

issue, except in cases where the parties claim different parcels under the same title, and it appears to the court there is a dispute about the location of the divisional line or lines.

55. Where the court shall consider a warrant of re-survey necessary, if the same be had at the instance of the defendant, or is made necessary by the defence taken in such case, the defendant shall first make his survey; and if the warrant be had at the instance of the plaintiff, he shall first make his survey; and if it shall appear to the court at the trial of the cause that a survey was not necessary, then the party requiring the same shall pay all the costs of the surveys.

56. Where surveys and plats are necessary, the line or lines (the location of which is disputed) may be located without locating the whole tract; so where lines of a neighboring tract are necessary for proof or illustration, such line or lines may be located without locating the whole tract.

57. The plats and certificates of survey in every case may be amended at bar; where the locations do not correspond with the variation, the same may be amended at bar to correspond therewith; objects to which the proof applies may be placed on the plats, and witnesses may be examined who were not sworn on the survey, and a witness may be shown to be interested without locating his interest on the plats; *Provided*, the court shall be satisfied the ends of justice will be attained by such amendment of plats, and admission of witnesses.

58. In no action shall plats be considered as pleadings or evidence per se; nor shall any counter location be necessary to put the party locating any tract, line or object, on the proof of such location; and the opposite party may controvert the same without any counter location.

59. The court upon return of any writ of *feplevin* shall have power, upon motion being made by the defendant for a return of the property taken under the writ, to inquire into the circumstances and manner of the defendant's obtaining possession of such property, and if it shall appear that such possession was forcibly or fraudulently obtained, or that the possession being first in the plaintiff was got or retained by the defendant without proper authority or right derived from the plaintiff, the court may