

Marsh Vs. Nichols

Marsh Vs. Nichols

SooperKanoon Citation : sooperkanoon.com/85687

Court : US Supreme Court

Decided On : Mar-14-1887

Appeal No. : 120 U.S. 598

Appellant : Marsh

Respondent : Nichols

Judgement :

Marsh v. Nichols - 120 U.S. 598 (1887)

U.S. Supreme Court Marsh v. Nichols, 120 U.S. 598 (1887)

Marsh v. Nichols

Submitted March 7, 1887

Decided March 14, 1887

120 U.S. 598

ERROR TO THE SUPREME COURT OF MICHIGAN

SYLLABUS

A respondent to a bill in equity in a state court who allows a decree *pro confesso* to be taken against him in the lower state court and is not a party to the appeal to the supreme court of the state nor to the petition for a writ of error to this Court cannot make himself a party here against the objections of other respondents who appeared and contested the cause in the state courts and sued out the writ of error to this Court.

This cause is the one referred to in *Marsh v. Shepard, ante*, [120 U. S. 595](#) , as

"the suit in chancery between the same parties, with reference to alleged infringements of the same letters patent, decided in the Supreme Court of Michigan."

Scott, one of the defendants below, allowed the bill in the lower state court to be taken *pro confesso* against him, and was no party to the appeal to the supreme court of the state, where the decree of the court below granting an injunction was affirmed, nor to the writ of error. The following motion was filed on his behalf:

"And now comes James Scott, by Edward J. Hill his attorney, and brings here a transcript of the record to which the said plaintiffs in error above named have caused the writ of error issued from this Court herein to be directed, together with a copy of the writ, and thereby shows that he is a material and necessary party of record to this cause, and therefore asks that he have leave to file said transcript of record, and be made a party plaintiff in error herein, and that said cause be docketed, and that his appearance may be entered herein, and that the said writ of error be dismissed for want of jurisdiction apparent on the face of the record, or for such other or further order in the premises as may be just and proper."

"Dated February 28, 1887."

"JAMES SCOTT"

" *By Edward J. Hill, his Attorney* "

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

This motion is denied. Although the suit was brought against Marsh, Le Fever, and Scott, Marsh and Le Fever alone answered the bill, and the decree was taken *pro confesso* against Scott. Marsh and Le Fever alone appealed from the circuit court of the county to the supreme court of the state, and from the decree in that court they alone obtained the allowance of a writ of error to this Court. To such a writ Scott cannot make himself a party against the objection of Marsh and Le Fever, so as to control the case in this Court.

Motion denied.

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