

Full Court.]

[Jan. 14.

CORPORATION OF SLOCAN v. CANADIAN PACIFIC RY. CO.

*County Court—Jurisdiction—Appeal—Prohibition—Judge acting outside his county at request of another judge—Persona designata—Municipal Clauses Act, B.C. Stat. 1906, c. 32, s. 137.*

The judge of the County Court mentioned in s. 137 of the Municipal Clauses Act is persona designata, and the authority conferred upon him by said section may not be exercised by the judge of another county acting on his request and in his absence.

The remedy of an aggrieved party in such a case is by application for prohibition and not by way of appeal.

*Griffin*, for appellant. *Davis*, K.C., for respondent.

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SUPREME COURT.

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Clement, J.]

[Dec. 15, 1908.

IN RE BRITISH COLUMBIA TIE &amp; TIMBER CO.

*Company—Winding up—Mortgagees—"Proceeding against the company."*

A company being in liquidation the mortgagees went into possession prior to the issue of the winding-up order. On an application to restrain the mortgagees from selling under their security, objection was taken that their attendance on the application and the approving of the winding-up order was such a taking part in the winding up as gave the court jurisdiction to restrain them. This being overruled, the liquidator sought to restrain the mortgagees from selling without the sanction of the court on the ground that such sale would be a "proceeding against the company" under s. 22 of the Winding-up Act, R.S.C. c. 144.

*Held*, that the mortgagees were proceeding rightfully.

*Whiteside*, for liquidator. *Reid*, K.C., for company.