

The grounds of the application were that there is no jurisdiction for a County, Court judge to act unless it is shown that the Supreme Court judge for the district is temporarily absent, and even then there is no jurisdiction to make a Court order, and under the practice in the Supreme Court no other than a Court order could be made. It was not shown that the Supreme Court judge for the Kootenay District was absent in the sense apparently contemplated by the Act.

*Held*, that the order might be treated as a Chamber order, but the County Court judge had no power either under s. 44 of the County Court Act, or ss. 22 and 23 of the Supreme Court Act, or under Rule 1,075 of the Supreme Court, to make either in Chambers or in Court an order appointing a receiver in a Supreme Court action under the circumstances.

*Semble*, that the Supreme Court judges of Vancouver and New Westminster Districts must be absent from those districts before County Court judges in Yale and Cariboo could act as Local judges of the Supreme Court.

*Daly*, for plaintiffs. *Bodwell* and *MacDonald* for defendants.

Irving, J.]

WAKEFIELD v. TURNER.

[Aug. 31

*Practice—Receivership order—R.S.B.C., c. 56, s. 14—Rules 517, 1,075.*

Motion to set aside an order made by Judge Spinks, sitting, or purporting to sit, as a Local Judge of the Supreme Court at Rossland on August 3rd, 1898, whereby he appointed, on the ex parte application of plaintiffs, Wm. A. Carlyle, to be receiver, and to take possession of, manage and control the Le Roi mine at Rossland, and also restraining the defendants until August 13th, 1898, from interfering with the management and control of the mine, and from extracting, or disposing of any ores of the mine, or attempting to exercise any control over the operation of the mine. The operative part of the order ran "it is ordered," etc., and concluded as follows:—

(SEAL) "By the Court."

"Wm. Ward Spinks,"

"J. Schofield."

"Local Judge of the

"Registrar."

Supreme Court."

Under s. 22 of the Supreme Court Act, B.C., and Rule 1,057, the jurisdiction of the Local Judge of Kootenay is limited to such matters as may under the Rules of Court or by statute be dealt with at Chambers. Under s. 14 of the Act, a receiver may be appointed by an interlocutory order of the Court.

*Held*, that the order was a Chamber order. There being no Judge resident in Kootenay or usually discharging the duties within that district, the proviso authorizing the Local Judge to hear "Court motions" has no application to Kootenay. Owing apparently to a mistake in the rules, the power which is given to the Court or Judge by the English Rules must under the B. C. Rules be exercised by the Court and not by a Judge; and so whether the order were a Court order or a Chamber order it could not be made by a Local Judge under Rule 1,075. Order discharged with costs.

*Bodwell* and *J. A. Macdonald*, for the motion. *Daly*, Q.C., contra.