

W. Laidlaw, K.C., for the defendants.

R. C. H. Cassels, for the plaintiffs.

MEREDITH, C.J., dismissed the appeal, with costs to the plaintiffs in any event, but extended for three weeks the time for entering an appearance, with leave to the defendants to move to set aside the writ of summons and the order made in winding-up proceedings allowing the plaintiffs to bring the action against the defendants as liquidators of the Raven Lake Portland Cement Co.

The defendants then moved before RIDDELL, J., in Chambers, for leave to appeal from the order of MEREDITH, C.J., to a Divisional Court.

The motion was argued by the same counsel.

RIDDELL, J.:—The Raven Lake Portland Cement Co. was ordered (20th September, 1907,) to be wound up under R. S. C. 1906 ch. 144, and the defendants were appointed liquidators. The liquidators paid into the bank a considerable sum of money, which was (October, 1909) claimed by the plaintiffs under the provisions of a bond mortgage deed. Objections were filed to the claim by liquidators and creditors, but the matter was not adjudicated upon.

In September, 1910, the Official Referee granted leave to the plaintiffs to issue a writ of summons and prosecute an action against the liquidators in respect of the property of the insolvent company.

On the 1st October, 1910, the writ of summons in this action was issued, claiming an account of the moneys received by the Trusts and Guarantee Co. from the sale of the assets of the insolvent company, and, in the alternative, damages for conversion of the said property. No statement appears on the writ that the defendants are liquidators or that they are sued as such.

A motion was made by the defendants before the Master in Chambers for leave to enter a conditional appearance, but the Master refused.

An appeal from this refusal was dismissed by Meredith, C.J.C.P.

The defendants now move before me for leave to appeal from this order to a Divisional Court, under the provisions of Con. Rule 777.

It is not contended that there are conflicting decisions so as to justify the order sought for under Con. Rule 777 (3) (a); but it is argued that Con. Rule 777 (3) (b) applies. It will be necessary for me only to consider whether there is good reason to