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 REPORTS AND NOTES OF CASES.
 

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 Province of Ontar'o.
 

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 HIGH COURT OF JUSTICE.
 

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Middleton, J.]

DAVIS v. WINN.

[Sept. 26.

*Costs—Summary disposition—Master in Chambers—Jurisdiction—Consent of parties—Appeal.*

Appeal by the defendant from an order of the Master in Chambers requiring her to pay the costs of the action. The motion before the Master was for summary judgment under Con. Rule 616, but it was dealt with as a motion to determine the incidence of the costs of the action—it being said that the further prosecution of the action for any other purpose was rendered unnecessary by reason of the execution of certain conveyances.

*Held* 1. That there was much room for doubt whether the Master in Chambers has jurisdiction to deal with a motion under Con. Rule 616, which amounts to the hearing and determining of the cause. Admissions may be made in pleadings and on examinations which raise matters of the greatest importance and difficulty, and the parties are entitled to have the case disposed of before a forum from which there is an unfettered right of appeal. The Master was, therefore, right in dealing with the motion as one to determine costs only, and the parties so treated it, and, if the defendant's consent was necessary, his solicitor's letter of the 25th August was a sufficient consent.

2. The plaintiff should not receive costs, and perhaps should pay costs; but, on the whole, it would be better to leave the parties each to pay his or her own costs. The appeal is allowed.

W. E. Rancy, K.C., for the defendant. John MacGregor, for the plaintiff.

Middleton, J.]

RE BOLSTER.

[Oct. 1.

*Will—Construction—Precatory words—Restraint—Trust.*

Motion by a devisee under the will of Lancelot Bolster, for an order determining the question whether the land devised to