

leases after mortgaging the property to the appellant. The learned District Judge is not, in my opinion, right in thinking that section 65-A of the Transfer of Property Act applies to these cases as that section was enacted only in 1929 while the leases in favour of Muna Kuar and Sohna Kuar were executed in 1927. In considering these leases, we must therefore fall back upon section 66 of the Transfer of Property Act and as shown above in the case against Musammat Ghuran the security did become insufficient ultimately. It was urged on behalf of the respondents that the leases were executed in the ordinary course of the management of the property and should be upheld. I cannot however accede to this argument. The terms of the leases are so prejudicial to the interests of the mortgagor himself that it is impossible to consider the leases as given in the ordinary course of management. As said above no premium was realized nor was any rent reserved. The lessees were to hold the land not only so long as a single tree stood on the land but also for a further period of five years after the land became totally devoid of trees. It cannot be said for a moment that such leases were necessary or even expedient in the interests of proper management of the property. The plaintiff's suits should in my opinion be decreed against these respondents also.

All the three appeals are therefore allowed with costs, the decrees of the learned District Judge set aside and the decrees of the trial Court restored.

*Appeal allowed.*

### REVISIONAL CIVIL

*Before Mr. Justice Ziaul Hasan*

SURAJ DIN (JUDGMENT-DEBTOR-APPLICANT) *v.* RAM  
PRASAD SINGH AND OTHERS (DECREE-HOLDER-OPPOSITE-  
PARTY)\*

*Civil Procedure Code (Act V of 1908), section 151—Sale certificate—Property wrongly described—Amendment application—Court, if has power to amend certificate.*

\*Section 115 Application No. 123 of 1935, against the order of Babu Kamta Nath Gupta, Munsif of Sultanpur, dated the 24th of August, 1935.

1936

TULSHI  
RAM  
*v.*  
MUSAMMAT  
MUNA KUAR

Ziaul Hasan  
J.

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March, 19

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SURAJ  
DIN  
v.  
RAM  
PRASAD  
SINGH

When the sale certificate of a property purchased in an execution sale shows the property to be situated in one *mahal* only, while as a matter of fact it is situated in two *mahals*, the Court has power to amend the sale certificate under section 151, C. P. C., so as to describe the property in detail, specifying the property of each of the two *mahals* separately. *Shujaatmand Khan v. Govind Behari* (1), dissented from. *Yerramilli Satyanarayana Rao v. Kandukuri Purnayya* (2), *Jagarnath Prasad Bhagat v. Jamuna Prasad Singh* (3), and *Ram Charan Sahu v. Jamna Prasad* (4), followed.

Mr. *Nazir-ud-din*, for the applicant.

Mr. *K. N. Tandon*, for the opposite-party.

ZIAUL HASAN, J.:—This is a revision under section 115 of the Code of Civil Procedure against an order of the learned Munsif of Sultanpur allowing an application of the opposite-party under section 151 of the Code of Civil Procedure for amendment of a sale certificate.

The property was purchased by the opposite-parties in 1929 in execution of their mortgage decrees. By an application, dated the 1st of March, 1935, they alleged that though they had obtained a sale certificate from the Court, they could not get mutation made in their favour as the sale certificate shows as if the property purchased by them was situated in one mahal only while as a matter of fact it was in two mahals. They therefore prayed that the sale certificate be amended so as to describe the property in detail as given in the application specifying the property of each of the two mahals separately. This application was granted by the learned Munsif and the desired amendment made.

The learned Advocate for the applicant, who is the subsequent purchaser of the property in execution of a simple money decree, contends that the description of the property given in the original sale certificate being in accordance with that given in the mortgage deed itself, the learned Munsif had no jurisdiction to amend the sale certificate under section 151 of the Code of Civil Procedure. Reliance is placed on the case of *Shujaatmand*

(1) (1934) All., 100.

(2) (1931) Mad., 260.

(3) (1934) Pat., 493.

(4) (1934) I.L.R., 10 Luck., 496.

*Khan v. Govind Behari* (1). In this case no doubt it was held that an amendment allowing a correct description of the property which completely alters the plaint and the decree and also the deed on which the plaint is based cannot be said to be a correction of a clerical mistake in a judgment and cannot be allowed under section 152, but some other High Courts have held otherwise. For instance in the case of *Yerramilli Satyanarayana Rao v. Kandukuri Purnayya* (2) it was held that where a wrong description of the mortgaged property is given through mistake or inadvertence in the mortgage deed and it is copied in the plaint and decree based on the mortgage, it is open to the plaintiff to apply under section 152 to have the description corrected. A similar view was held by the Patna High Court in the case of *Jagarnath Prasad Bhagat v. Jamuna Prasad Singh* (3). In our own Court it was held in the case of *Ram Charan Sahu v. Jamna Prasad* (4) that where by a mistake of the plaintiff the property in dispute has been wrongly described in the plaint and the preliminary and final decrees, the Court has power to correct the mistake by amending the plaint and the decrees. I am therefore of opinion that the learned Munsif had power under section 151 of the Code of Civil Procedure to make the amendment in question.

The application is therefore dismissed with costs.

*Application dismissed.*

(1) (1934) All., 100.

(3) (1934) Pat., 493.

(2) (1931) Mad., 260.

(4) (1934) I.L.R., 10 Luck., 496.

1936

SURAJ  
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