

The learned Judge said that, on the material filed, it was, in his opinion, appropriate to continue the injunction to the trial, and he was by no means sure that the preliminary objection stood in the way. He, therefore, made the order asked by the notice of motion—costs to be in the cause unless the trial Judge should otherwise direct. The parties agreed that the trial should be expedited.

MIDDLETON, J.

OCTOBER 16TH, 1919.

*TORONTO AND SUBURBAN R.W. Co. v. ROGERS.

Railway—Expropriation of Land—Ontario Railway Acts 6 Edw. VII. ch. 30 and 3 & 4 Geo. V. ch. 36—Land “Taken” when Notice of Expropriation Served—Registry Act—Purchaser for Value without Notice—“Owner”—True Owner at Time of Expropriation—Notice—Compensation—Arbitration—Stated Case—Costs.

Case stated by the parties and heard in the Weekly Court, Toronto.

R. B. Henderson, for the plaintiff.

J. F. Boland, for the defendants Rogers.

D. J. Coffey, for the defendants Ford and Roome.

MIDDLETON, J., in a written judgment, said that the plaintiffs, at the time of the occurrences referred to in the case, were subject to the railway law of Ontario.

On the 30th August, 1911, they deposited their plan of location in the registry office, shewing, inter alia, their right of way as crossing the lands of the defendant Rogers, part of lots 7 and 8 in concession A., Etobicoke. Before this deposit, Rogers had made a subdivision plan by which streets were laid out crossing the strip taken by the plaintiff for their railway, and small lots fronting on these streets. That plan was not registered until the 26th August, 1911. Some lots had been sold by Rogers prior to the registration of the railway plan, but in respect of only one of these sales was there any registration. That was the sale to Clements by agreement of the 27th March, 1911, of “lot 82 on the north side of Dundas street,” having a frontage of 50 feet by a depth of 150 feet “according to a plan of subdivision of lots 7 and 8 in concession A. of Etobicoke.” This agreement was registered on the 6th May, 1911.

* This case and all others so marked to be reported in the Ontario Law Reports.