

the meaning of Rule 1243, as an action to recover moneys in respect of certain matters included in the submission, but not dealt with by the award; and, although the costs of such appeal are unpaid, security for costs of the action will not be ordered.

J. M. Glenn, for the plaintiff.

D. Armour, for the defendant.

FALCONBRIDGE, J.]

MCLEAN v. MCLEAN.

[April 12.

Pleading—Statement of claim—Matters arising pending action—Joinder of causes of action—Recovery of land—Assignment of dower—Leave Rule 341.

A plaintiff cannot set up in his statement of claim matters arising pending the action.

An action for assignment of dower is an action for the recovery of land.

Where leave is necessary under Rule 341 to join other causes of action with an action for the recovery of land, it must be obtained before the writ of summons is issued, unless under very exceptional circumstances.

W. H. P. Clement, for the plaintiff.

F. A. Anglin, for the defendants.

Province of Nova Scotia.

SUPREME COURT.

Full Court]

MCLEAN v. MILLS.

Election petition—Motion to set aside—Order for service—Carriage of proceedings where petitioner presents petition and abstains from serving it.

Application was made to the Court on behalf of B. and H., who claimed the right to be heard in a motion before the Court to set aside as void the service of the election petition against the respondent.

Held, that no one but the petitioner could apply for an order touching the mode or time of service, and until the time prescribed by s. 32 for the intervention of third parties had expired, the petitioner had the entire control and carriage of proceedings upon the petition, subject to those applications which the statute enables any other party to the petition to make.

Semble, that if a petitioner should present a petition and abstain from serving it, there is no machinery provided by either the Act or the rules to compel him to effect service, and none to enable any other person to assume or direct the matter of service.

F. J. Congdon, for petitioner.

W. B. A. Ritchie, Q.C., for respondent.

H. McInnis, for applicant (Brent).