

Under all the circumstances, while I dismiss the action, I think it is not a case for costs.

Some question was raised as to the conveyance from Dickey to Standish, by reason of the description forming a cloud on the Lawsons' title to the land conveyed to them. No claim is made under it to more than the lane; and, if so desired, the judgment may declare that it does not form any cloud on the plaintiff's title to the land on which the house stands.

MIDDLETON, J.

APRIL 24TH, 1914.

SASKATCHEWAN LAND AND HOMESTEAD CO. v.
MOORE.

*Reference—Stay pending Appeal to Supreme Court of Canada
—Discretion—Balance of Convenience—Practice.*

Motion by the defendant for an order staying the reference directed by the judgment of KELLY, J., 5 O.W.N. 183, affirmed with a variation by a Divisional Court of the Appellate Division, ante 100, pending an appeal by the defendant to the Supreme Court of Canada.

The motion was heard by MIDDLETON, J., in the Weekly Court at Toronto, on the 21st April.

A. J. Russell Snow, K.C., for the defendant.

A. B. Cunningham, for the plaintiffs.

MIDDLETON, J.:—The judgment of the learned trial Judge directs payment by the defendant of an amount to be ascertained by the Master in Ordinary. Most of the items going into the account are determined. The reference is as to minor matters only.

The Court of Appeal has varied this judgment in some respects, and possibly the decision of the Supreme Court of Canada may either restore the original judgment or further vary it; but the matters that were argued before the Court of Appeal are not the sole matters or indeed the important matters so far as the reference is concerned.

In cases such as *Monro v. Toronto R.W. Co.*, 5 O.L.R. 15, where the question in issue upon the appeal was the plaintiff's