

Original,
No. 6297.

CUTLER GODFREY

v.

DORIS Q. GODFREY.

July 29, 1971.

Robert Shaw, for the plaintiff.

Charles J. Griffin, for the defendant.

PER CURIAM. This is a petition for extraordinary relief in the nature of mandamus pursuant to RSA 490:4 filed in this court to obtain the release of funds held by the superior court. Prior to the initiation of the proceedings below the parties were partners in a business enterprise in Hampton Beach. In April, 1971, plaintiff filed a petition in superior court for partition and appointment of a receiver. The Court (*King, J.*) ordered the parties to submit sealed bids for the purchase of the business, and upon failure of the plaintiff to submit a bid, the defendant's bid of \$45,200 was accepted. The court ordered the plaintiff to transfer his right, title and interest in the business to the defendant upon payment of the balance of the purchase price to the court, and is suspending distribution until plaintiff completes the transfer. Although the plaintiff has taken steps to appeal the court's rulings, he brings this petition for extraordinary relief to obtain release of the funds pending his appeal, arguing that the court's order deprives him of any beneficial use of his capital and profit and that if he com-

pletes the transfer he "waives his right to appeal."

There is no indication in this case that the plaintiff's interests will not be fully protected through the ordinary appellate process. Mandamus is an extraordinary remedy which is granted only when there is clear and apparent right to the relief requested and when no other adequate relief is available. *Bois v. City of Manchester*, 104 N.H. 5, 177 A.2d 612 (1962). This court will not interfere with the ordinary process of appeal unless there is a clear case of necessity. *Hillsborough v. Superior Court*, 109 N.H. 333, 251 A.2d 325 (1969).

Petition dismissed.

Strafford,
No. 6312.

RICHARD Q. LACHANCE

v.

BERT D. GEORGE, MAYOR *et al.*

September 10, 1971.

Paul B. Urion (by brief and orally) for the plaintiff.

Arthur W. Hoover (by brief and orally) for the defendants.

PER CURIAM. After oral arguments and written briefs were submitted at a hearing in the supreme court on the afternoon of Friday, September 10, 1971, the court issued the following orders: The primary election for the city of Rochester shall be held on Tuesday, September 14, 1971 as originally scheduled. Further registration of voters on or before that date for that election is prohibited.

So ordered.