

No 2. the parties' good and help, could not be allowed to use horning against him to debar him from obtaining the loosing of the interdiction; the standing whereof made him unable for lack of the consent of his interdictor to obey and fulfil the charges.

Fol. Dic. v. 2. p. 82. Haddington, MS. No 1342.

No 3. 1623. *March 4,* HERMISCHEILLS *against* STEVENSON.

HERMISCHEILLS pursued a removing from the lands of Hermischiells against Malcolm Stevenson, who *alleged*, That no process could be granted, because the pursuer's sasine was in September, after the Whitsunday of the warning; which allegiance, the LORDS found relevant, because the sasine proceeding not upon a retour, but upon a precept of *clare constat* of the Lord Torphichen.

Fol. Dic. v. 2. p. 82. Haddington, MS. No 2800.

No 4. 1627. *June 20.* L. TOUCH *against* L. HARDISMILNE.

No 4.
No personal
objection
against the
defender can
supply the
defect of a
title to pur-
sue.

L. TOUCH pursues a removing against Hardismilne and his tenants, the title of which pursuit was a sasine given to the pursuer's umquhile father, upon a charter granted to him and his heirs of the same lands libelled, by the same defenders, and a retour whereby the pursuer was served heir to his umquhile father therein, with a charge out of the chancellary by precept, charging the defender to give him precept of sasine upon that retour; but no further being proceeded upon by that first precept out of the chancellary, the LORDS found, That their title could not produce this action of removing, the pursuer not being seased, without which sasine he could not pursue removing; albeit the same was not only pursued against him who was author of his father's right, to whom he was heir as said is, and against his tenants only; and so whereby the pursuer *replied*, that the defender could not oppone to him want of sasine, which he wanted through his default, he being charged as said is to give him sasine, and being author of his father's right; which was repelled, and no removing found before he was seased.

Act. *Craig.*

Alt. *Belshes.*

Clerk, *Gibson.*

Fol. Dic. v. 2. p. 82. Durie, p. 298.

*** A similar decision was pronounced, 25th June 1668, Heriot against Town of Edinburgh, No 22. p. 6901. *voce* INFERTMENT.