

ties, where, as here, the contest upon the motion is the same question as is involved in the proposed defence.

The general rule upon motions of this character is, as declared by the learned Chancellor in *Glass v. Grant*, 12 P.R. 480, that "the Judge should be chary in setting aside defences on a summary application unless the pleading is so plainly frivolous or indefensible as to invite excision." See also *Stratford Gas Co. v. Gordon*, 14 P.R. 410, at p. 414; also *Attorney-General for the Duchy of Lancaster v. London and North Western R.W. Co.*, [1892] 3 Ch. 274.

I think in this case the defence is indefensible and clearly invites excision, because by the judgment of the Court of Appeal the matter alleged furnishes no defence whatever to the claim.

Then as to adding the Imperial Plaster Company as a co-defendant. The plaintiffs seek no relief against that company; and, if the liquidator does not represent that company's interests by virtue of the Winding-up Act, those interests cannot be prejudiced in this action, and, as stated in *Imperial Paper Mills of Canada v. McDonald*, 7 O.W.R. 472: "There must be a very clear and a very strong case made, to induce the Court to introduce a new defendant against whom the plaintiff does not wish to proceed, and whose presence is not necessary to determine the matters involved in the action as constituted between the original parties."

I can at present see no necessity for adding that company as a co-defendant; but I think this judgment should be without prejudice to any application that may be made at the trial, if it should appear to the trial Judge that the proposed defendant is a necessary party to enable him to adjudicate upon the title to the money in question.

With this variation the judgment appealed from will be affirmed and the appeal dismissed, with costs in the cause to the plaintiffs.