

seems to be more in point. In my judgement the decree of the lower appellate court is right and I would dismiss this appeal.

KNOX, A. C. J.—I agree and have nothing further to add.

TUDBALL, J.—I agree.

BY THE COURT.—The order of the Court is that the appeal be dismissed with costs.

*Appeal dismissed.*

## APPELLATE CIVIL.

*Before Mr. Justice Figgott and Mr. Justice Walsh.*

TAPSI SINGH AND OTHERS (PLAINTIFFS) v. HARDEO SINGH AND ANOTHER (DEFENDANTS).\*

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*Act (Local) No. III of 1901 (United Provinces Land Revenue Act), sections 203 to 207—Act (Local) No. II of 1901 (Agra Tenancy Act), section 95—Arbitration—Decision of Revenue Court based on award—Dispute between rival tenants as to possession of land—Suit for possession—Jurisdiction—Civil and Revenue Courts.*

*Held* that section 207 of the United Provinces Land Revenue Act, 1901, does not bar a separate suit on title, independently of the decision of the Revenue Court based on the award, to recover possession of property which has been the subject of arbitration proceedings under sections 203 to 206 of the Act. *Girdhari Chaube v. Ram Baran Misir* (1) approved and followed.

*Held* further, that a suit between two rival tenants of adjoining holdings to determine the question whether a certain parcel of land appertains to the holding of the one or of the other is cognizable by the Civil Court. *Bhup v. Ram Lal* (2) and *Jagannath v. Ajudhia Singh* (3) referred to.

THIS was a suit between rival claimants to the possession of two parcels of land as tenants. Previously to the suit the parties had taken two proceedings before the Revenue Courts. The plaintiffs applied for correction of the village papers, which showed the defendants as sub-tenants of the plaintiffs. The defendants on their part applied to the Revenue Court to fix boundary pillars between the parcels of land in the actual possession of the parties respectively. The dispute between the parties was referred

\* Second Appeal No. 392 of 1916, from a decree of Ram Prasad, District Judge, Ghazipur, dated the 30th of November, 1915, confirming a decree of Ram Saran Das Taroi, Additional Munsif of Ballia, dated the 19th of April, 1915.

(1) (1916) 14 A. L. J., 85.

(2) 1911) I. L. R., 33 All., 795.

(3) (1912) I. L. R., 35 All., 14.

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to the arbitration of a single arbitrator under the provisions of sections 203 to 206 of the United Provinces Land Revenue Act, 1901. The award of the arbitrator was in favour of the defendants. He found that the defendants were in cultivatory possession of the land in suit, and further, that they were in possession as tenants in chief holding from the proprietors of a mahal other than that in which the plaintiffs' holding was situated. Accordingly the village papers were corrected, the plots in suit were shown as the holding of the defendants as tenants in chief; and the Revenue Court proceeded to erect boundary pillars separating off from the plaintiffs' holding the plots in dispute. The plaintiffs thereupon brought their suit in the Civil Court claiming (1) a declaration that the plots in dispute form part of the holding of the plaintiffs, and (2) dispossession of the defendants from possession of the same as trespassers. The court of first instance dismissed the suit on the ground that it was barred by the provisions of section 207 of the United Provinces Land Revenue Act, 1901, and on appeal the lower appellate court confirmed the decree of the first court. The plaintiffs thereupon appealed to the High Court.

Munshi *Jang Bahadur Lal*, for the appellants.

Pandit *Uma Shankar Bajpai*, for the respondents.

PIGGOTT and WALSH, JJ. :—This is a suit between rival claimants to the possession of two parcels of land as tenants. It has come into court under somewhat peculiar circumstances. According to the plaintiffs the plots of land now in suit were recorded in the village papers as forming part of a holding of which the plaintiffs were tenants. It would seem, however, although the plaintiffs do not admit this fact in so many words, that the patwari must have found the defendants in actual cultivating possession of these particular plots of land. He solved the difficulty by recording the defendants in the village papers as sub-tenants of the plaintiffs. As a result two proceedings were taken before the Revenue Court, and seem to have been carried on more or less simultaneously. One was an application by the present plaintiffs asking the court to correct the entries made by the patwari in the village *jamabandi* and cognate papers, showing the defendants as sub-tenants of the plaintiffs. The application

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in fact was one for correction of entries made in the register or registers kept up under section 32 (e) of the Land Revenue Act (Local Act No. III of 1901). At the same time, the defendants applied to the Revenue Court to fix boundary pillars between the parcels of land in the actual possession of the parties respectively. There was a reference to arbitration, although the record, as it stands now before us, does not make it perfectly clear whether this reference was made only in the case in which these plaintiffs were asking for correction of the *jamabandi*, or in both the cases. At any rate, the dispute was referred to the arbitration of a single arbitrator. His decision was adverse to the plaintiffs. Indeed it was considerably more against the plaintiffs' interests than were the entries which the patwari had made in the village papers. The arbitrator not only found that the defendants were in cultivating possession of the land in suit, but he held that they were in possession as tenants in chief, holding from the proprietors of a mahal other than that in which the plaintiffs' holding was situated. On this basis, apparently, both the cases in the Revenue Court were decided. In the village papers the plots of land in suit have been removed from the recorded area of the plaintiffs' holding and have been shown as the holding of the defendants as tenants in chief. The defendants are admittedly in possession, since the decision of the Revenue Court, if not before; and the Revenue Court has proceeded to demarcate the boundaries which separate the plaintiffs' holding from the plots of land now in suit in the possession of the defendants. Accordingly in the present suit the reliefs sought are, a declaration that the land in suit forms part of the holding of the plaintiffs, and dispossession of the defendants from the same as trespassers. Whether the plaintiffs can succeed in establishing the allegations of fact on which they claim these reliefs is a question which has not yet been determined. Both the courts below dismissed the suit on the ground that it was barred by the last clause of section 207 of the Land Revenue Act. There has been a decision recently, for which one of us is responsible, in the case of *Girdhari Chaube v. Ram Baran Misir* (1), which determines the point now in dispute in favour of the plaintiffs. According to the view

(1) (1916) 14 A. L. J., 85.

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there taken, the operation of section 207 of the Land Revenue Act is much more restricted than has been assumed in the decision of the courts below, and its effect is only to bar the institution of a suit in the Civil Court for the purpose of setting aside the award. The contention for the present defendants respondents in this Court is that the intention of the Legislature was to bar any suit in the Civil Court which would have the effect of interfering in any way with the distribution of property made or declared in consequence of the award of an arbitrator duly appointed in the course of a suit before a Revenue Court. In the decision to which we have referred reasons have been given for holding that the section was not intended to bar a separate suit upon title, independently altogether of the decision of the Revenue Court on the basis of the award, which decision, of course, cannot, so far as its effect goes, be disturbed. In the present case the defendants are in possession of the disputed land and the plaintiffs are compelled to sue for ejectment and to prove their own title. Unless, however, such a suit as that now before us is barred by some other provisions of the Land Revenue Act or of the Tenancy Act, the mere fact that the decision of the Revenue Court in the matter of the mutation was based upon the award of an arbitrator would not, in our opinion, bar the maintenance of the present suit. To put the point in another way, we are of opinion that the present suit is not one to set aside the award within the meaning of section 207 of the Land Revenue Act. It pre-supposes the award to be binding, to have its full effect to the extent to which it was capable of doing so, as resulting in a decree of the Revenue Court. We may add that in the course of arguments before us we have been asked to consider whether the present suit is not one which is barred, independently altogether of the provisions of section 207 above mentioned. It has been suggested that it is either barred by implication, by reason of the wording of the proviso to section 44 of the Land Revenue Act (No. III of 1901), read in connection with section 32 of the same Act, or in the alternative that it is barred by section 167, read with section 95 of the Tenancy Act (Local Act No. II of 1901). For the latter of these contentions a good deal might be said if the matter before us were entirely *res integra*. In our opinion the question has been

determined in this Court by *Bhup v. Ram Lal* (1) and *Jagannath v. Ajudhia Singh* (2). If a suit between rival claimants to a tenancy is cognizable by the Civil Court, it is impossible to suggest any principle upon which a suit between the tenants of adjoining holdings, to determine the question whether a certain parcel of land appertains to the holding of the plaintiffs or to the holding of the defendants, should be barred. We accordingly accept this appeal and, setting aside the decrees of both the courts below, remand the case through the lower appellate court to the court of first instance for decision on the merits. Costs here and hitherto will abide the result.

*Appeal allowed and cause remanded.*

## REVISIONAL CRIMINAL.

*Before Mr. Justice Walsh.*

EMPEROR v. MATHURA PRASAD.\*

*Act No. XLV of 1860 (Indian Penal Code) section 211—False charge—Necessary constituents of offence under section 211—Report to a police officer casting suspicion on certain persons.*

In order to constitute an offence defined by section 211 of the Indian Penal Code, the "charge" therein alluded to must be made to an officer or to a court who has power to investigate and send it for trial, and it must be an accusation made with the intention to set the law in motion. *Chera Malhi Gawda v Emperor* (3), *Chinna Ramana Gowd v. Emperor* (4) and *Zorawar Singh v. King-Emperor* (5) followed.

The following statement was made to a police officer;—

"I find there has been a theft: I suspect the persons named, and I want an inquiry to be made." *Held* that if the statement was false, the offence committed fell under section 182 of the Indian Penal Code and not under section 211.

THE accused in this case had been convicted by the Sessions Judge of Meerut of an offence under section 211 of the Indian Penal Code in that he had given the following information, which was found to be false, to an officer in charge of a police station:—"I find there has been a theft: I suspect the persons named, and I want an inquiry made." Against his conviction and sentence the accused applied to the High Court in revision upon the ground that the information given to the

\* Criminal Revision No. 550 of 1917, from an order of E. R. Neave, Sessions Judge of Meerut, dated the 23rd of June, 1917.

(1) (1911) I. L. R., 33 All., 795. (3) (1904) I. L. R., 27 Mad., 129.

(2) (1912) I. L. R., 35 All., 14. (4) (1908) I. L. R., 31 Mad., 506.

(5) (1911) 11 A. L. J., 1103.

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