

for that the Matters in Said plea are Insufficient and Immateriall and the Same plea wants form. And the af^d Dorothy Ex^{rx} as af^d for that She hath above in pleading alledged Sufficient matter in Law to barr the af^d Mary Hemsley Ex^{rx} as af^d from having her Action af^d Against her the Same Dorothy Ex^{rx} as af^d Which She is ready to Verifye Which Matter the af^d Mary Hemsley hath Not Gainsayed nor thereunto in any ways answered but the Same to Admitt for true hath altogether refused as before prays Judgment and that the af^d Mary Hemsley Ex^{rx} as af^d from her Action af^d Against her the Same Dorothy Ex^{rx} as af^d be Barred etc.

Whereupon all and Singular the premisses being by the Court here Seen heard and fully Understood and Mature deliberation being thereupon had For that it Seems to the Court of his Lordship the Right Hon^{ble} the Lord proprietor here That the plea of the af^d Dorothy above by Rejoynder pleaded and the matter therein Contained are not Sufficient in Law to barr her the Said Mary Hemsley Ex^{rx} as af^d from having her Action aforesaid.

[632] Therefore it is Considered by the Justices here the tenth day of Aprill Anno Dom 1722 af^d That the Said Mary Hemsley Ex^{rx} of the Said John Contee Recover Against the Said Dorothy Smith Ex^{rx} of the Said John Smith as well the Sume of two hundred pounds Sterling the Debt af^d as also the Sum of ten Thousand two hundred and Sixteen pounds of Tobacco by the Court here Adjudged unto the Said Mary Hemsley Ex^{rx} as af^d for his Costs and Damages Sustained by Occasion of Detaining the Same Debt to be levyed upon the Goods and Chattles which were of the Said John Smith at the Time of his Death in the hands of the Said Dorothy Smith Ex^{rx} as af^d remaining to be Administred if So much thereof in her hands She hath etc. Then the Costs of Suit af^d to be Levyed of the proper Goods and Chattles of the Said Dorothy. And the Said Dorothy Smith Ex^{rx} as af^d in Mercy etc.

Whereupon the Said Dorothy Smith Ex^{rx} as af^d by her Attorney af^d prays an Appeale from the Judgment af^d So as af^d rendered ag^t her to the high Court of Appeals Which is granted And ordered that the Record thereof be made and Transmitted Accordingly.

In Testimony whereof I have hereunto Set my hand and Affixed the Seale of the Provinciall Court this 5 day of October Anno Dom 1722

Vachel Denton C^{lk} Cur pvin

Mem^d Defend^t by her Attorney prays Liberty to Amend her Rejoynder on paying Cost which upon full Argument was by the Court overrul'd and of Which the Def^t prayed Minute Might be made for her avail. And now here this day To witt on the af^d 10th Day of October Anno Dom 1722 Comes the Said Dorothy Smith Ex^{rx} af^d Into his Lordships Court of Appeals and Errors by Dan^t Dulany her Attorney Comes and Saith that as well in the Record and process as in Rendering the Judgment af^d It is manifestly Erred It is Erred in this that the Judgment af^d is Rendered for the Said Mary Against the Said Dorothy whereas by the Law of the Land Judgment Ought