

the party, or from admissions made by him, that it is untrue, or unless it is made to appear that the affidavit is sworn under a misapprehension as to what was in truth material and therefore proper to be produced.

Riddell, J., having these principles plainly before him, and recognising them, had carefully scrutinised the affidavit in the light of the examination, and come to the conclusion that the production of the diary in question ought not now to be ordered. There was no reason why there should be an appeal from his decision. It must be borne in mind that under Rule 507, governing appeals from the decision of a Judge in Chambers, where the order in question does not finally dispose of the whole or any part of the action, an appeal shall not be had unless, firstly, there are conflicting decisions, and it is, in the opinion of the Judge, desirable that an appeal should be permitted, or, secondly, there appears to be good reason to doubt the correctness of the judgment, and the appeal would involve matters of such importance that, in the opinion of the Judge applied to, leave to appeal should be given.

Here there were no conflicting decisions; and, even if satisfied that there was any reason to doubt the correctness of the judgment in question, that would not be sufficient, for there was no matter of such importance as to justify the granting of leave. In fact, there was no reason to doubt the correctness of the judgment.

In consideration of a motion for leave to appeal from an interlocutory order, the settled policy of our practice is, that the decision of the Judge in Chambers ought to be regarded as final save in very exceptional cases. If there are conflicting decisions and the practice is vague and uncertain, then an authoritative decision from the appellate Court may well be regarded as desirable.

The second provision permitting an appeal is intended to cover exceptional cases where the matters involved are of such unusual importance as to justify an appeal. The cases must be rare indeed in which an appeal can properly be authorised from an interlocutory ruling upon a matter of discovery. It is sufficient that this is not such an exceptional case.

Application dismissed with costs to the defendant in any event.