

HIGH COURT DIVISION.

MEREDITH, C.J.C.P., IN CHAMBERS.

MARCH 4TH, 1913.

RE SUGDEN.

*Infant—Order for Sale of Land—Practice—Petition—Status of
Petitioner—Production of Infant for Examination by Judge
—Examination of Witnesses Viva Voce—Infants Act, 1 Geo.
V. ch. 35—Con. Rules 960-970, 1308.*

Application on petition for an order for the sale of the land of Vera Gladys Sugden, an infant.

The application was heard by MEREDITH, C.J.C.P., at London, on the 1st March, 1913.

J. Macpherson, for the petitioners.

Coleridge, for the Official Guardian.

MEREDITH, C.J.C.P.:—The proper mode of procedure, in such a case as this, is the only question for consideration on this application now: the merits cannot be taken into account before it is first considered whether they are before the Court in the manner prescribed by law.

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(O.); see also 2 Geo. V. ch. 17, sec. 31(O.); the mode of procedure in such a case being provided for in Con. 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 some one 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. Con. Rule 963 provides that the petition shall be presented in the