

No one appeared for the appellants.

I. F. Hellmuth, K.C., and H. H. Shaver, for the defendant, respondent.

THE COURT dismissed the appeal with costs.

The plaintiff Davidovich, in person, moved before the same Court to reopen the appeal.

Shaver, for the respondent.

The judgment of the Court was delivered by FALCONBRIDGE, C.J.K.B.:—On the 25th instant the plaintiff Davidovich appeared before us in person, and then and there was permitted to say what he could on his own behalf. The other plaintiffs had abandoned the appeal.

Mr. Shaver appeared for the defendants, and was informed that we would hear him later if we found it necessary to call on him.

We have perused the evidence with particular care, in view of the fact that the plaintiff Davidovich had not the advantage of a presentation of his case by counsel, and we find the appeal to be perfectly hopeless.

Not only is there abundant evidence to support the learned Judge's findings of fact, but those findings necessarily and inevitably result from the evidence.

As to the law there is no question.

We never intimated that we might, could, would, or should reopen the case, but merely desired to be sure that no injustice had been done.

The former dismissal of the appeal therefore stands.

If the defendants consider it worth while, they may tax against the plaintiff Davidovich alone the costs of this motion.

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#### HIGH COURT DIVISION.

MEREDITH, C.J.C.P.

MARCH 23RD, 1915.

#### \*RE FEARNLEY'S ASSIGNMENT.

*Assignments and Preferences—Assignment for Benefit of Creditors under Assignments and Preferences Act—Summary Application by Assignee for Determination of Conflicting Claims to Rank on Estate—Jurisdiction—Trustee Act, sec. 66—Rule 600—Contest between Creditor and Surety.*

Motion by an assignee for the benefit of creditors for an order determining conflicting claims to rank upon the estate of the assignor in the hands of the applicant.