

proceedings by plaintiffs should be stayed until further order, and plaintiffs should assign to S. & K. the mortgages and lands free from incumbrance and also the suit and all the benefit of the proceedings therein, plaintiffs to be paid their claim out of money so paid into Court. This order was complied with.

On December 26, 1889, defendants moved to rescind the last mentioned order. The motion was refused and the order amended by a direction that Mary I. Sheraton, the lessee of the Queen Hotel, should be made a defendant to the action, and that S. & K. should be joined as plaintiffs and the stay of proceedings removed. The lessee, Mrs. Sheraton, then filed a statement of defence setting out a lease of the hotel property from three of the mortgagor's heirs to her for five years, subject to renewal for a further term of five years, and that she had entered into possession and made large repairs and improvements.

On January 4th, 1890, another order was made amending the order of sale by directing that the Queen Hotel property be sold subject to the rights of Mrs. Sheraton under the lease and subject to said lease.

From these orders of 26th December, 1889, and 4th January, 1890, defendants appealed to the Supreme Court of Nova Scotia sitting in banc, which Court affirmed the former order but set aside the latter. Both parties appealed to the Supreme Court of Canada.

*Held*, affirming the decision of the Court below, that the order of 26th December, 1889, was a proper order. It stayed the proceedings at the instance of a person having a substantial interest in the equity of redemption of part of the mortgage lands, and if the proposed sale had been under a writ of *fi-fa*, an injunction might have been granted to restrain it; and it only stayed them on payment into Court of the redemption money. As to the direction in the order for assignment of the mortgages and property by the plaintiffs, the defendants have no *locus standi* to object, and as to the addition of parties, defendants could not be prejudiced thereby. The order also removed the stay of proceedings, but the present appellants cannot take exception to that part of it, and the rights of subsequent incumbrancers who are not before the Court cannot be prejudiced by what was done in their absence.

*Held*, further, reversing the decision of the Court below, that the order of the 4th of January, 1890, was a proper order. Whatever rights the lessee had acquired under the lease she had