

IN THE SMALL CLAIMS COURT OF NOVA SCOTIA
Cite as: Taylor v. Purdy, 2016 NSSM 69

Claim: SCAR No.455289
Registry: Annapolis Royal

Between:

MANWEL TAYLOR and CYNTHIA TAYLOR

CLAIMANT

– and –

H. HARRIET PURDY and ROBERT A. PURDY III

DEFENDANT

Adjudicator: Andrew S. Nickerson, Q.C.

Heard: October 12, 2016

Decision: November 12, 2016

Appearances: The Claimant, self-represented
The Defendant, self-represented

DECISION

Facts

The Pleadings and evidence both reveal that the Claimant asserts that she was denied water from a well on the Defendant's lands that she was entitled to by virtue of a well easement. At the night of trial the issue of my jurisdiction was raised by the Defendant, but as I was uncertain of whether I had jurisdiction heard the evidence that I will not review here. I have concluded that I do not have jurisdiction by virtue of the provisions of the *Small Claims Court Act*.

10 Notwithstanding Section 9, no claim may be made under this Act

(a) for the recovery of land or an estate or interest therein;

My review of the jurisprudence indicates that there was some discrepancy between Adjudicators as to whether this court could entertain some aspects of claims of the nature of the one before me. I am satisfied that by virtue of the decision of the Supreme Court in **Marchbank v. Rutherford, 2016 NSSC 251** that it is now settled that I do not have any jurisdiction to adjudicate this matter. The decision is attached to this decision for the parties' reference.

For those reasons I must dismiss the Claim. This matter is not *res judicata* and the Claimant may proceed in Supreme Court should they wish.

Dated at Yarmouth, Nova Scotia, this 12th day of November, 2016.

Andrew S. Nickerson Q.C., Adjudicator