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tion was given, or of his official superior. I am induced to adopt this altered view upon closer consideration of s. 195 of the Criminal Procedure Code, where a distinction is drawn between "sanction" and "complaint;" and I think that by the use of the former word it was contemplated that a prosecution may emanate from some person other than the officer interested. Though I take this view of the matter now, it would in no way have altered the order I made in *Queen-Empress v. Bidha Kishan* (1), had I held it when that was passed, as, in my opinion, when a specific false charge is made, as in that case, the proper section for proceedings to be adopted under is s. 211. With these remarks the record may be returned.

APPELLATE CIVIL.

Before Mr. Justice Olipheld and Mr. Justice Tyrrell.

LACHMAN SINGH AND OTHERS (DEFENDANTS) v. SALIG RAM AND OTHERS (PLAINTIFFS).*

Lambardar and co-sharer—Government revenue—Payment by lambardar of arrears of revenue due by co sharer—Charge—Act XII of 1881 (N.-W. P. Rent Act), s. 93 (g).

In execution of a decree obtained by a lambardar under s. 93 (g) of the N.-W. P. Rent Act, the decree-holder caused to be attached a certain share upon which the arrears of Government revenue which he had satisfied had accrued. In defence to a suit brought by certain purchasers of the same property from the judgment-debtors to have it declared that the property was not liable to sale under the decree, and to remove the attachment, the decree-holder pleaded that, by the fact of paying the arrears of revenue due on the estate of the plaintiffs' vendors, he had obtained a charge on it, and could bring it to sale to satisfy the decree.

Held that a charge of this nature could not be enforced in execution of a decree which was merely a personal one for arrears of Government revenue against persons against whom it was passed by a Revenue Court not competent to establish or enforce a charge on property, or to do more than pass a personal decree, and whose powers in execution were confined to realization from personal and immoveable property of the judgment-debtors. *Nugender Chunder Ghose v. Sremutty Kaminee Dossee* (2) referred to.

The facts of this case are stated in the judgment of the Court.

* Second Appeal No. 1663 of 1885, from a decree of Maulvi Muhammad Abdul Basit Khan, Subordinate Judge of Mainpuri, dated the 22nd August, 1885, reversing a decree of Maulvi Muhammad Wajid Ali Khan, Munsif of Mainpuri, dated the 13th February, 1885.

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Munshi *Madho Parshad*, for the appellants.

Pandit *Nand Lal*, for the respondents.

OLDFIELD, J.—The facts are as follows :—The appellant (defendant) Lachman Singh, lambardar and co-sharer in manza Gujarpur, satisfied arrears of revenue due on the shares of his co-sharers, defendants 2, 3, and 4, and brought a suit against them under s. 93 (g) of the Rent Act, to recover the amount he had paid, and obtained a decree, and in execution attached a 2-biswa and 7½ biswansi share on which the arrears had accrued.

The plaintiffs-respondents took objections to the attachment, they having, subsequently to Lachman Singh's decree, but prior to attachment, purchased the property from Lachman Singh's judgment-debtors in satisfaction of a mortgage-debt, and they contended that the property was not liable to sale under the decree. This objection was disallowed, and they have brought this suit to have it declared that the property is not liable to be sold in execution of the defendant Lachman Singh's decree, and to remove the attachment.

There were several defences to the suit set up by the principal defendant, but the only one with which we are concerned in this appeal is that, by the fact of paying the arrears of revenue due on the estate of the plaintiffs' vendors, he obtained a charge on it, and can bring it to sale to satisfy the Rent Court decree. The first Court dismissed the suit on the authority of a decision of this Court—*Wazir Muhammad Khan v. Gauridat* (1). The lower appellate Court has decreed the claim, apparently holding that the appellant Lachman Singh's contention that, by paying revenue, he obtained a charge on the estate, was invalid.

We have now an appeal on the part of the defendants. The question we have to decide is, not so much whether the defendant Lachman Singh obtained a charge on the property of the plaintiffs' vendors, as whether he can enforce any such charge in execution of the Rent Court decree which he holds. The decree which he holds is in a suit brought under s. 93 (g), Rent Act, in the Revenue Court. It is, and can be, no more than a decree for money against the vendors of the plaintiffs for arrears of Government revenue

(1) I. L. R., 4 All. 412.

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payable by them through the *lambardar*. The suit does not, and could not, in a Revenue Court, seek to establish or enforce a charge on property, and neither does the decree give it, nor are there any powers conferred on the Revenue Court in execution of its decrees to enforce charges on immovable property. S. 171 and the following sections deal with the powers of the Court in execution, which are confined to realization from personal and immovable property of the judgment-debtors.

No doubt, by paying arrears of revenue, which he was bound to do, the defendant would obtain a charge on the estate against all persons interested therein for the sum paid, and this has been laid down by their Lordships of the Privy Council in *Nugender Chunder Ghose v. Sreemutty Kaminee Dossee* (1); but that case is also an authority for the view I take in this case, that a charge of this nature cannot be enforced under a decree which is merely a personal decree against the judgment-debtors, against whom it was passed by a Revenue Court not competent to do more than pass a personal decree. If the defendant wished to establish a charge against the property in the hands of the plaintiffs, he should have established the same by suit against them in a Court of competent jurisdiction.

The case referred to by the first Court has no bearing on the question before us.

Second Appeal No. 379 of 1882 decided by a Division Bench, this Court on the 9th March, 1883, was referred to by the *plea* for the appellants, to support his contention, and no doubt do so; but for the reasons I have stated, I am unable to take the view of the law taken in that case. I would dismiss the appeal with costs.

TYRELL, J.—I concur.

Appeal dismissed.

(1) 11 Moo. I. A. 255.