex Parte Order—Rules 215, 216—Leave to Issue Execution—Extending Time for Moving against Order—Rule 176—Discretion—Appeal—Setting aside Order and Execution—Statute of Limitations — Costs — Judgment against Married Woman.

Appeal by the plaintiff from the order of FALCONBRIDGE, C.J. K.B., 6 O.W.N. 401, extending the time for appealing from an order of the Master in Chambers and setting aside the order and the writ of execution issued pursuant thereto and an appointment for the examination of the defendant as a judgment debtor.

The appeal was heard by MEREDITH, C.J.O., MAGEE and HODGINS, J.J.A., and BRITTON, J.

M. Wilkins, for the appellant.

A. C. McMaster and O. H. KING, for the defendant, respondent.

The judgment of the Court was delivered by MEREDITH, C.J.O.:— . . . The action was brought for the winding-up of a partnership alleged to have existed between the appellant and respondent, who is described in the statement of claim as a married woman, and came on for trial before the late Mr. Justice Street on the 19th April, 1894, when, as appears by the endorsement on the record, he gave judgment by consent for the appellant for \$360, each party paying his own costs, and for the payment by the respondent of the partnership debts, she retaining all the partnership assets, and directed that judgment should not be entered for 60 days unless the appellant should satisfy a Judge in Chambers that the respondent was about to dispose of or had disposed of her stock in trade except in the usual course of business.

Judgment was not entered until the 15th April, 1914, when it was entered as a personal judgment, and not in the form of judgment against a married woman on a contract entered into by her during her coverture, as settled in *Scott v. Morley* (1887), 20 Q.B.D. 120. The appellant applied ex parte to the Master in Chambers for leave to issue execution on the judgment, the application being supported by the affidavit of the appellant in

*To be reported in the Ontario Law Reports.