

**Civil Procedure Code, 1908 (V of 1908) , O.21 R.16— Transfer by operation of law
- Equitable assignment.**

AIR 1933 Bom 367; AIR 1936 Mad 543 - AIR 1939 Bom 221, Not approved.

Per Das J. : Transfers “by operation of law” are not intended to be confined to cases of death, devolution or succession. There is no warrant for confining transfers “by operation of law” to transfers by operation of statutory laws. When a Hindu or a Mohammadan dies intestate and his heirs succeed to his estate there is a transfer not by any statute but by the operation of their respective personal law. In order to constitute a transfer of property “by operation of law” all that is necessary is that there must be a passing of one person’s rights in property, to another person by the force of some law, statutory or otherwise. The equitable principle of assignment is as good as any rule of law. Where the equitable principle of assignment applies, the transfer should be regarded as one by operation of law.

(Held that the document in question of transfer of a book debt did not cover the decree to be passed and hence there was no room for the application of the equitable principle of assignment and the transferee could not, therefore, claim to come under O. 21, R. 16 as transferee by operation of law and could not maintain the application for execution.) AIR 1933 Bom 367 - AIR 1936 Mad 543 - AIR 1939 Bom 221, Not approved

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