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the time so limited, we direct that he be removed from the office of mutawalli. A decree in this sense will be prepared in the office. We leave the parties to pay their own costs in this Court.

*Appeal allowed.*

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July, 7.

*Before Mr. Justice Sulaiman and Mr. Justice Boys.*

NATHU LAL (OPPOSITE PARTY) v. RAGHUBIR SINGH  
AND OTHERS (APPLICANTS).\*

*Civil Procedure Code, section 151; order XLVII, rules 1 and 7—Review of judgement—What reasons are admissible for granting a review—Appeal—Revision.*

When a compromise has been incorporated into a decree, the court cannot review its order on the sole ground that the compromise has been entered into under undue influence or coercion.

The term "any other sufficient reason" used in order XLVII, rule 1, of the Code of Civil Procedure means a reason sufficient on grounds at least analogous to those specified immediately previously.

In as much as fraud, undue influence or coercion cannot be considered as in any way analogous to either the discovery of a mistake or error apparent on the face of the record or the discovery of new and important evidence, that ground alone does not constitute a valid reason for allowing a review of judgement. *Chajju Ram v. Neki* (1), followed.

*Foolcomary Dasi v. Woodoy Chunder Biswas* (2), *Mirali Rahimbhoy v. Rehmoobhoy Habibbhoy* (3), *Barhamdeo Prasad v. Banarsi Prasad* (4), *Dwarka Dhish Prasad* (5), *Narain Das v. Chiranjji Lal* (6), *Tirbeni Kunwar v. Mohan Lal* (7), *Kumar Gopika Raman Ray v. Mahar Ali* (8), *Gulab Koer v. Badshah Bahadur* (9) and *Kotaghiri Venkata Subbamma Rao v. Vellanki Venkatarama Rao* (10), cited in argument.

\*First Appeal No. 182 of 1924, from an order of Rup Kishan Agha, Subordinate Judge of Budaun, dated the 9th of October, 1924.

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| (1) (1922) L.R., 49 I.A., 144; I.L.R., 3 Lah., 127. | (3) (1891) I.L.R., 15 Bom., 594. |
| (2) (1898) I.L.R., 25 Cal., 649.                    | (5) (1923) I.L.R., 46 All., 245  |
| (4) (1901) 3 C. L. J., 119.                         | (7) (1923) 66 Indian Cases, 558. |
| (6) (1924) I.L.R., 47 All., 361.                    | (9) (1909) 10 C.L.J., 420.       |
| (8) (1923) 39 C.L.J., 247.                          | (10) (1900) I.L.R., 24 Mad., 1.  |

This was an appeal against an order granting a review of judgement in a case in which the decree of the court below (Subordinate Judge of Budaun) was based upon a compromise. The review was granted upon the ground that the compromise on which the decree was based had been procured by fraud, undue influence, and coercion. When the appeal came on for hearing, a preliminary objection was raised that no appeal lay. The objection was sustained and the application was heard as an application in revision. The position taken up by the applicant was that the grounds upon which the Subordinate Judge's order granting the review was based were not grounds which were admissible as falling within the scope of order XLVII of the Code of Civil Procedure.

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SINGH.

Hafiz *Mushtaq Ahmad* (with him *Maulvi Iqbal Ahmad*), for the appellant.

Mr. *S. A. Haidar* *Munshi Harnandan Prasad* and *Pandit S. S. Sastry*, for the respondents.

Boys, J.—This is an appeal against an order purporting to be in review setting aside a decree on the ground of fraud or undue influence. The application for review alleged undue influence. The review has been granted upon a general finding apparently of fraud, undue influence, coercion, etc.

A preliminary objection is taken that no appeal lies; that it is barred by order XLVII, rule 7, in that none of the only three conditions in which an appeal is allowed is applicable to the case. For the appellant this is now practically conceded, but we are invited to hear the appeal as an application on the revisional side and to set aside the order granting the review on the ground that none of the conditions,

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which under order XLVII, rule 1, are essential to a review, existed in this case, and that the order granting the review was, therefore, an illegal exercise of jurisdiction. I think this contention is correct. Under order XLVII, rule 1, a review may be admitted on any of the three grounds set out in subsection (1) of the rule. It is conceded that the plea of fraud or undue influence alleged in this case was not accompanied by the discovery of any new and important matter or evidence; nor is it urged that there was any mistake or error apparent on the face of the record. It has, therefore, to be conceded by counsel for the opposite party who obtained the review that his plea did not come within the first grounds. It is, however, urged that the words "for any other sufficient reason" are sufficiently wide to cover a plea of fraud or undue influence.

Now it has been held by their Lordships of the Privy Council in *Chhajju Ram v. Neki* (1) that the other sufficient reason must be "a reason sufficient on grounds at least analogous to those specified immediately preceding". We have had a large number of cases quoted to us, but counsel for the applicant for review has not been able to quote to us a single case in which, recognizing the limited scope laid down by the Privy Council of the words "other sufficient reason", it has been held that fraud unaccompanied by the discovery of new matter is within that limited scope.

We have, therefore, to consider for ourselves whether fraud or undue influence unaccompanied by the discovery of any new fact can be said to be a reason analogous to the two preceding reasons. It clearly is not even remotely analogous to the discovery

(1) (1922) L.R., 49 I.A., 144; I.L.R., 3 Lah., 127.

of a mistake or error apparent on the face of the record. In my opinion it is equally distant from excusable failure to discover new important matter. The essence of that reason is the discovery of something new. The application for review in this case did not even hint at the discovery of any thing new; it merely alleged that with full knowledge of the facts the applicant foolishly allowed himself to be persuaded to take a course which he now alleges was very injurious to his interests. I am of opinion that such a reason is wholly foreign to either of the two first reasons set out in rule 1; that fraud or undue influence unaccompanied by any discovery of new matter does not constitute a ground for review and the order granting review was an illegal exercise of jurisdiction.

I would set aside the order granting review and restore the decree of the court below.

SULAIMAN, J.—I agree. My reasons are different viz., that the decree was voidable and the right to avoid it accrued when the option was exercised subsequently.

By THE COURT.—In the exercise of our revisional jurisdiction we set aside the order granting review and restore the decree of the court below. The applicant in this Court will have his costs in this Court and in the court below in the matter of the review.

*Order set aside.*

*Decree restored.*

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