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the Prosecuting Inspector's criticisms and has simply attached them to his letter. Apart from the general impropriety of this course, in this particular case it was still more gravely improper. The Prosecuting Inspector had used language about the Trial Magistrate which was most unbecoming and improper. If the District Magistrate did not consider it part of his duty to reprove the Prosecuting Inspector for that language and saw nothing unfitting in a Prosecuting Inspector using such language about a Magistrate, that is possibly his concern. But he was very seriously wanting in a sense of what is proper in permitting a document containing that language to be forwarded to the Sessions Court or to this Court. We have no hesitation in recording our opinion that the Prosecuting Inspector ought not to have been guilty of the use of such language in regard to any Magistrate.

The result of our examination of the record is that we see no reason to interfere and reject the reference.

REVISIONAL CIVIL.

Before Mr. Justice Dalal.

HUKUM SINGH (PLAINTIFF) v. SURAJPAL SINGH AND ANOTHER (DEFENDANTS).*

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 January, 31.

Civil Procedure Code, section 152—Amendment of judgement and decree on ground of accidental slip in judgement of predecessor in office.

Under the provisions of section 152 of the Civil Procedure Code it is open to a court to correct the errors arising in the judgement and the decree from an accidental slip in the judgement; and this can be done by a successor in office of the judge who passed the judgement and decree in question. *Surta v. Ganga* (1), *Shahab Din v. Siraj-ud-din* (2), and *Lakshman Iyengar v. Narayana Iyengar* (3), distinguished.

*Civil Revision No. 10 of 1928.

(1) (1885) I. L. R., 7 All., 411; 875. (2) (1912) 17 Indian Cases, 418.

(3) [1924] A. I. R., (Mad.), 225

Munshi *Binod Bihari Lal*, for the applicant.

Munshi *Narain Prasad Asthana*. for the opposite parties.

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DALAL, J. :—The learned Judge of Agra, Mr. Bennet, amended a judgement and decree of his predecessor in office Mr. Herchenroder on the ground of an accidental slip. A decree-holder failed in the execution court to obtain sale of certain trees and materials of a house of a judgement-debtor. The judgement-debtor was a tenant and the trees grew on his holding and he was a licensee of the house. The decree-holder thereupon brought a declaratory suit that the trees and the materials of the house were saleable in execution of his decree. The suit was decreed with respect to both the trees and the materials by the trial court of the Munsif of Agra. An appeal was taken to the court of the District Judge and Mr. Herchenroder, Additional District Judge, decided it. In the operative part of the order he appears to have made the mistake of transposing the words "materials of the house" and "trees". His judgement shows that he held the materials of the house liable to sale but not the trees, and so his intention was to decree the suit as to materials and dismiss it as to trees. By some slip the words were transposed. Mr. Herchenroder left the district and there was no successor to him as Additional District Judge. The successor to the office was Mr. Bennet, the District Judge. A petition was presented to Mr. Bennet by the defendants zamindars under section 152 of the Code of Civil Procedure, desiring both the judgement and the decree to be amended for reasons already stated by me. A notice was issued to the plaintiff decree-holder, Hukum Singh. He made no appearance and the judgement and the decree were corrected as desired by the defendants zamindars,

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It is argued here that Mr. Bennet had no jurisdiction to make the correction. In my opinion, he had. I remember a second appeal in Oudh where under similar circumstances I corrected both the judgement and the decree of a learned brother of mine, who had by a slip written the word "decreed" in place of "dismissed." My learned brother had then left the court of the Judicial Commissioner and was in England, as was the case here. The provisions of section 152 are wider than the provisions of section 206 of the Code of 1882. The provisions of section 206 gave the court power only to amend the decree if it was found to be at variance with the judgement. Under the provisions of that section no power was given to the court to correct any accidental slip in the judgement. The provisions of section 152 are very wide and give power to the court not only to correct clerical or arithmetical mistakes in judgements, decrees or orders, but also errors arising therein from any accidental slip or omission. This may be done at any time by the court, even without any application by any of the parties. The aim of the present Code of Civil Procedure is to give a court the widest powers possible to pass orders for the ends of justice at any time and in any situation. Reference as to rulings passed prior to 1908 can therefore be of no help. The rulings quoted by learned counsel for the applicant were: *Surla v. Ganga* (1), with the Full Bench judgement at page 875, and *Sahab Din v. Siraj-ud-din* (Punjab Chief Court) (2). These rulings are no longer applicable. A ruling of the Madras High Court in the case of *Lakshman Iyengar v. Narayana Iyengar* (3), was quoted. The matter was decided there on a very technical ground—that the application was only for the amendment of the decree and not for the amendment of the judgement, and the decree,

(1) (1885) I. L. R., 7 All., 411; 875. (2) (1912) 17 Indian Cases, 418.

(3) [1924] A. I. R., (Mad.), 225

when it agreed with the judgement, could not be corrected under section 152. The court, however, gave the indulgence of having the same application treated as an application for review. Obviously the court's attention was not drawn to a simpler method of treating the application as an application for the correction of the judgement as well as for the correction of the decree. I have read the judgement of Mr. Herchenroder and agree with Mr. Bennet that Mr. Herchenroder has made a slip and the correction was necessary for the ends of justice.

This application is dismissed with costs.

PRIVY COUNCIL.

ABDUL JALIL KHAN AND OTHERS (PLAINTIFFS) v. OBAID-ULLAH KHAN AND OTHERS (DEFENDANTS).

[On appeal from the High Court at Allahabad.]

Civil Procedure Code, section 66—Sale in execution—Benami purchase—Real purchaser obtaining title by adverse possession—Dispossession by transferee from benamidar—Indian Limitation Act (IX of 1908), section 28 article 144.

If after an auction sale of immovable property in execution of a decree the real purchaser has for twelve years possession adverse to the certified purchaser (his *benamidar*) and is then dispossessed by a transferee of the certified purchaser, he can sue for possession on the title acquired by him under the Indian Limitation Act, 1908, section 28 and article 144, and need not aver or prove that the auction purchase was made for him; section 66 of the Code of Civil Procedure, 1908, therefore, does not apply in that case.

Decree of the High Court, I. L. R., 43 All., 416, varied; it was unnecessary to decide whether the High Court had rightly held that in the case of a sale and transfer before 1909

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J. C.*
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June, 17.

*Present: Lord BLANESBURGH, Lord DARLING, Lord TOMLIN, JOHN WALLIS and Sir GEORGE LOWNDES.