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of sanction on its merits, upon a complete review of the entire facts. The proceedings out of which the matter now before me has arisen have been of considerable duration and occupied the attention of several courts.

[The judgement then proceeds to discuss fully the facts and the evidence.]

I do not think this is a suitable case for a prosecution and I revoke the order of sanction passed by the court below.

Sanction revoked.

APPELLATE CIVIL.

Before Mr. Justice Channier and Mr. Justice Pigott.

BINDA PRASAD (OPPOSITE PARTY) v. RAGHUBIR SARAN AND OTHERS
(APPLICANTS)*

*Civil Procedure Code (1903), Order XLVII, rule 1—Review of judgement—
Adducing of further evidence not sufficient ground.*

An application was made to a District Judge for a review of his order that a certain property was not the property of an insolvent. The ground upon which the application was in substance made was that if another opportunity was given to the applicants they would satisfy the court that its former order was wrong. *Held*, that this was not a 'sufficient reason' for entertaining the application within the meaning of Order XLVII, rule 1 of the Civil Procedure Code.

THE facts of this case were as follows :—

In the course of certain insolvency proceedings the receiver took possession of a brick-kiln as being the property of the insolvent, Abdul Haq. The appellant filed an objection claiming a half-share as originally belonging to him as a partner of Abdul Haq and the other half-share as having been purchased by him from Abdul Haq more than three months prior to the application in insolvency. Security was furnished and the court ordered the sale of the kiln to be stayed. The respondents, who were two of the creditors, filed an application calling in question the sufficiency of the security, and asserting that the purchase by the appellant was fraudulent, and that he had no title to any part of the brick-kiln. On the 21st of January, 1915, the court released the kiln from attachment, finding that the appellant was

*First Appeal No. 27 of 1915, from an order of L. Johnston, District Judge of Meerut, dated the 10th of February, 1915.

owner of half as partner and of the other half by a valid purchase. On the 26th of January, 1915, the respondents applied for a review of this judgement on the ground that certain facts had not been brought to the notice of the court. It was not shown that there was any new and important matter, which could not have been brought to the notice of the court by the respondents at the former hearing, or that there was any mistake or error apparent on the face of the record. The Judge, however, granted the application for review on the 10th of February, 1915, and held that the appellant had no title to the brick-kiln, and ordered the sale thereof by the receiver. The objector appealed to the High Court against this order.

Babu *Harendra Krishna Mukerji* (with him Mr. *A. H. C. Hamilton*), for the appellant :—

The Judge in his order of the 21st of January, 1915, dealt with all the objections of the respondents and found on the evidence that the appellant was the owner of the whole kiln. The respondents did not make out any case for reviewing this order. No new fact which was beyond the knowledge or means of knowledge of the respondents at the date of the first order was disclosed or alleged in the application for review. There is no apparent mistake or error. The words "for any other sufficient reason" in order XLVII, rule 1, of the Civil Procedure Code are to be taken *ejusdem generis* with what precedes them. If the production of fresh matter or evidence is sought to be made the basis of a review, the circumstances under which that can be done are laid down in the first part of clause (1) of order XLVII, rule 1. If the fresh matter or evidence fail to satisfy the conditions laid down in the first part it cannot be made the basis of a review as coming under the clause, "for any other sufficient reason." It is not a proper ground for granting a review that a Judge by going through the evidence a second time might arrive at a different conclusion. *Chunder Churn v. Augrodany Loodunram Deb* (1).

Babu *Sital Prasad Ghosh*, for the respondents :—

The order of the 21st of January, 1915, did not fully dispose of all the objections of the respondents. Not being a final judgement it was open to be reconsidered with a view to a complete

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adjudication of all the matters in dispute. The grounds upon which the review was sought came under the clause, "for any other sufficient reason." Those words have nowhere been defined. The language used is of very wide import and the intention of the Legislature was to give the widest discretionary powers to the courts to entertain an application for review upon grounds which it might deem to be sufficient. The later order of the Judge has been passed after a full and complete consideration of all the facts and circumstances of the case. The former order was more or less summary and required to be reconsidered in furtherance of the ends of justice.

CHAMBER and PIGGOTT, JJ. :—This is an appeal by leave of the court under section 46, sub-section (3) of the Provincial Insolvency Act against an order of the District Judge of Meerut, allowing an application presented by the respondents for review of a previous order, whereby the appellant's half-share in a brick-kiln had been released from attachment and declared not to be available as assets for the payment of the debts of one Abdul Haq, who had been declared an insolvent. On the 27th of June, 1914, Abdul Haq applied to be declared an insolvent and named eleven creditors, among whom were the two respondents Raghubir Saran and Badr-ud-din. On August 27th, he was adjudicated an insolvent and on September 24th, the Deputy Nazir of the court was appointed receiver. The receiver attached or took possession of the brick-kiln, whereupon the appellant objected saying that the brick-kiln was his property. He explained that it had been the property of himself and his partner Abdul Haq, and that Abdul Haq had on March 26th, 1914, transferred to him his half-share in the brick-kiln for valuable consideration. Thereupon the District Judge directed that the sale of the brick-kiln which had been ordered should be postponed. The appellant had brought a suit in the Subordinate Judge's Court for a declaration of his title as owner of the brick-kiln against Ram Chander and the insolvent. The District Judge accepted the appellant's admitted half-share in the brick-kiln as sufficient security for any loss which might result from the postponement of the sale, and thereupon the respondents Raghubir Saran and Badr-ud-din presented a petition objecting to the acceptance of Binda Prasad's

half-share as security, and alleging that the transfer of the insolvent's half-share to him was voidable and should be set aside under sections 36 and 37 of the Insolvency Act. January 19th was fixed for hearing and ultimately the case was taken up on the 21st when the District Judge rejected the petition of Raghubir Saran and Badr-ud-din and released the whole of the brick-kiln from attachment, finding that the sale by the insolvent of his half-share in the brick-kiln to Bindra Prasad was valid and could not be set aside. Six days later Raghubir Saran and Badr-ud-din presented a petition to the District Judge for review of the order just mentioned. Notice was issued and the District Judge on February 10th, 1915, granted the application for review, set aside his order of January 21st and fixed a date for the further hearing of the case noting that the parties should produce evidence regarding the good faith of the transaction which had been impugned. The District Judge ordered the re-attachment of the brick-kiln and directed the receiver to sell the bricks as soon as possible and deposit the proceeds in court. It is against this order that the present appeal was filed. On the application of the appellant the sale of the bricks was postponed pending the disposal of this appeal.

On behalf of the appellant it is contended that the respondents Raghubir Saran and Badr-ud-din showed no sufficient cause for a review of the order of January 21st, 1915. It was not suggested in their petition, and it is not suggested now, that they discovered any new and important matter or evidence, which was not within their knowledge or could not have been produced by them before the order of January 21st was passed. Nor was it suggested that there was any mistake or error apparent on the face of the record. When the respondent's learned pleader was asked by this Court to state the ground on which the application for review was based, he said that a review had been asked for "for other sufficient reason" within the meaning of order XLVII, rule 1, of the Civil Procedure Code. From the application it appears to us that the ground for review, if there was a ground at all, was that if the District Judge allowed the applicants another opportunity of producing evidence they might persuade him that the view taken by him on January

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21st was erroneous. The District Judge in granting the application for review and setting aside his previous order does not say that he is satisfied that his previous order was wrong, and does not in any way indicate his reason for allowing the application beyond this that he thought that there was a case for further enquiry. It seems to us that no sufficient ground was made out for a review of the previous order. An attempt was made on behalf of the respondents to show that the question of the validity of the transfer of half of the brick-kiln was not considered by the District Judge before passing his first order; but an examination of the order shows that the District Judge did apply his mind to that very question. He refers at the beginning of his order to the application of November 19th, 1914, and says that the question is whether the transfer to Binda Prasad should be cancelled under section 36 of the Insolvency Act. It is therefore quite clear that the question was before the court and was decided upon such materials as were available; Under the circumstances we do not think that the application for review should have been allowed. We therefore allow the appeal and set aside the order of the District Judge, dated February 10th, 1915, with costs. It appears to us that the appeal has been over-valued. We fix the Vakil's fee in this Court at Rs. 50, fifty rupees, only.

Appeal allowed.

FULL BENCH.

Before Sir Henry Richards, Knight, Chief Justice, Justice Sir Pramada Charan Banerji and Mr. Justice Tudball.

BRIJ KUMAR LAL AND OTHERS (DEFENDANTS) v. SHEO KUMAR MISRA AND OTHERS (PLAINTIFFS) AND MOHAR LAL AND ANOTHER (DEFENDANTS).
Act No. XII of 1881 (North-Western Provinces Rent Act)—Mortgage of occupancy holding—Relinquishment—Rights of Mortgagee.

An occupancy tenant mortgaged his occupancy holding at a time when the Rent Act of 1881 was in force. In the year 1911, he entered into an agreement with his zamindars to relinquish his rights with the object of defeating the rights of the mortgagee—*Held*, that the relinquishment was ineffectual as against the mortgagee. *Jaijopal Narain Singh v. Uman Dat* (1) approved.

* Second Appeal No. 143 of 1914, from a decree of B. J. Dalal, District Judge of Benares, dated the 18th of September, 1913, reversing a decree of Rup Kishan Aja, Munsif of Jaunpur, dated the 28th of February, 1913.

(1) (1911) 8 A. L. J. R., 695.

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