

REVISIONAL CRIMINAL.

1908

November 27.

Before Mr. Justice Aikman and Mr. Justice Karamat Husain.
KANHAI LAL AND ANOTHER (OPPOSITE PARTY) v. CHHADAMMI LAL
 (APPLICANT).*

Criminal Procedure Code, section 195—Sanction to prosecute—Appeal.

Held that when sanction to prosecute has been granted by a Court under the provisions of section 195 of the Code of Criminal Procedure, only one appeal from such order will lie under that section. *Subig Ram v. Ramji Lal* (1), *Emperor v. Serh Mal* (2) and *Muthuswami Mudali v. Veeni Chetti* (3) referred to.

IN this case one Chhadammi Lal applied in the Court of the Munsif of Bareilly for sanction to prosecute Kanhai Lal and another for an offence punishable under section 193 of the Indian Penal Code. Their application was refused, upon which a further application was made to the District Judge who granted the sanction prayed for. The persons against whom the sanction had been granted thereupon applied to the High Court in its revisional criminal jurisdiction against the order of the District Judge.

Babu Satya Chandra Mukerji, for the applicants.

Babu Sital Prasad Ghosh, for the opposite party.

AIKMAN and KARAMAT HUSAIN, JJ.—One Chhadammi Lal applied to the Munsif for sanction to prosecute the present applicants for an offence punishable under section 193, Indian Penal Code. Sanction was refused by the Munsif. Chhadammi Lal then applied to the learned District Judge, who granted the sanction. The applicants have presented a petition which is headed as a "Criminal Revision" against the order of the District Judge. It may be taken as decided by the Full Bench in *Subig Ram v. Ramji Lal* (1) that this Court has no revisional powers on the criminal side to interfere with an order passed by a Civil Court granting sanction under the provisions of section 195, Code of Criminal Procedure. We are bound by that ruling, and must therefore hold that we have no power of interference in revision. But it is contended that apart from the revisional powers conferred on this Court by Chapter XXXII of the Code of

* Criminal Revision No. 656 of 1908, from an order of W. H. Webb, Esq., District Judge of Bareilly, dated the 17th of July 1908.

(1) (1906) I. L. R., 23 All., 554. (2) Weekly Notes, 1908, p. 102.
 (3) (1907) I. L. R., 30 Mad., 332.

Criminal Procedure, we have power under section 195, clause (6) of that Code to revoke the sanction which the learned District Judge has given. In the case of *Muthuswami Mudali v. Veeni Chetti* (1) Mr. Justice Wallis expressed his opinion that it was never intended by section 195 that there should be more than one appeal in a case like the present. In the case of *King Emperor v. Serh Mal* (2) we expressed our concurrence with what was said by Wallis, J., in the case referred to. We see no reason to alter our opinion. We therefore hold that we have no power of interference in this case, and reject the application. "

1908

KANHAI LAL
v.
CHHADAMMI
LAL.

APPELLATE CIVIL.

1908

November 28,

Before Sir John Stanley, Knight, Chief Justice, and Mr. Justice Banerji.
SAGAR MAL (DEFENDANT) v. MAKHAN LAL AND OTHERS (PLAINTIFFS).^{*}
Act (Local) No. II of 1901 (Agra Tenancy Act), sections 4 (5), 32 (2)—Rent free grant—"Holding"—"Tenant."

Held that a rent free grant is not a "holding," nor is the grantee a "tenant" within the meaning of the Agra Tenancy Act, 1901. *Abdul Karim v. Ramzan* (3) approved.

THE plaintiff in this case brought his suit in a Civil Court for partition of a rent-free holding. The Court of first instance (Munsif of Meerut) gave the plaintiff a decree, and this decree was in appeal confirmed by the Additional Judge. One of the defendants, Sagar Mal, appealed from this decree to the High Court, upon the ground that in the case of a rent free grant, as of any other tenancy coming under the Agra Tenancy Act, a Civil or a Revenue Court is prohibited by section 32, clause (2), of the Act from entertaining a suit for partition.

Pandit *M. L. Sandal*, for the appellants.

Mr. *M. L. Agarwala*, for the respondents.

STANLEY, C.J. and BANERJI, J.—This appeal arises in a suit for partition of a rent free holding. Both the Courts below granted the plaintiff a decree. This appeal has been preferred by one of the defendants, Sagar Mal, and the only ground of appeal pressed

^{*} Second Appeal No. 1284 of 1907 from a decree of Muhammad Ahmad Ali Khan, Additional Judge of Meerut, dated the 31st of May 1907, confirming a decree of Hari Mohan Banerji, Munsif of Meerut, dated the 12th of January 1907.

(1) (1907) I. L. R., 30 Mad., 332. (2) Weekly Notes, 1908, p. 102.
(3) Weekly Notes, 1908, p. 197.