

Practice.

MACMAHON, J.]

[Nov. 26.]

ROSS v. BUCKE.

Pleading—Rules 384, 388, 389—Pleading and demurring without filing affidavit and without leave—Separate causes of action—Fivolous demurrer.

Where a statement of claim sets up in different paragraphs more than one cause of action, the defendant may, under Rule 384, plead to one and demur to another without filing the affidavit mentioned in Rule 388, or obtaining leave under Rule 389.

A demurrer to a claim for wrongful dismissal, which does not allege a hiring by the day, or week, or month, or otherwise, cannot be said to be frivolous.

D. Armour for the plaintiff.

M. G. Cameron for the defendants.

FERGUSON, J.]

[Nov. 15.]

WILLIAMS v. TOWNSHIP OF RALEIGH.

Consolidation of actions—Identity of issues—Application by common defendant in several actions.

Where the issues in several actions are not the same, there cannot be a consolidation of them.

Where several actions were brought against a municipal corporation by different plaintiffs for injuries to their respective lands occasioned by the alleged negligent construction by the defendants of several drains without providing a proper outlet for the waters brought down by such drains ;

Held, that it was necessary for each plaintiff to prove that the negligent conduct of the defendants resulted in an injury to his own particular land ; and, therefore, the issues in several actions were not the same ; and this quite apart from the fact that, in any case, there would have to be separate assessments of damages.

Quære : Whether a common defendant can obtain a consolidation order against the will of the several plaintiffs.

Atkinson, Q.C., J. M. Clark, and J. A. Walker, for the plaintiffs.

M. Wilson, Q.C., for the defendants.

STREET, J.]

[Nov. 29.]

KNIGHT v. TOWN OF RIDGETOWN.

Notice of trial—Service by plaintiff on two defendants—Set aside on application of one—No notice to the other—Costs of the day.

Where there were two defendants and notice of trial was given by the plaintiff to both, and set aside upon the application of one, without notice to, or knowledge of, the other, who attended, with his witnesses, at the time and place named in the notice :

Held, that the defendant who moved against the notice of trial, was not bound to give the other defendant notice of the motion ; that it was the duty of the plaintiff, if he desired to protect himself, to notify that defendant that the notice had been set aside, and therefore the plaintiff should pay the costs of the day.

Langton, Q.C., for the plaintiff.

Hoyles, Q.C., for the defendants, the Town of Ridgetown.

D. W. Saunders for the defendants, the C.S. R.W. Co.

BOYD, C.]

[Nov. 17.]

IN RE MACDONALD AND SULLIVAN.

Land Titles Act—R.S.O., c. 116, ss. 61, 62, 63—Caution—Cessation of—Security by registered owner.

Under s. 61 of the Land Titles Act, R.S.O., c. 116, a caution was registered against dealings by the registered owner, the cautioner claiming that the registered owner held as trustee for another, against whose lands the cautioner had an execution. An action had been brought for a declaration to that effect. The Master of Titles made an order that entry of the cessation of the caution should be made upon the registered owner, giving security for the amount claimed by the cautioner ; that payment should be made according to the result of the pending action ; and that until such entry should be made the caution was to continue to have effect.

Held, that the scheme of the Act contemplates such a course of proceeding, although it is not specifically provided for by ss. 62 and 63 ; and that, under the circumstances, the order was the simplest and most effective that could be made in the interests of all parties.

W. M. Douglas for the registered owner.

W. R. Smyth for the cautioner.