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defence, to cancel the charge which he had framed under section 210, that is, a charge framed when at the close of the case for the prosecution the Magistrate was satisfied that there were sufficient grounds for committing (*vide* section 210). No doubt this gives large powers to officers it may be of only a few years' experience in dealing with serious charges. But the law has provided a safeguard in section 436 of the Code of Criminal Procedure, whereby a District Magistrate or a Court of Session can set aside an order of discharge passed by a Magistrate holding an inquiry under chapter XVIII. Although a Magistrate has this large power of discharging the accused, he should, in my judgment, only exercise it when he is clearly of opinion that the evidence for the prosecution is untrustworthy. If it is a matter of weighing probabilities, he would, I consider, be well advised in leaving the case to the Court which alone is empowered to try it, and should not, as in the case referred to by my learned colleague, discharge the accused because in his opinion the accused ought "to have the benefit of the doubt."

In the case we are dealing with I think it sufficient to say that after reading the judgment of the Magistrate I am of opinion that the learned Sessions Judge was right in taking action under section 436. I would therefore refuse this application.

By THE COURT.

The application is refused.

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April 23.

APPELLATE CIVIL.

Before Sir John Stanley, Knight, Chief Justice, and Mr. Justice Burkitt.

SHEODARSHAN DAS (PLAINTIFF) v. AHSAN ALI (DEFENDANT).*

Act No. XII of 1881 (N.-W. P. Rent Act), section 93(i)—Jurisdiction—Suit by muafidar to recover from a lambardar assigned revenue collected on his behalf.

Held that the provisions of section 93, clause (i), of Act No. XII of 1881 are wide enough to include a suit by a muafidar to recover from another

* Second Appeal No. 574 of 1902 from a decree of H. D. Griffin, Esq., District Judge of Agra, dated the 2nd of May, 1902, reversing a decree of Munshi Muhammad Ali Khan, Assistant Collector, 1st class, Agra, dated the 20th of February, 1902.

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muafidar, who was appointed as lambardar to collect the assigned revenue payable by the zamindars to the muafidars, the plaintiff's share of such assigned revenue. *Abdul Karim v. Fazal Azim* (1) dissented from.

THIS was a suit brought by a muafidar to recover his share of the assigned revenue from another muafidar who was apparently appointed as lambardar to collect the assigned revenue payable by the zamindars to the muafidars. The Court of first instance (Assistant Collector) decreed the claim. But on appeal the lower appellate Court (District Judge of Agra) dismissed the suit, holding that it did not lie, having regard to the ruling of the Board of Revenue in *Abdul Karim v. Fazal Azim* (1). The plaintiff thereupon appealed to the High Court.

Dr. Satish Chandra Banerji, for the appellant.

Dr. Tej Bahadur Sapru, for the respondent.

STANLEY, C. J. and BURKITT J.—This is an appeal in a suit brought under section 93 (i) of the Rent Act of 1831 by a *muafidar* or assignee of Government revenue against another *muafidar*, who was apparently appointed as *lambardar*, to collect the assigned revenue payable by the zamindars to the *muafidars*. The learned District Judge has thrown out the suit as not maintainable on the strength of a ruling by the Board of Revenue (printed at p. 102 of the Weekly Notes for 1893) in the case of *Abdul Karim v. Fazal Azim*. In that case it was held by the Board of Revenue that this section, that is to say, section 93(i), “plainly refers to suits by *muafidars* against the persons who are liable to pay the revenue to the assignees thereof.” We find ourselves unable to concur in this ruling. We see no grounds for putting such a narrow construction on the very broad words of clause (i) of section 93. That clause seems to us fully to authorize the institution of suits like the present, which, in the words of the clause, is a suit by a *muafidar* for arrears of revenue due to him as such, that is to say, as *muafidar* or assignee of the Government revenue. We cannot accept the decision of the Board of Revenue in this case, and we must therefore allow this appeal, set aside the decision of the lower appellate Court, and, as the suit having been decided on a

(1) Weekly Notes, 1893, p. 102.

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preliminary point, we remand the record under section 562 of the Code of Civil Procedure to that Court with directions to readmit the appeal in its file of pending appeals and decide the remaining issues. Costs will follow the event.

Appeal decreed and cause remanded.

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April 26.

REVISIONAL CIVIL.

Before Mr Justice Knox and Mr. Justice Aikman.

RAM LAL (PLAINTIFF) v. RATAN LAL AND OTHERS (DEFENDANTS).^{*}
Civil Procedure Code, sections 622, 629—Review of judgment—Revision—Application for revision of an order rejecting an application for review.

Semble that it was the intention of the Legislature that the Court which originally heard a case should be the Court to decide whether an application to review its former judgment should or should not be granted, and where that Court rejects such an application, its decision should not be open either to appeal or to revision by a higher Court.

THE applicant in this case was appellant in an appeal which had been dismissed by the District Judge of Cawnpore on the 26th of June 1899. On the 27th of June 1902 he applied to the District Judge for review of the judgment in the appeal on the ground of the discovery of new and important evidence. The District Judge, however, came to the conclusion that the alleged new evidence was or might have been known to the plaintiff, if he had exercised due diligence long before, and accordingly rejected the application. Against this order rejecting his application for review the plaintiff applied in revision to the High Court.

Mr. B. E. O'Connor, Dr. Satish Chandra Banerji and Muushi Haribans Sahai, for the applicant.

Pandit Moti Lal Nehru and Pandit Mohan Lal Nehru, for the respondent.

KNOX and AIKMAN, JJ.—This is an application made by one Ram Lal, asking this Court to set aside in revision the order of the Court below and to grant an application for review, which was rejected by that Court. A preliminary objection is raised by the other side, to the effect that an order passed upon

^{*}Civil Revision No. 38 of 1903.