

MEREDITH, C.J.

DECEMBER 20TH, 1907.

CHAMBERS.

SWITZER v. SWITZER.

*Particulars—Statement of Defence—Action for Alimony—  
Defence Alleging Adultery of Wife—Times and Places.*

Appeal by plaintiff from order of Master in Chambers,  
ante 949.

G. H. Kilmer, for plaintiff.

W. E. Middleton, for defendant.

MEREDITH, C.J., dismissed the appeal with costs to de-  
fendant in any event.

RIDDELL, J.

DECEMBER 21ST, 1907.

CHAMBERS.

MULLIN v. PROVINCIAL CONSTRUCTION CO.

*Execution—Stay pending Appeal to Divisional Court—Rule  
827—"Judge of Court Appealed to"—Trial Judge—  
High Court — Counterclaim—Grounds of Appeal—Re-  
moval of Stay as to Part—Costs.*

Motion by the plaintiff under Rule 827 (2) for an order  
directing that execution upon his judgment against the de-  
fendants should not be stayed, notwithstanding the setting  
down of an appeal by the defendants from that judgment  
to a Divisional Court.

J. H. Denton, for plaintiff.

H. D. Gamble, for defendants.

RIDDELL, J.:—This was an action tried before me at the  
non-jury sittings at Toronto. The plaintiff claimed the price  
of a quantity of sand delivered from his pit and received  
by the defendants. The defendants alleged that the sand  
delivered was inferior to what the plaintiff had represented