

Six members of the Band and also the Superintendent-General of Indian Affairs and the Minister of Justice now petitioned the Court that it might be declared that the proceedings before the local Judge were null and void in so far as they purported to affect the rights of the Band or the members of the Band other than the individual defendants, and that they be set aside and vacated. The 6 petitioners, members of the Band, asked relief on behalf of themselves and all other members of the Band.

W. E. Middleton, K.C., and H. S. White, for the petitioners.

R. V. Sinclair, K.C., and H. E. Rose, K.C., for the plaintiff.

RIDDELL, J.:—I take it for granted that the plaintiff has an honest claim to quite the amount of his judgment, and that he has acted in good faith throughout. I do not think that anything turns upon how the petition came to be lodged—apparently it was at the instance of the authorities in Ottawa. . . . “It is absolutely immaterial what motive has induced the plaintiff to bring this action. Once it is brought, the Court must decide according to law, whatever be the motives and wishes of the respective litigants.” Halsbury, L.C., in *Powell v. Kempton Park Racecourse Co.*, [1899] A. C. 143, 157; *Freeman v. Canadian Guardian Life Insurance Co.*, 17 O. L. R. 296; *Township of Bucke v. New Liskeard, etc., Co.*, ante 123. The petitioners may petition or move as representing the class to which they belong, i.e., the members of the Band; whether the Superintendent-General or the Minister of Justice can, need not be considered. Nor do I pay any attention to the manner in which the case is brought before the Court. If the proper practice should be by appeal under Con. Rule 48 (see Con. Rule 47 (a), (c), (d)), I shall consider this such an appeal; or if in another way, then I consider it so brought—making all necessary amendments, extension of time, etc. All these niceties of practice go to costs, and I do not think this a case for costs in any event.

The order for judgment does not make the judgment binding upon the Band, and any order for receiver, etc., based upon the proposition that the Band are bound by the judgment is, of course, irregular and cannot stand.

But the chief difficulty is as regards the judgment binding the several members of the Band. That could only be if the order for representation is valid. Such an order can only be made by the Court: Con. Rule 200. The local Judge is not the Court, and has no power to make such an order: *Re Reid*, 13 O. W. R. 1026. . . .