

had been, and for all that appeared the work may have been done without statutory authority, and that the statement of claim was not, therefore demurrable. Appeal dismissed with costs.

*Metcalf and Sharpe*, for plaintiff. *Attorney-General*, and *James*, for defendant.

Full Court.]

ADAMS v. HOCKIN.

[Dec. 13, 1897.

*Real property Act—Caveat—Description of land—Statement of interest claimed—Address of petitioner—New evidence on appeal—Rule 476, Q.B. Act, 1895.*

This was an appeal from the decision of Taylor, C J., noted 33 C.L.J. 701, dismissing the petition of the caveator with costs.

*Held*, reversing this decision, that the description there set out was not necessarily indefinite and uncertain, unless there was more than one plan of Oak Lake, when an ambiguity might arise, that, if it followed the description given in the application of the caveatee, it would, according to the form in schedule O, be sufficient; and that both the caveat and petition sufficiently showed what estate, interest or charge the caveator claimed; also that there was no rule of Court requiring the address or description of the petitioner to be stated in his petition, and that the order of the referee should be restored with costs to petitioner of both appeals.

The respondent applied under Rule 476 of the Queen's Bench Act, 1895, for permission to put in evidence to show that the description in the caveat differed materially from that in the application.

*Held*, that upon payment of the costs of both appeals, such evidence should be received. Order that if respondent should pay such costs within five days after taxation, the order for an issue made by the referee should be rescinded and the matter referred back to him with leave to adduce the evidence mentioned, but if not so paid the order of the referee should stand confirmed with costs of both appeals to be paid by the caveatee.

*Clark*, for caveator. *Patterson*, for caveatee.

Bain, J.]

[Dec. 22, 1897.

CARRUTHERS v. HAMILTON PROVIDENT & LOAN SOCIETY.

*Mortgagor and mortgagee—Negligence in exercising power of sale.*

The plaintiff claimed damages for the sale of his farm by defendants under powers of sale contained in two mortgages, interest being in arrear. The property was near Portage la Prairie, and in the centre of a district of good farming land. The evidence showed, in the opinion of the trial Judge, that the property was worth \$3,700, and would have brought that amount at an auction sale if properly advertised. Defendants, however, sold it for \$2,800, subject to unpaid taxes.

*Held*, that defendants were liable for the difference between the two amounts, because they had so negligently and carelessly conducted the sale proceedings that the property was sacrificed.