

Therefore, it is ordered, that the sale to Elizabeth Murdock be and the same is hereby rescinded; and the petitioner, William Brewer be, and he is hereby deemed, taken, and in all respects to be considered as the purchaser of the property in the proceedings mentioned. And the trustee is directed, on the payment by him of all the costs and commissions of this suit, to discount the balance of the amount of the purchase money from the amount of the said William Brewer's claim.

After which William Brewer, by petition, stated that he had complied with the order of the 9th of February, and therefore prayed to have the possession of the property of which he had so become the purchaser, delivered to him.

BLAND, C., 11th March, 1829.—Ordered, that the said Elizabeth Murdock forthwith deliver possession of the property in the petition mentioned to the said William Brewer, or shew good cause to the contrary on the 28th instant; provided \*that a copy of this order, together with a copy of the foregoing petition, **469** be served on the said Elizabeth, on or before the 18th instant.

After which the matter standing ready for hearing, and the solicitors of the parties having been heard, and no sufficient cause having been shewn why the prayer of the petition should not be granted, it was on the 30th of March, 1829, ordered, that an injunction issue commanding the said Elizabeth to deliver possession of the property to the said William Brewer. Which not having been obeyed, a *habere facias possessionem* was awarded, and he was put into possession. Afterwards the auditor stated an account, which was finally ratified on the 22nd of October, 1829, from which it appeared, that there was still a balance of the mortgage debt left unpaid by the proceeds of the sales.

After this case had been thus terminated as against Elizabeth Murdock, William Brewer, on the 20th of April, 1830, filed his bill against Gilbert Murdock, in which Brewer stated, that under the before mentioned decree of the 2nd of October, 1826, and order of the 9th of February, 1828, he had purchased and become seized of the tract of land in those proceedings mentioned; that this defendant Gilbert Murdock had erected, and persisted in continuing to erect, a fence, so as to include a part of the land so purchased by him, this plaintiff; and that he had brought an action of trespass *quare clausum fregit* against Gilbert Murdock to recover damages for the trespass so committed, which action was still depending. Upon which he prayed for an injunction to prohibit the defendant "from continuing the said fence, and enjoining him to remove the said fence already erected;" and for such other relief