

residue to R. M. and M. M. was not divested, and R. M.'s widow took his share under his will.

R. R. Hall, for appellant. *George J. Sherry, W. A. F. Campbell* and *G. L. Smith*, for other parties.

Ferguson, J.]

HERMAN v. WILSON.

[July 10.

Mining Company—Manager—R.S.O. 1897, c. 197, s. 8—Payments to labourers—Motion to dismiss—Con: Rule 616.

'A manager of a company is not a labourer, servant or apprentice within the meaning of R.S.O. 1897, c. 197, s. 8, and an action brought by such a manager, who had recovered a judgment against the company for wages due him and payments made on its behalf to labourers, etc., and had subsequently obtained assignments of the amounts paid the labourers, was dismissed on a motion under Con. Rule No. 616 on the ground that the first action was not such an action as is contemplated by that section.

C. C. Robinson, for motion. *W. J. Elliott*, contra.

Ferguson, J.]

RE WRIGLEY ESTATE.

[July 10.

Will—Devise—To legatee or heirs, executors or assigns—Death of legatee in lifetime of testator—Who entitled—"Heirs"—Next of kin.

A testator by his will after a provision in favour of his wife for life, provided, "At the death of my beloved wife * * any money that may then be remaining * * shall be equally divided and paid to (two nephews and two nieces, naming them) or their heirs, executors or assigns." One of the nieces predeceased the testator, leaving a husband and children.

Held, that the gift to the deceased niece did not lapse and that her heirs were entitled to her share, and that her heirs were those who would have taken her personal property under the statute of distributions in case of her dying intestate possessed of personal property.

Langmuir, for Toronto General Trusts Corporation. *Edgar, Harcourt* and *Milliken*, for other parties.

Meredith, C. J.]

NELSON v. BELL.

[July 18.

Sale of lands by trustees—Approval of Court—R.S.O. 1897, c. 129, s. 39—Con. Rule 938.

Trustees having unsuccessfully offered for sale estate property consisting of a block (hotel and stores) and a dock together, and subsequently the hotel and stores together, received an offer for the hotel by itself.

Held, on an application to the Court to approve and confirm the sale under R.S.O. 1897, c. 129, s. 39, and Con. Rule 938, that the Court had