

O. A.
1887
Nov. 4.

J. S. GREPE *v.* LOAM.

[1879 G. 78.]

BULTEEL *v.* J. GREPE.

[1879 B. 264.]

Form of Order to prevent repeated frivolous Applications.

Repeated frivolous applications for the purpose of impeaching a judgment having been made by the same parties, the Court of Appeal made an order prohibiting any further application without leave of the Court.

THE first of these actions was tried by Vice-Chancellor *Hall*, who gave judgment on the 5th of July, 1879. The second action, relating to the same property, was also tried by Vice-Chancellor *Hall*, and judgment given on the 6th of June, 1882. Among the Plaintiffs in the first action and the Defendants in the second were *Hector William Grepe* and his brothers and sisters, then infants. Notice of appeal against this judgment was given by the infant Defendants in the year 1883. This appeal was abandoned, and by order of the 9th of April, 1884, the costs of the Respondents were ordered to be paid by the next friend of the Appellants.

Subsequently, in November, 1885, April, 1886, June, 1887, and July, 1887, various applications were made by the same parties, some to the Court below and some to the Court of Appeal, the object of all such applications being either directly to set aside the judgment of the 6th of June, 1882, or for orders in direct contradiction to the directions of that judgment. All such applications were dismissed with costs, none of which had been paid.

On the 27th of October, 1887, notice of motion was given by *Hector William Grepe* and his brothers and sisters "for an order to arrest the minutes of judgment in the second above-mentioned actions on the following grounds." . . . Some of the brothers and sisters were still minors, and moved by their next friend.

H. W. Grepe moved in person on behalf of himself and the other Applicants.

Charles Browne, and *Badcock*, appeared for the different Respondents, but were not called upon.

THE COURT (*Lindley* and *Lopes*, L.JJ.) considered the application to be wholly unfounded, and dismissed it with costs.

Charles Browne then stated that several unfounded applications of this kind had been made by the same parties, and asked the Court to make an order to prevent their repetition, as it was impossible to obtain payment of the costs. He referred to an unreported case of *Suir v. Newton*, in which an order had been made guarding against a repetition of such applications without leave of the Court.

LINDLEY, L.J., said that he had a recollection of such an order having been made, and the Registrar was directed to refer to it (1).

Ultimately the following direction was inserted in the order:—

“That the said Applicants or any of them be not allowed to make any further applications in these actions or either of them to this Court or to the Court below without the leave of this Court being first obtained. And if notice of any such application shall be given without such leave being obtained, the Respondents shall not be required to appear upon such application, and it shall be dismissed without being heard.”

Solicitors for Respondents: *Surr, Gribble, & Co.*; *Crowders & Vizard*.

(1) In *Suir v. Newton* no order was drawn up, but the indorsement on counsel's brief, which agreed with the Registrar's minute-book, was as follows:—

“L.JJ. June 9th, 1886.

“Motion to stand over until the costs by the order of the 21st of May, 1886, ordered to be paid by the Defendants, have been paid, with liberty to Defendants to apply to have the motion

restored to the paper when such costs have been paid. And in the meantime no notice of motion is to be given by or on behalf of the Defendants without the special leave of the Court; and if any such notice shall be given without such leave being obtained, the Respondents shall not be required to appear upon such motion, and it shall be dismissed without being heard.”

H. C. J.