

right to have partition, it is quite plain that the partition proceedings should not have been allowed to proceed until this question had been determined. That is widely different from the situation here.

I have not attempted to deal with this matter upon the construction of the Rules, for it does not appear to me to be material whether the onus is upon the plaintiffs to obtain leave to proceed or upon the defendant to stay the reference. The main question is, whether, under the circumstances, the reference ought to go on or to be stayed; and the balance of convenience in this case clearly indicates that the reference ought to proceed.

Sharpe v. White, 20 O.L.R. 575, shews that the granting of a stay or of an order to proceed, whichever is necessary, is discretionary.

I have spoken to the Chief Justice of Ontario, who heard the appeals, and is therefore familiar with the questions involved; and he agrees with the view that I now express.

The motion will, therefore, be refused. Costs to the plaintiffs in any event.

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KENNEDY v. SUYDAM REALTY CO.—BRITTON, J.—APRIL 20.

*Interim Injunction—Application to Restrain Sale of Lands—Decision of Master of Titles—Application for Leave to Appeal—Adjournment till Trial of Action.*]—Motion by the plaintiff for an injunction restraining the defendants and each of them from selling or attempting to sell the lands, or any of them, the subject of this action, or for an order granting the plaintiff leave to appeal from the order of the Master of Titles at Toronto, made on the 5th February, 1914, refusing an application to register a caution relating to the lands. BRITTON, J., said that, having regard to the litigation antecedent to the present motion, and in deference to what had been decided, he must dismiss the motion. What had been decided was set out in the reasons given by the Master of Titles for his judgment of the 6th February last. At this stage, and upon the present application, he should not give leave to appeal as asked, but should leave the parties to get to trial as speedily as possible and make the fight, which should be final, on the subject-matter of this action. Motion adjourned until the trial, and costs to be costs in the cause, unless otherwise ordered by the trial Judge. W. N. Tilley, for the plaintiff. E. D. Armour, K.C., for the defendants.