

sary instructions to enable them to prepare their client's affidavit of merits. On the 15th September, 1920, an order was made by the Master in Chambers, on the defendant's application, setting aside the judgment of the 21st June, directing that the writ of fieri facias issued thereon be withdrawn, and directing the defendant to enter an appearance and file her affidavit of merits within 10 days. The plaintiff appealed from that order. KELLY, J., in a written judgment, said that sufficient had been shewn to justify the Master in giving the defendant an opportunity to raise her defence in the proper and regular way, and the order appealed from should not be disturbed. The learned Judge did not deal with the question raised on the argument as to the plaintiff's right to recover in this Court upon the foreign judgment; but simply approved of restoring the defendant to a position where she might, in the usual manner, enter an appearance and set up such grounds of defence as she might be advised. The appeal should be dismissed with costs, and the defendant should have 10 days to enter an appearance and file her affidavit of merits. W. Lawr, for the plaintiff. J. M. Ferguson, for the defendant.

MICKLE DYMENT & SON V. MASINO—KELLY, J., IN CHAMBERS
—Nov. 12.

Judgment—Summary Judgment—Application for, by Plaintiff—Rule 57—Defence—Affidavit of Merits—Cross-examination on.—An appeal by the defendant Angelina Masino against paras. 2 and 3 of an order of the Master in Chambers of the 22nd September, 1920, by which summary judgment for the plaintiffs was granted against the appellant. KELLY, J., in a written judgment, said that the appellant's affidavit of merits set up an arguable defence, and her cross-examination thereon had not displaced it. She should not be deprived of the opportunity of having her defence tested in the regular manner at a trial. The appeal should, therefore, be allowed, with costs of the appeal and of the motion before the Master. E. G. Black, for the appellant. G. M. Willoughby, for the plaintiff.

CORRECTION.

IN RE FANNING, *ante* 154, the judgment is that of LOGIE, J.