

condition, and for damages for the loss sustained by the plaintiff by reason of the blocking of the streets by the defendant. No particular sum was claimed as damages. See *Bragg v. Oram* (1919), 16 O.W.N. 222. The judgment in the action was for an injunction and that the defendant should pay to the plaintiff "his costs of the action."

Evidence taken before the Taxing Officer disclosed that the lands were worth from \$700 to \$1,800.

The defendant contended that the action was one for injury to land, and within the jurisdiction of a County Court, relying on sec. 22 of the County Courts Act, R.S.O. 1914 ch. 59, which provides that Courts shall have jurisdiction in "(c) Actions for trespass or injury to land where the sum claimed does not exceed \$500, unless the title to the land is in question, and in that case also where the value of the land does not exceed \$500, and the sum claimed does not exceed that amount."

The Taxing Officer was right in his conclusion that this action, though there was an incidental claim for damages, was in the main one to prevent the defendant from obstructing, to the detriment of the plaintiff, certain streets leading to his land and affording access thereto. The injunction which was asked to restrain the defendant from this interference was the main thing in question. The judgment at the trial made this plain. Thus clause (c) of sec. 22 was not applicable nor conclusive against the plaintiff. Clause (i), "All other actions for equitable relief where the subject matter involved does not exceed in value or amount \$500," did not apply because the subject-matter involved was the land of the plaintiff, which exceeded \$500 in value.

Appeal dismissed with costs.

SUTHERLAND, J.

SEPTEMBER 30TH, 1919.

RE McDONALD.

Will—Construction—Bequest to Widow of Right of Occupancy of Dwelling-house for Life or until House Sold—Liability of Widow to Pay Taxes—Legacy of Lump-sum to Widow—Payment Made by Executor in Instalments—Payment of Interest from Death of Testator—Right of Executor to Recover Interest Paid for first Year—Right of Widow to Dower in Addition to Legacy.

Motion by the executor of the will of William McDonald, deceased, for the advice and opinion of the Court on certain questions arising upon the will.