

Civil Procedure Code, 1908 (V of 1908) , O.21 R.16— Equitable transfer of decree-11 Bom 506-ILR (1946) Bom 276: AIR 1946 Bom 272: 225 Ind Cas 304 (FB).

25 Cal WN 863: AIR 1921 Cal 74 : 57 Ind Cas 874, Overruled.

Per Das and Imam JJ.: Order 21, R. 16, by the first alternative, contemplates the actual transfer of the decree by an assignment in writing executed after the decree is passed and while a transfer of or an agreement to transfer a decree that may be passed in future may, in equity, entitle the intending transferee to claim the beneficial interest in the decree after it is passed, such equitable transfer does not relate back to the prior agreement and does not render the transferee a transferee of the decree by an assignment in writing within the meaning of O. 21, R. 16. Case law discussed. 11 Bom 506 - ILR (1946) Bom 276: AIR 1948 Bom 272: 225 Ind Cas 304 (FB); 25 Cal WN 863: AIR 1921 Cal 74: 57 Ind Cas 874, Overruled.(Para 26)Per Bhagwati J.: The assignment in writing of the decree to be passed would result in a [contract](#) to assign which would become a complete equitable assignment on the decree being passed and would fulfil the requirements of O. 21, R. 16 in so far as the assignment or the transfer of the decree would in that event be effectuated by an assignment in writing which became a complete equitable assignment of the decree when passed. There is nothing in the provisions of the Civil Procedure Code or any other law which prevents the operation of this equitable principle and in working out the rights and liabilities of the transferee of a decree on the one hand and the decree-holder and the judgment-debtor on the other, there is no warrant for reading the words "where a decree is transferred by assignment in writing" in the strict and narrow sense. 17 Mad LJ 391 - AIR 1924 Cal 661 - AIR 1932 Cal 439 - AIR 1939 Cal 715, Not approved.

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