

Riddell, J.]

IN RE AARON ERB (No. 2).

[May 12.]

*Assignment—Collateral securities—Refusal to value—Order of County Court judge—Certiorari—Power of court to grant—Right of appeal—Judicial discretion—Costs.*

After notice of the application referred to in the preceding note was given, the assignee served another notice of motion "for an order in the nature of certiorari" to bring up and review the proceedings before the County Court judge, and for an order directing the valuation of the securities held by the bank, etc.

*Held*, that in respect of the application for certiorari, the County Court judge, acting as he was, is an inferior court to which such an order might be addressed, and that the fact that there is a right of appeal apparently given by leave obtained from a judge of the Court of Appeal does not oust the power of this court to grant such an order.

After judgment, however, the order for certiorari is no longer *ex debito justitiæ*, but is a matter of judicial discretion, and in general no order should be made unless and until all other remedies which would afford adequate relief have failed. In the present case, therefore, no order should issue until after an application has been made to a judge of the Court of Appeal for leave to appeal from the order of the county judge, and the application should be dismissed with costs, as the motion should not have been made before applying to the proper forum for leave to appeal.

Middleton, K.C., for applicant. J. E. Jones, for Merchants Bank of Canada.

Divisional Court, Q.B.D.]

[June 18.]

BARRINGTON v. MARTIN.

*Mechanics lien—Description of claimant and of goods supplied—Date of lien.*

In a claim for a lien against certain land, under R.S.O. 1897, c. 153, the claimant was described merely as "of Toronto," while the claim was stated to be against the estate of M. for "material supplied" before a named date. M. was not the owner of the land, though believed so to be by the claimant,