

FOURTH SUPPLEMENT TO THE GIBRALTAR GAZETTE

L.R. 1/79.

No. 1,834 of 4th OCTOBER, 1979.

LAW REPORTS

*Note: These Reports are cited thus —
(1979) Gib. L.R.*

THE POSEIDON: Keller Shipping Ltd. v. Owners of the M.Y. Poseidon

Supreme Court (in chambers)
Spry, C.J.
15 January 1979

Admiralty — jurisdiction of registrar — Supreme Court Ordinance s.10 — Supreme Court (Admiralty Practice) Rules 1978, r.2. Practice and procedure — concurrent powers in Chief Justice and registrar.

In an action in rem in which liability was admitted, the quantum of damage was referred to the registrar under RSC Ord. 75, r. 41. The plaintiff relied on affidavit evidence. Before the hearing of the reference, the defendants applied to the Chief Justice by summons in chambers for an order that evidence at the reference be given orally or that there be an order for cross-examination of the deponents.

HELD: As the registrar had all the powers of the Admiralty registrar in England, it would be wrong for the Chief Justice to entertain the application, which was struck out.

Case referred to in the order

The Parisian (1887) 13 P.D.16

Application

This was an application to the Chief Justice for an order on a reference to the registrar in an action in rem, that the evidence be given orally or, alternatively, for leave to cross-examine.

J. E. Triay for the applicants (defendants)

A. J. Vasquez for the respondent (plaintiff)

Spry, C. J.: It appears to me that the registrar of this court has all the powers and jurisdiction of the Admiralty registrar in England, by virtue of s. 10 of the Supreme Court Ordinance and r. 2 of the Supreme Court (Admiralty Practice) Rules 1978. That includes the power to hear references under RSC Ord. 75 r. 41. It would appear from *The Parisian* (1) that the power includes a discretion to order the cross-examination of the deponent to an affidavit. If that is so, I think it would be wrong for me to make or refuse such an order, even though I do not think I lack jurisdiction to do so: first, because I think it would be an irregularity to usurp the power of the registrar; secondly, because I think the question of ordering cross-examination is something that arises on the examination of the affidavits themselves — for instance an order might be appropriate in respect of one affidavit and not another; and, thirdly, because it might preclude me hearing an appeal from the registrar.

Accordingly, I order that this application be struck out.

(1) (1887) 13 P.D. 16.