

State of Minnesota, |
County of Hennepin. | ss.

District Court,
Fourth Judicial District.

Pittsburgh Coal Company and George
Heaton,
vs. Plaintiffs,
Minneapolis & Northern Railway
Company, a corporation,
Defendant.

O R D E R .

The above entitled matter came duly on for hearing before the undersigned, one of the Judges of the above named Court, upon the petition in intervention of W. P. Veitch, L. H. Bolduc, H. F. Balch, Marshall H. Coolidge and Charles P. Bratnober, trustees, praying among other things for an Order requiring the Receiver to forthwith turn over and deliver to the Interveners, possession of the property of the Minneapolis & Northern Railway as the same is described in the judgment and decree marked Exhibit "A", attached to and made a part of the said Petition in intervention.

Present J. O. P. Wheelwright as attorney for the Plaintiffs in the capacity only in which they appear in the complaint in this action, also as attorney for the Minnesota Loan & Trust Company, F. H. Hunter, as Receiver, and Cobb, Wheelwright & Dille. Stevens & Stevens, Mahoney and Park appeared for and on behalf of the Interveners, James D. Armstrong appeared for and on behalf of McKeen Motor Car Company and George M. Bleecker appeared for and on behalf of Kunz Oil Company and Cray & Eaton on behalf of Minnie O'Neill, as administratrix of the estate of James F. O'Neill.

The Court having heard the evidence in support of the Interveners' claim to the right of possession of said property, upon due consideration of the matter and on motion of Messrs. Stevens & Stevens, Mahoney and Park and other attorneys, hereby

ORDERS: That said F. H. Hunter as Receiver of the above named Defendant herein, be and he hereby is directed and required to forthwith

1391

turn over possession to the petitioners in intervention of all of the railroad property of the Defendants as herein below described, viz.,

The line of railway of the Minneapolis and Northern Railway Company, the above named Defendant, and all rights, franchises and privileges of said Defendant appertaining thereto which said Defendant had on the 9th day of July, 1912; or has since acquired, including all rights of way, right of way, all spur tracks, side tracks and switch tracks, steel rails, ties rolling stock and appurtenances belonging or appertaining thereto, said line of railway as now graded and established being described as follows: Commencing at or near a point where Marshall Street Northeast in the City of Minneapolis, County of Hennepin and State of Minnesota crosses the right of way of the Minneapolis St. Paul and Sault Ste Marie Railway and running thence in a northerly direction through the County of Hennepin and County of Anoka to and into the City of Anoka and terminating at Main Street at or near a point where said Main Street crosses the Rum River and there terminating.

The Court hereby expressly reserves jurisdiction of all of said property in this action to impress and charge thereon as a superior and paramount lien, the claims of any of the following named persons, firms or corporations, viz: State of Minnesota; Minnesota Loan & Trust Company; F. H. Hunter as Receiver; Cobb, Wheelwright & Dille and Kunz Oil Company, all of whom now have appeared herein and filed and claim preference over the claims of these intervenors, and such jurisdiction will be retained over said property by this Court, until the Court shall have heard all of the evidence touching the merits of the various claims and of the intervenors in opposition thereto and to all of said claims.

AND IT IS FURTHER ORDERED, That in case the Court shall after hearing the evidence and arguments touching said matters, find and determine that any of said claims now are superior to the claim of the petitioners in intervention or any of them and impress the same as a first lien and charge upon the corpus of said property, it hereby expressly reserves to itself the right to sell said property and all thereof so turned over by the Receiver to the petitioners in intervention in this action in appropriate proceedings for that purpose upon such terms and in such manner as it may deem fit and lawful for the satisfaction and payment of said claims, if any, so found to be superior, and each of the said petitioners in intervention are hereby expressly

turn over possession to the petitioners in intervention of all of the railroad property of the Defendants as herein below described, viz.,

The line of railway of the Minneapolis and Northern Railway Company, the above named Defendant, and all rights, franchises and privileges of said Defendant appertaining thereto which said Defendant had on the 9th day of July, 1912; or has since acquired, including all rights of way, right of way, all spur tracks, side tracks and switch tracks, steel rails, ties rolling stock and appurtenances belonging or appertaining thereto, said line of railway as now graded and established being described as follows: Commencing at or near a point where Marshall Street Northeast in the City of Minneapolis, County of Hennepin and State of Minnesota crosses the right of way of the Minneapolis St. Paul and Sault Ste Marie Railway and running thence in a northerly direction through the County of Hennepin and County of Anoka to and into the City of Anoka and terminating at Main Street at or near a point where said Main Street crosses the Rum River and there terminating.

The Court hereby expressly reserves jurisdiction of all of said property in this action to impress and charge thereon as a superior and paramount lien, the claims of any of the following named persons, firms or corporations, viz: State of Minnesota; Minnesota Loan & Trust Company; F. H. Hunter as Receiver; Cobb, Wheelwright & Dille and Kunz Oil Company, all of whom now have appeared herein and filed and claim preference over the claims of these intervenors, and such jurisdiction will be retained over said property by this Court, until the Court shall have heard all of the evidence touching the merits of the various claims and of the intervenors in opposition thereto and to all of said claims.

AND IT IS FURTHER ORDERED, That in case the Court shall after hearing the evidence and arguments touching said matters, find and determine that any of said claims now are superior to the claim of the petitioners in intervention or any of them and impress the same as a first lien and charge upon the corpus of said property, it hereby expressly reserves to itself the right to sell said property and all thereof so turned over by the Receiver to the petitioners in intervention in this action in appropriate proceedings for that purpose upon such terms and in such manner as it may deem fit and lawful for the satisfaction and payment of said claims, if any, so found to be superior, and each of the said petitioners in intervention are hereby expressly

ordered and directed not to sell said property to any person or corporation, or in any manner incumber the same, without giving notice to such purchaser or incumbrancer, of the terms of this order.

If any party so desires, a copy of this Order may be filed in the office of the Register of Deeds of Anoka and Hennepin Counties, and in the office of the Secretary of State.

By the Court,

Dated February 9th, 1915.

William B. Hale
Judge.

{Endorsed}

Filed Feb. 9, 1915.

P. S. Neilson, Clerk.

By G. Hemperley, Deputy.

STATE OF MINNESOTA, }
COUNTY OF HENNEPIN. } ss.

DISTRICT COURT,
FOURTH JUDICIAL DISTRICT.

I, P. S. NEILSON, Clerk of the above named Court, do hereby certify that I have compared the paper writing to which this certificate is attached with the original Order of Court, dated February 9th, 1915,

in the action therein entitled, as the same appears of record and on file in the said Clerk's office, at the Court House in said Hennepin County, Minnesota, and find the same to be true and correct copy thereof, and of the whole thereof.

In testimony Whereof, I have hereunto set my hand and affixed the seal of said District Court, at the City of Minneapolis, in said County, this 15th day of February A. D., 1915.

P. S. Neilson

Clerk of District Court.

By *C. U. Williamson*

Deputy.



1391

1391

No. 135907

STATE OF MINNESOTA,

COUNTY OF HENNEPIN.

DISTRICT COURT,

FOURTH JUDICIAL DISTRICT.

Pittsburgh Coal Company and

George Heaton,

Plaintiff's

AGAINST

Minneapolis & Northern

Railway Company,

Defendant.....

Certified Copy of

Order of Court.

STATE OF MINN.
DEPT. OF CORRECTIONS
Filed in the City of Minneapolis
January 9th 1915
Julius A. Schmalz
Assistant County Clerk Hennepin Co.