



that the defendant, having previously raised issues of law, was thenceforth precluded from obtaining a change of venue. Defendant, still occupying the premises of plaintiff without paying for same, applied to Mr. Justice Harris in Chambers for a writ of prohibition.

After filing of returns by respondent and hearing of arguments, the Justice in Chambers issued a ruling denying the petition. We are in such perfect agreement with this ruling that we quote it hereunder and have incorporated it in our opinion as follows:

“The petitioner in these proceedings, G. B. A. Johns, was sued by the respondent, T. F. Howard, before Stipendiary Magistrate J. Everett Bull in a summary ejectment case; but the petitioner, not being satisfied to have the case tried by Stipendiary Magistrate Bull, prayed the court for a change of venue, which the court refused to grant and proceeded to hear the case. Before the said Magistrate could render final judgment, the petitioner applied for a writ of prohibition before the Justice presiding in Chambers of this Court. The preliminary writ was duly issued and served on the respondents, who appeared and filed returns in which they contended that, in this case, and under the circumstances, prohibition will not lie. An inspection of the petition discloses that nowhere therein is the jurisdiction of the lower court challenged, nor is it alleged that the Magistrate proceeded contrary to rules which ought to be observed at all times. The Act of 1909, page 50, section 5, gives the defendant a right to change of venue provided the change is not before a Justice of the Peace or a Magistrate residing beyond the city or settlement where the Justice or Magistrate issuing the original writ resides; and any Justice or Magistrate denying that right can be said to have acted so as to prejudice the interests of the defendant. The Magistrate has jurisdiction herein. The records of the Magistrate’s Court fur-

ther reveal that, although the Magistrate ruled prejudicially to defendant's interest, defendant's counsel demurred to the writ, and proceeded to trial of the matter. In view of the foregoing, the writ is denied with costs against the petitioner."

Appellant Johns excepted to the foregoing ruling of Mr. Justice Harris and prayed an appeal to the full bench.

In amplification of our colleague's ruling we note that the appellant had a full and complete remedy for any improper denial of his request for change of venue; and that remedy was by regular appeal, not prohibition. Again we sound the warning that this Court views with great disfavor the promiscuous invocation of prohibition for what is commonly referred to as "delay tactics" to screen unmeritorious actions.

In the light of the foregoing, we affirm the ruling of our colleague in Chambers, and hereby deny the petition with instructions that the court below forthwith resume jurisdiction and hear and determine this matter without delay. Costs of these prohibition proceedings to be paid by appellant; and it is hereby so ordered.

*Ruling affirmed.*