

deposed to—all went to shew that kind of possession which the statute contemplates—an actual, continuous, and exclusive possession. According to the decided cases, it is largely a question of fact in each case, and in each case due regard must be had to the exact nature and situation of the land in question. Here all was done that could be done by an owner residing in the main dwelling-house, who had paper-title to the land. All within the main fences was his holding, and he used it in accordance with its fitness for various purposes.

Action dismissed with costs.

MULOCK, C.J. Ex., IN CHAMBERS.

DECEMBER 5TH, 1917.

*FULTON v. MERCANTILE TRUST CO.

Costs—Taxation—Defendants Severing in their Defence—Two Sets of Costs—Trustee and Cestuis que Trust—Rule 669—Trustee Confined to Costs of Watching Case.

Appeal by the plaintiff from the ruling of a local taxing officer, upon taxation of the defendants' costs, that the plaintiff was liable for two sets of costs.

W. S. MacBrayne, for the plaintiff.

G. C. Thomson, for the defendant company.

J. E. Jones, for the other defendants.

MULOCK, C.J. Ex., in a written judgment, said that the action was brought by John W. Fulton against the trust company as administrator of the estate of Annie Fulton, his deceased wife, to obtain a declaration that certain lands conveyed to her were held by her in trust for herself and himself as joint tenants.

On the application of the defendant company, three of the heirs of Annie Fulton were added as defendants to represent and bind all her heirs. In their statement of defence they set up that she was the sole beneficial owner of the lands at the time of her death. The defendant company submitted its rights to the Court, taking issue with neither party. The company defended by a solicitor, and the other three defendants jointly by a different solicitor.

The judgment of the Court was, that Annie Fulton held the lands in trust for the plaintiff and herself as joint tenants, and that