his land. This seemed to be the only real injury the plaintiff had sustained. In other respects, the elevation of the road, and the conversion of it from an embankment into a bridge, seemed to have been a benefit to him, giving him a means of access from one part of the island to the other, which he had not had before without crossing the embankment. In such circumstances, extravagant claims ought not to be encouraged. There ought not to have been costly litigation between the parties over their rights. The defendants not only admitting but contending that the case was one for compensation under the arbitration clauses of the Municipal Act, the plaintiff's claim, in respect of deprivation of right of access, must be prosecuted in that way, and not in this action.

The appeals should be allowed, the judgment below set aside, and judgment should be entered dismissing the action except as to the amount to be agreed upon between the parties, for which judgment should be entered for the plaintiff; if the parties do not agree, there should be a reference, and judgment should go for the plaintiff for the amount found due upon it. No costs of the action. Costs of the reference, if any, to be dealt with by the Referee. Costs of the appeals to the appellants. Compensation for deprivation of rights of access to be sought under the arbitration clauses of the Municipal Act.

RIDDELL, J., agreed in the result, for reasons stated in a written judgment.

MIDDLETON and MASTEN, JJ., concurred.

Appeals allowed.

SECOND DIVISIONAL COURT. NOVEMBER 17TH, 1916.

*MAHAFFY v. BASTEDO.

Execution—Writ of Fi. Fa.—Sale of Land by Sheriff under Writ Renewed after Death of Execution-plaintiff—Validity of Sale—Necessity for Revivor of Action.

Appeal by the defendant Bastedo from the judgment of the District Court of the District of Muskoka in favour of the plaintiff in an action to set aside a sale of land by a sheriff under a writ of fieri facias.

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, MIDDLETON, and MASTEN, JJ.