

have the same jurisdiction as a Judge of the High Court to try, etc. ; and no jurisdiction appears to have been conferred upon the County Court itself by that section.

Now at the time of the decision in *Dougherty v. McClay* it seems quite clear that the County Court had no jurisdiction. At p. 57 it is said. "The action or proceeding was one in the High Court always." This was in March, 1889. If the County Court now has jurisdiction, from what source did it derive it ; or how has it been conferred ? Giving the County Court Judge, either as such, or as Local Judge of the High Court, power or authority to try the matter would not, of course, confer on the County Court any increased jurisdiction. The County Court Judge has always had this power under s. 187 of the former Act (R.S.O., 1887), and all the cases decided since then, so far as brought to my notice, either show or imply that the sole jurisdiction, so far as institution of proceedings is concerned, rests in the High Court.

S. 187 of the Act of 1892 is similar to that of R.S.O., 1887, and ss. 189, 207, of the present Act seems at least to imply that the proceedings must be in the High Court. And Rule 1386 (rescinding Rules 41, 1289 and 1380) show simply what jurisdiction a Judge of the County Court shall have as Local Judge of the High Court, and has no reference to County Court jurisdiction.

I think I must therefore hold that the County Court has no jurisdiction in the present matter, and that the proceedings have been wrongly instituted, and I dismiss the motion but without costs, as the applicant has been led into the error (if such it is) by relying upon what would reasonably be considered good authority.

Province of Nova Scotia.

SUPREME COURT.

Full Court.]

[March 9.

RE ESTATE OF CUNNINGHAM.

*Petition for administration de bonis non—Assets omitted from inventory—
Adverse possession—Statute of Limitations.*

On the settlement of the estate of the deceased it was found that the sum of \$2,188.15 was due to E.W.D., the surviving administrator, but that there were no assets out of which the same could be paid.

The petitioner, who was acting administrator of the estate of E. W. D., applied to the Court of Probate for the County of Hants for administration de bonis non of the estate of C., alleging that at the time of his death C. was interested in certain property, gypsum rocks and quarries which escaped the notice of his administrators, and had not been included in the inventory of his estate.

Held, affirming the judgment of the Probate Court, that petitioner was entitled to the administration prayed for.