

I do not think I should interfere with the Master's ruling with regard to the expenses of carrying on the business.

Finally, it is said that the Court ought to allow the sums in question upon the principle of the cases of which *Re Tylor*, [1907] 1 K. B. 865, is an example. If my view is right there is no foundation for the contention, as I can find no moral right in the petitioner; but the cases do not warrant any such wide general proposition as that contended for.

In the result, the appeal of the liquidator should be allowed (save as to the matters covered by the 9th ground), and the cross-appeal should be dismissed, both with costs. If the account cannot be re-adjusted there must be a reference back.

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CHAMBERS.

HON. MR. JUSTICE SUTHERLAND.      NOVEMBER 29TH, 1912.

RE VINE.

4 O. W. N. 408.

*Administration—Application for Payment Out—Claimant to Portion of Estate—Payment out of Portion of Moneys—Issue Directed as to Remainder—Costs.*

Application by certain next-of-kin to be paid out their shares of a sum of \$5,418.35, paid into Court by the administrators of an estate. An unrecognized claimant claimed to be the daughter of the intestate and entitled to a one-quarter share in the fund.

SUTHERLAND, J., permitted \$3,000 to be distributed among the recognized next-of-kin and directed that the balance should await the outcome of an issue which he directed, in which the claimant above referred to should be plaintiff, and the next-of-kin defendants, as to whether the plaintiff was the daughter of the intestate as claimed.

Costs of application to be disposed of by Judge trying the issue directed.

Application for an order for payment out to William Vine and William Connon of their shares in the estate of Frances Penton Vine who died on the 22nd January, 1910, intestate, in Toronto, owning certain real estate on Broadview avenue, and leaving the following persons alleged by the applicants to be all the heirs entitled to share in the administration of her estate, viz., a son, William Vine; a daughter, Mary Seagriff; the following children of a deceased daughter, Sarah Ann Hibbitt, viz., Henry Hibbitt,