329, and Tomkins' and Jenkins' Modern Roman Law, page 91). It follows then that *lis pendens* can only be relied on as a protection of the plaintiff's right to the property actually sought to be recovered by the suit.

This being so, the further question arises whether apart from *lis pendens* an express notice or knowledge of the pending suit would make any difference. In the case before us, the Judge finds that the appellant was aware of the suit when he took the assignment and that he did not intervene until the decree was satisfied. If with the plaint the money due by the mortgagor were paid into Court, or if the respondent satisfied the decree before he became aware of the assignment, the question of actual knowledge might be material. But it appears that the appellant became aware of the assignment at all events in 1881, and before he satisfied the decree, whilst in the plaint in the suit of 1879 there was only an offer to pay the appellant's assignor the debt due to him. Thus, the payment made by the respondent, though it was in satisfaction of a decree, was made with the knowledge of the appellant's claim and could not be accepted against him as valid.

The Judge observes, however, that he suspects that the submortgage in favor of the appellant was not a *bonâ fide* transaction but merely an attempt to evade the respondent's claim. It is, therefore, necessary before disposing of this second appeal to have a clear finding on the point. For these reasons I also think that the Judge must be asked to try the issue whether exhibit III represented a real transaction at all.

APPELLATE CRIMINAL.

Before Mr. Justice Muttusámi Ayyar and Mr. Justice Hutchins.

THE QUEEN-EMPRESS

against

SESHAYA.*

1885. October 9.

Abkári Act, 1864, *s.* 26—*Police Act*, 1859, *s.* 1—*Police officer—Village police—Mohatád.*

The term "Police officer" used in s. 26 of the Ábkárí Act (Madras Act III of 1864) includes a mohatád or village policeman.

* Criminal Revision Case 531 of 1885.

QUEEN-EMPRESS v. SESHAYA.

THIS was a case referred for the orders of the High Court under s. 438 of the Code of Criminal Procedure by M. R. Weld, Acting District Magistrate of Kistna.

The case was stated as follows:—

"In this case the Magistrate convicted two accused persons under s. 22 of the Madras Ábkári Act III of 1864 of being in possession of more than one imperial quart of liquor without a valid permit, and fined them Rs. 5 and As. 8 respectively. A peon under the Ábkári renter gave information to the mohatád of the village, who apprehended the accused and seized the liquor. The Magistrate awarded half the fines (Rs. 2-12-0) to the renter's peon as informer and half to the mohatád of the village as apprehender and seizer under s. 26*b*.

"The Divisional Magistrate, the General Deputy Magistrate of the Vinukonda Division, has noted in the margin opposite the word 'mohatád' the words 'village police officer,' which seems to indicate that he considers that the Second-class Magistrate of Tumurukode is right, as a mohatád is a police officer within the meaning of the Ábkári Act.

"The term 'police officer' is not defined in the Ábkári Act.

"According to s. 1 of the Madras Police Act XXIV of 1859, the word 'police' includes village police.

"As I doubt whether it was the intention of the Legislature to give the powers conferred on police officers under the Ábkári Act to village police, I refer the case for the orders of the High Court.

"If the term police officer in the Ábkári Act does not include a village policeman, the mohatád's apprehension of the accused and seizure of the liquor was illegal, and the award made to him must be cancelled."

Counsel were not instructed.

The judgment of the Court (Muttusámi Ayyar and Hutchins, JJ.) was delivered by

HUTCHINS, J.—It is conceded that a mohatád is a village policeman. It was not necessary in Act III of 1864 to define the term 'police officer'; the definition is contained in the General Police Act XXIV of 1859, which says that the "word 'police' shall include general and village police, kattubadies, kavalgárs, and all other persons by whatever name known, who exercise any police functions throughout the Madras Presidency." There is

nothing to show that the Ábkárí Act intended to narrow this definition. Sections 24 and 24*a* confer certain powers to be exercised by officers in charge of a station only; 24*b* confers a power on the head of a village; 24*c* expressly requires all police officers and heads of villages to comply with any lawful requisition of a renter on his agent. When therefore section 26 speaks of any police officer, it must be taken to include an officer of the village police.

There is consequently no ground to disturb the order passed by the Second-class Magistrate.

APPELLATE CIVIL.

Before Mr. Justice Kernan (Officiating Chief Justice) and Mr. Justice Parker.

LAKSHMANA (PLAINTIFF),

and

KULLAMMA (DEFENDANT).*

1885. October 23.

Married woman—Imprisonment for debt.

Married women against whom personal decrees for debt have been made are not exempt from arrest or imprisonment in execution of such decrees under the Code of Civil Procedure.

a case referred to the High Court under s. 617 of the ivil Procedure by Rámasámi Mudaliar, District Múnsif y.

ase was stated as follows:—

suit was brought to recover a sum of money which the t contracted to pay to the plaintiff. It appears from the of the plaintiff and his witnesses that the deb had been ing against the defendant and her husband, and that the it, when a demand was made against her husband, under- ay the debt herself.

ecree was passed against the defendant Kullamma, who ed. She having failed to pay the decree amount, the vakil requested the Court to send her to jail; but this is opposed by the vakil for the judgment-debtor, who

* Referred Case 12 of 1885.