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COURT OF APPEAL.

MACLAREN, J.A., IN CHAMBERS. JULY 26TH, 1910.

EARL v. REID.

Appeal to Court of Appeal—Leave to Appeal from Order of Divisional Court Affirming Judgment at Trial—Terms—Costs—Security.

Motion by the defendant Reid for leave to appeal to the Court of Appeal from the order of a Divisional Court (ante 1067) affirming a judgment based on a verdict of a jury for $500 for injuries sustained by the plaintiff from the falling of a building in London, of which the defendant was the owner, and which was being altered by an in-coming tenant under agreement with the defendant.

C. A. Moss, for the applicant.

H. S. White, for the plaintiff.

MACLAREN, J.A.:—Among the grounds urged in support of the motion are: that the law is not at all settled as to the liability of the owner of a building where alterations or repairs are being done by the occupier, but that the weight of authority is against the judgment in question; that the judgment of the trial Judge and of the Divisional Court are based on different grounds; and that other actions arising out of the same accident are pending, and the law ought to be authoritatively settled.

I am of opinion that this is a proper case for the application of the practice adopted in numerous recent cases by appellate Courts whereby an unsuccessful party who desires to have the law settled may be allowed the opportunity, in case he is willing to do so at his own expense, and not at the expense of the party