SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Winchester Vs. Loud

Winchester Vs. Loud

SooperKanoon Citation : sooperkanoon.com/84571

Court : US Supreme Court

Decided On : Mar-19-1883

Appeal No. : 108 U.S. 130

Appellant : Winchester

Respondent : Loud

Judgement :

Winchester v. Loud - 108 U.S. 130 (1883)
U.S. Supreme Court Winchester v. Loud, 108 U.S. 130 (1883)

Winchester v. Loud

Decided March 19, 1883

108 U.S. 130

APPEAL FROM THE CIRCUIT COURT OF THE UNITED

STATES FOR THE EASTERN DISTRICT OF MICHIGAN

SYLLABUS

Hyde v. Ruble, 104 U. S. 407 , that

"a suit cannot be removed from a state court to the circuit court unless either all the parties on one side of the controversy are citizens of different states from those on the other side, or there is in such suit a separable controversy wholly between some of the parties, who are citizens of different states which can be fully determined as between them"

adhered to.

This was a suit in equity begun in a state court of Michigan by Henry M. Loud, the appellee, a citizen of Michigan, against Charles Winchester and Herbert F. Whiting, citizens of Massachusetts, and George E. Wasey, Henry N. Loud, and Aaron F. Gay, citizens of Michigan, and removed to the Circuit Court of the United States for the Eastern District of Michigan at the instance of the defendant Winchester on the ground, as stated in the petition for removal,

"That the principal controversy in said suit is wholly between said plaintiff (Henry M. Loud) and your petitioner (Winchester) who are citizens of different states, and which controversy can be fully determined as between them, and that your petitioner is actually interested in said controversy."

When the copy of the record was filed in the circuit court, that court remanded the suit to the state court. From an order to that effect this appeal was taken.

Page 108 U. S. 131

MR. CHIEF JUSTICE WAITE delivered the opinion of the Court.

The petition for removal was filed before answer, and we must look therefore to the bill alone to determine what the controversy is. From this it appears that Henry M. Loud claims that the defendants Wasey, Henry M. Loud, and Whiting

Page 108 U. S. 132

hold certain real and personal property in trust to secure a debt owing by him and the defendant Gay to the defendant Winchester; and, after the debt is paid, for the

use and benefit of himself and Gay. He asks for an accounting by the trustees, the removal of Wasey and Whiting, and the appointment of others in their places, and, after the debt is paid, a conveyance of what remains of the trust property in accordance with the terms of the trust. The case presents but a single controversy, although it involves the determination of several questions. It may be that Winchester is the principal defendant in interest, but full and complete relief cannot be afforded in respect to the single cause of action, to-wit, the trust, without the presence of all the parties to the suit. According to the averments in the bill, all the defendants except Henry M. Loud deny the existence of the trust, and, if that should be established, all the defendants are directly interested in the relief that is asked. The case falls clearly within the rule stated in *Hyde v. Ruble,* 104 U. S. 407 .

The order remanding the suit is affirmed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com