

Moore in respect of these lands, which agreement he had afterwards assigned to his wife, the other added defendant.

The added defendants moved to set aside the service of the concurrent writ and the order allowing the same.

A. J. Russell Snow, for the applicants, took various technical objections to the order and service. He also contended that no cause of action was disclosed by plaintiffs, even as against the Leadleys.

J. W. St. John, for defendants the Leadleys, asked to be allowed to withdraw their appearance and enter a conditional appearance disputing the jurisdiction of the Court.

J. J. Maclellan, for plaintiffs, shewed cause.

THE MASTER.—It is not necessary for the protection of defendants the Leadleys to allow them to enter a conditional appearance. . . . All objections to the jurisdiction can be taken effectually in the statement of defence. Even if not taken, they can be raised at the hearing, as was done in *Gunn v. Harper*, 2 O. L. R. 611 (see p. 621) . . .

It would be improper for me to assume to decide the action. The utmost I could do would be to refuse any amendment of the proceedings if convinced that plaintiffs' case was hopeless.

But, after a consideration of *Gunn v. Harper*, 30 O. R. 650, 2 O. L. R. 611, I should hesitate to say that plaintiffs may not shew themselves entitled to some part of the relief sought for. (*Pavey v. Davidson*, 23 A. R. 9, and *Purdam v. Pavey*, 26 S. C. R. 412, also referred to.) . . .

It may well be held that in the present action the title to land outside this Province is not involved in such a sense as would leave the whole jurisdiction in the Courts of the North-West Territories, and render nugatory any decree in personam that could be made by the Courts of this Province.

I am, therefore, of the opinion that plaintiffs cannot be interfered with at this stage of the proceedings. The only order I can make is one confirming the proceedings, but with costs to the Moores in any event. Defendants may enter conditional appearances, if so advised.