

The entry of judgment was stayed by the trial Judge for 30 days, and having obtained on 8th January, 1907, leave to appeal directly to the Court of Appeal, the defendants gave notice of appeal from the judgment of the Court of Appeal, and on 12th January, 1907, paid into Court \$200 as security for costs under Con. Rule 826; on 12th February, 1907, they served notice of an application to Moss, C.J.O., for a stay of the operation of the injunction proceedings (Rule 827 (1d)), returnable on 16th February. On the return of this motion, at the request of plaintiffs, an enlargement was granted until 20th February, 1907. The motion was argued on the 20th and 21st of the same month, and on 4th March, 1907, judgment was given by Moss, C.J.O. (9 O. W. R. 390), granting the stay upon the undertaking of defendants to keep and file an accurate account of all sales and transactions in respect of binders, holders, and sheets, as specified in paragraph 24 of the judgment, made or entered into by them.

The notice of motion for the writ of sequestration was served on 22nd February, 1907.

Two grounds of objection to the order appealed from were argued by counsel for defendants:—

1. That the effect of the order of Moss, C.J.O., of 4th March, 1907, and of Con. Rule 829 was to stay all further proceedings in the action unless otherwise ordered by the Court of Appeal or a Judge of that Court, and that no leave having been obtained from the Court of Appeal, or a Judge of that Court, to make the motion for a writ of sequestration, Mulock, C.J., had no right or jurisdiction to entertain the motion or to make the order appealed from.

2. That Mulock, C.J., erred in assuming that process of contempt for the breach of the injunction is punitive in its character, that it is really a means of securing obedience to the injunction, and that, as the operation of the injunction had been stayed, no order should have been made.

Unless where the judgment appealed from awards a mandamus or injunction, in the case of a motion by way of appeal to the Court of Appeal, the execution of the judgment or order appealed from is stayed pending the appeal as soon as the security provided for by Rule 826 is allowed: Con. Rule 827 (1); but the Court or a Judge in the excepted cases may order that execution be stayed: Con. Rule 827 (2).