

**CPC O. 21 R. 16 - Assignment pre the decree and an assignment post the decree - Whether a person who does not have a written assignment of the decree, but who has succeeded to a decree holders' right, is entitled to such decree under Section 146 of the CPC - Law Commission recommended amending Order XXI Rule 16 to clarify that it does not affect the provisions of Section 146 and that a transferee of rights in the subject matter of the suit can obtain execution of a decree without separate assignment of the decree - The objective appears to be to not have multifarious proceedings to determine the issue of assignment, but to determine the issue of assignment in the execution proceedings itself - The objective of amending Order XXI Rule 16 of the CPC by adding the Explanation was to avoid separate suit proceedings being filed therefrom and to that extent removing the distinction between an assignment pre the decree and an assignment post the decree - Thus, what has been discussed even in the judgment in *Jugalkishore Saraf v. M/s. Raw Cotton Co. Ltd. 1955 PLRonline 0001* , as a view based on the equitable principle was sought to be incorporated in Order XXI Rule 16 of the CPC by adding the Explanation, something which had not been done earlier - Once the legislative intent is clear, and the law is amended, then the earlier position of law cannot be said to prevail post the amendment and it is not in doubt that the present case is one post the amendment.**

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