

Civil Procedure Code, 1908 (V of 1908) , S.47, S.146, O.21 R.16, O.22 R.10— “Any person claiming under him” AIR 1924 Cal 661, overruled. *Where during the pendency of a suit for recovery of a debt from the defendant the plaintiff in that suit transfers to a third person all the book and other debts the position of the transferor, vis a vis the transferee is nothing more than that of benamidar for the latter and when the decree is passed for the recovery of that debt it is the latter who is the real owner of the decree. As between the transferee and the transferor the former may well claim a declaration of his title. The transferee is the real owner of the decree because it is passed in relation to and for the recovery of the debt which undoubtedly he acquired by transfer by the document under consideration. The transferee is, after the transfer, the owner of the debt which was the subject matter of the suit and the legal incidents thereof and consequently is the real owner of the decree. The transferee derived his title to the debt by transfer from the transferor and claimed the same under the latter.(Para 39 40) When the transferee became the owner of the decree immediately on its passing he must, in relation to the decree, be also regarded as person claiming under the transferor. The transferee would not have become the owner of the decree unless he was the owner of the debt and if he claimed the debt under the transferor he must also claim the relative decree under the transferor as accretions, as it were, to his original rights as transferee of the debt. The transferee is entitled under S. 146 to make the application for execution which the original decree-holder could do. The executing Court can apply its mind to the simple equitable principle which operates to transfer the beneficial interest in the after-acquired decree or the question arising under S. 146. As the assignees from the plaintiff of the debt which was the entire subject matter of the suit the transferee was entitled to be brought on the record under O. 22, R.10 and must, therefore he also regarded as a representative of the plaintiff within the meaning of S. 47 of Code. 51 Cal 703: AIR 1924 cal 661: 80 Ind Cas 881, Overruled*

Read Here; [1955 PLRonline 0001 , Jugal Kishore Saraf v. Raw Cotton Co. Ltd.](#)