

ADJUDICATION AND APPRISING.

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(RANKING OF ADJUDGERS AND APPRISERS.)

ture for Messrs Rofs and Ogilvie had been presented, it could be of no use, unless Mrs Mackenzie could have shown, that there was some irregularity in their proceedings.

No 45.

The Court were unanimously of opinion, That the adjudication of the superiority by Mrs Mackenzie was no bar to the subsequent confirmation obtained by Messrs Rofs and Ogilvie; and they were equally clear, that the infestment granted by Mrs Mackenzie to herself, was quite unauthorized.

The Lord Ordinary had found, That the adjudication at the instance of Catharine Mackenzie, is the first effectual adjudication *quoad* the superiority; but that the adjudication at the instance of Messrs Rofs and Ogilvie, is the first effectual one *quoad* the property.

And, after advising a reclaiming petition, which was followed with answers, THE LORDS adhered to the Lord Ordinary's interlocutor.

Another reclaiming petition was preferred; but it was refused without answers.

Ordinary, Lord Justice Clerk.
Clerk, Home.

Act. Honyman.

Alt. Abercromby, M. Rofs.

Eol. Dic. v. 3. p. 14. Fac. Col. No 183. p. 371.

Craigie.

1739. July 15. The CREDITORS of Thomson, Writer to the Signet.

No 46.

The first effectual adjudger was found entitled to annual rent of the expence of his adjudication.

Fol. Dic. v. 3. p. 15. Kilkerran, (ADJUDICATION.) No 5. p. 4.

1755. June 17.

COMPETITION betwixt Lieutenant DUNCAN CAMPBELL and NEIL M'VICAR.

LIEUTENANT DUNCAN CAMPBELL having purchased the estate of Kirnan, by a minute of sale, from Robert Campbell, apparent heir thereof, did, upon the 3d July 1744, deduce an adjudication in implement of the minute. On the 26th August 1747, he obtained from Sir James Campbell, superior, a charter upon his adjudication; and, upon the 1st September after, was infest.

Neil M'Vicar being creditor to the said Robert Campbell in a considerable sum due by bond, led an adjudication of the estate of Kirnan upon the act 1672, bearing date 10th July 1744. The adjudication was followed by a charge against Sir James Campbell the superior, 27th May 1745; and in this state the adjudication was produced in process, without being completed by infestment.

In a ranking of the creditors of Kirnan, M'Vicar insisted that his adjudication should be ranked *pari passu* with the Lieutenant's adjudication in implement.

No 47.

Adjudication in implement, and adjudication or apprising for debt, are incapable of a *pari passu* preference.