

Samuels ought to have been made a party to the interpleader proceedings, but was not. His claim was really for the amount advanced, and his suit was the result of over-anxiety, as the wife recognised his right and was doing all she could to protect his property, and he could have no greater right than she could give him.

In this action there seemed to have been nothing but confusion of ideas and misapprehension as to facts, accompanied by considerable expense.

As near an approach to doing justice as is likely to be attained will be reached by dismissing the action without costs. The wife, who had succeeded in the issue, had undertaken to repay Samuels' advance to her, and the order for delivery of the ring to her in the other case is subject to her arranging with Samuels. If no arrangement is made, he may apply in that suit, as the ring is to remain in the custody of the Court in the meantime.

*Action dismissed without costs.*

---

MIDDLETON, J.

DECEMBER 12TH, 1918

RE FULTON.

*Will—Construction—Distribution of Residue among Members of Class of Legatees—'Legatees' Confined to Persons Given Direct Pecuniary Legacies—Application for Determination of Question of Construction—Costs—Executors—Beneficiaries.*

Application by the executors of Hugh Fulton, deceased, for an order determining a question as to the proper disposition of a fund in their hands so as to carry out the provisions of the will the deceased.

The motion was heard in the Weekly Court, London.

W. K. Cameron, for the executors as such.

J. M. McEvoy, for the executors, who were nephews of the testator, as individual beneficiaries under the will.

J. B. Davidson, for other nephews and nieces of the testator.

MIDDLETON, J., in a written judgment, said that the testator died on the 25th September, 1884, having on the 18th September, 1884, made a will which was admitted to probate on the 24th October, 1884.