

1849.

Crooks
v.
Crooks.Mr. *Burns* and Mr. *Mowat* on behalf of the petitioner.Mr. *Vankoughnet* for the respondent *R. J. Turner*.Mr. *Galt* for respondent *H. J. Boulton*.

Amongst the cases cited were *Wood v. Wood*, (a) *Wickens v. Townshend*, (b) *Floyd v. Nangle*, (c) *Skip v. Harwood*, (d) *Curre v. Bowyer*, (e) *Simes v. Gibbs*, (f) *Moore v. Macnamara*, (g) *Gaskell v. Durdin*. (h)

Dec. 14th.—The court this day gave judgment.

THE CHANCELLOR.—The petition filed in these suits has been framed under the 163rd order of this court, and asks the relief sought upon the facts disclosed in the accompanying affidavits. In regard to those facts (so far, at least, as they are material to the order which I think ought to be pronounced in this matter) they have been either admitted in argument, or so clearly established upon affidavit, as hardly to afford room for controversy. Those points treated at the bar as questionable, I leave out of the case as immaterial, in the view which I take of this application.

Judgment.

It appears that *Leslie, Street, Burnham*, and *Crooks*, four of the defendants in the first mentioned suit, having obtained four several judgments, and sued out executions thereon, the plaintiff, who is the son and heir-at-law of one *William Crooks*, deceased, filed his bill in the month of June, 1840, praying that those judgment creditors should be restrained from proceeding further upon their executions; that an account should be taken of the personal estate of *William Crooks*, deceased; that it should be applied in payment of the judgment debts; and in case of deficiency a sale of the realty, or of so much as might be required. *Mary Crooks* and *James Crooks*, the personal representatives of *William Crooks*, deceased, were made parties defendant. A special injunction, as prayed by the bill, was issued shortly after the institution of this suit; and in the month of September, 1842, a decree was pronounced by which that injunction was made perpetual; an account of the personalty was directed; and in case of deficiency a sale of the realty, as

(a) 4 Russ. 558.

(c) 3 Atk. 568.

(e) 3 Mad. 456.

(g) 2 B. & B. 186.

(b) 1 Ru. & M. 361; Exp. Scallan, 1 Mol. 63.

(d) 3 Atk. 564.

(f) 2 Jurist, 418.

(h) 2 B. & B. 170.

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