

FALCONBRIDGE, C.J.

JUNE 28TH, 1902.

WEEKLY COURT.

MERRITT v. NISSEN.

*Costs—Receiver—Partnership—Advance by Partner—Priority.*

Motion by plaintiff for judgment on further directions in a partnership action.

J. Bicknell, K.C., for plaintiff.

J. W. McCullough, for defendant.

H. T. Beck, for receiver.

FALCONBRIDGE, C.J., gave judgment discharging receiver and directing payment by plaintiff and defendant of receiver's allowance (as fixed by the Master) and his solicitor's fees and disbursements for issuing and filing report and of this motion; the amount advanced by plaintiff under the terms of the partnership articles to be paid out of the assets in priority to the costs of the action; after satisfaction of receiver's claim as above, plaintiff to apply balance of purchase money on his own claim, and he is not directed to pay the money into Court; no order, except as above, as to costs of this motion.

BRITTON, J.

JUNE 28TH, 1902.

CHAMBERS.

BANK OF HAMILTON v. HURD.

*Partition—Tenant by the Curtesy—Mortgages—Judgment Creditor of Owner of Undivided One-Fourth Interest.*

Motion under Rule 956 for partition or sale of certain lands in the village of Burlington and township of Nelson. The land was owned by Ophelia E. Hurd, who died intestate in September, 1881, leaving her husband and five children. Since the death of the mother, one of the children has died intestate and unmarried. Of the four remaining children, three have conveyed their interests to their father, so that he is now tenant by curtesy of the whole and the owner of three undivided fourth parts in the remainder. The remaining son, H. S. Hurd, procured his father to become surety for him and gave him a mortgage as security. The Bank of Hamilton were the son's creditors and held this mortgage, which they sold and assigned to one Lashing, and Lashing is now the mortgagee. H. S. Hurd owed