is required by s. 53 of the present Code. Although the verification is a matter of great importance, we do not attach much weight to the error in verification in the present instance, as the party making it may have been misled by the authorized translation of the Code. Ten days will be allowed for objection on the return to the remand.

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GIRDHARI v. KANHAIYA LAL.

Cause remanded.

REVISIONAL CRIMINAL.

1892 November 16.

Before Mr. Justice Knox.

MEHDI HASAN (APPLICANT) *v.* TOTA RAM (OPPOSITE PARTY).

Criminal Procedure Code, ss. 195, 404, 439—Sanction to prosecute—Appeal—Revision.

The proceeding under s. 195 of the Code of Criminal Procedure by which an order granting or refusing to grant sanction to prosecute may be set aside is a proceeding in revision and not by way of appeal.

The facts of this case, so far as they are necessary for the purposes of this report, appear from the judgment of KNOX, J.

Mr. *Wallach*, for the applicant.

Babu *Sital Prasad Chatterji*, for the opposite party.

KNOX, J.—This case is represented as an appeal under s. 195 of the Code of Criminal Procedure from an order of the Sessions Judge of Mainpuri granting sanction for a criminal prosecution under section 193 of the Indian Penal Code.

A preliminary objection has been urged to the effect that no appeal lies from orders passed under s. 195 of the Criminal Procedure Code, and I have been referred to s. 404 in support of the contention. Section 404 provides in express terms that, except as provided by this Code, no appeal shall lie from any order of a Criminal Court. No direct provision of the Code has been pointed out to me as sanctioning an appeal from orders passed under s. 195. It has, however, been contended by Mr. *Wallach*, who appears for the appellant, that the words contained in s. 439 of the Code of Criminal Procedure do recognise the power of revoking a sanction

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given or granting a sanction when refused as one of the powers inherent in a Court of appeal.

I have also been referred to the case of *Gulab Singh* v. *Surat Ram and others* (1), and it has been argued that this is an authority for the view that appeals lie from orders under s. 195 of the Code of Criminal Procedure. The case is not on all fours with the case before me. In that case the Court was dealing with an application for a revision of an order of a Magistrate of the first class refusing sanction, and all that is expressly laid down in that ruling of this Court is that inasmuch as the law provided for an appeal against an order refusing sanction, no application for revision would lie to this Court unless the prior remedy provided by the Code had been exhausted.

So far, moreover, as my experience goes, and counsel has not been able to show me to the contrary, the usual practice of this Court has been to entertain applications of this kind as applications for revision. I do not find either in s. 439 or s. 195 any express provision made for an appeal. Section 195 only contains the word "appeal" as a convenient mode of designating a particular Court which the law directs shall deal with the revoking or granting of sanctions under s. 195, and as regards s. 439 I am of opinion that the word Court there used is again used to designate a particular Court and cannot be construed in face of the precise wording of s. 404 into a word granting an appeal. Had the legislature intended an appeal to lie, the natural place for so enacting would have been in Chapter XXXI of the Code. For these reasons I hold that the preliminary objection must prevail and that no appeal lies.

However, under the circumstances, and exercising my powers as a Court of revision, I direct the record to be laid before me with a view of satisfying myself how far any contention can be urged of the correctness of the order passed.

Upon this case coming up in revision, Mr. *Chatterji* who appears for Tota Ram, called the attention of the Court to the fact that Mehdi Hasan had on a previous occasion applied to have the order

(1) Weekly Notes, 1884, p. 203.

for sanction in this case reviewed and that application was rejected. Under these circumstances I hold that as regards Mehdi Hasan I cannot entertain this application.

Application rejected.

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MEHDI HASAN v. TOTA RAM.

APPELLATE CIVIL.

1892
November 30.

Before Sir John Edge, Kt., Chief Justice, and Mr. Justice Aikman.

RAM RAJ TEWARI (PLAINTIFF) *v.* GIRNANDAN BHAGAT AND OTHERS (DEFENDANTS). *

Act VII of 1870, *s.* 7, *para.* 5—*Act VII of* 1887, *s.* 8—*Court-fee—Jurisdiction—Suit to eject a tenant at fixed rates—Valuation of suit.*

A suit to eject a tenant at fixed rates is a suit for the possession of land within the meaning of paragraph 5, s. 7 of the Court-fees Act, 1870, and the valuation of such suit for the purposes of Court-fees and of jurisdiction is the value of the subject-matter of the suit, that is to say of the tenant-right, not of the land itself nor of merely one year's rent.

THE facts of this case sufficiently appear from the judgment of the Court.

Munshi *Jwala Prasad*, for the appellant.

Mr. *Abdul Majid*, for the respondents.

EDGE, C. J. and AIKMAN, J.—In the suit out of which this appeal has arisen the plaintiff sued to eject certain tenants at fixed rates on account of acts alleged to have been done by them inconsistent with the purposes for which the land was let. The suit was one which came under cl. (b) of s. 93 of Act No. XII of 1881. The case went in appeal to the Court of the District Judge, and a question arose before him as to whether the case was appealable under s. 189 of Act No. XII of 1881. The annual rent was Rs. 81-5-0, and the plaintiff, who was the appellant in the Court of the District Judge, had valued his suit for the purposes of the Court-fee at Rs. 81-5-0. The learned District Judge considered that the valuation put by the plaintiff upon his suit was the valuation which

* Second appeal No. 914 of 1890, from a decree of H. W. Reynolds, Esq., District Judge of Ghâzipur, dated the 16th June 1890, confirming a decree of Maulvi Muhammad Wasi, Assistant Collector of Ballia, dated the 16th September 1889.