

9Sl. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			CLR No.168 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Yogesh Pant, Advocate, for the revisionist. The revisionist is a defendant in Suit No.111 of 2008, "Babli & others Vs. Vijay Kushwaha". The said suit stood instituted as back as on 15.05.2008, seeking a decree for mandatory injunction for the grant of the possession over the property, which has been described at the foot of the plaint lying in Khata No.15H/1234/82CA. The suit proceeded, and the defendant contested the proceedings, and later on the defendant/revisionist, herein, has filed an application Paper No.120ga, praying for that he may be granted an opportunity of the cross-examination, which was objected by the plaintiff by filing an application Paper No.121ga. The said application has been rejected by the impugned order, as it was passed by the revisional court on 20.10.2023, observing thereof that owing to the reasons, which has been given therein, the defendant sole intention was to delay the proceedings since the suit was pending since 2008, and for the reasons particularly as assigned, therein, that the defendant's counsel has made an endorsement in the order-sheet of 04.10.2021, that the defendant doesn't want to file any rebuttal to the evidence of the plaintiff, which has been sought to be argued to an exception that it was in relation to the particular document, but the order itself of 04.10.2021, doesn't speak so. Learned counsel for the revisionist argues that once the opportunity of the

		closure of an opportunity of cross-examination was passed by the order of 16.03.2020, and the same was later on set aside by an order dated 23.01.2023, he infers that his opportunity of examination would revive back. The interpretation given to the said order, and the aspect of which was also considered by the learned court of 1st Additional Civil Judge, (Senior Division) Haridwar, it has observed that the order of 16.03.2020 and its consequential setting aside by an order dated 23.01.2023, will have no nexus so far as the conduct of the present revisionist is concerned for the reason being that it has been observed by the learned trial court that after the order was passed on 16.03.2020, the application for recall was preferred by the revisionist on which the order has been passed on 23.01.2023, its implications would not lead to an inference that it was granting an unfettered right to the revisionist to avail the opportunity of the cross-examination, or it was left open for him to cross-examine at any point of time, according to his own desire, because as per the order-sheet of 04.10.2021, which obviously happens to be a date subsequent to the date of 16.03.2020, learned counsel for the defendant/revisionist has endorsed the order sheet that he doesn't want to avail an opportunity of cross-examination. Apart from the above fact, the order-sheet and the observation which has been made, therein, that the revisionist has been adopting measures to avail the benefit of the procedural complexities of the CPC by filing various interlocutory proceedings by way of an application under Order 6 Rule 17 of the CPC, and consequently the application under section 10 of the CPC, which too later stood rejected on 02.11.2022. It is a litigation pending since 2008,
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		and now we are in 2023, and since being a decree for possession, which has been sought by the respondent/plaintiff, all the measures adopted by the revisionist before the learned trial court has been rightly observed that it was a malicious act on part of the defendant to get the proceedings installed in any manner whatsoever. Apart from it, the exercise of revisional jurisdiction so far its applicability to the State of Uttarakhand is concerned, as inserted by the amendment carried by Act No.01 of 2006, it doesn't widens the scope to entertain a revision where the conduct of the defendant is to delay the proceedings and more particularly in the light of the fact that when he himself has endorsed the order sheet that he doesn't intends to cross-examine. In view of the implications of the Act No.01 of 2006, and the amendment as made under section 115 in its applicability to the State of Uttarakhand, the revisional order basically intends to attain the objective of the circulars issued by the Hon'ble Apex Court for the time and again that old matters pending for more than five years has had to be dealt with urgently. Consequently, the rejection of an application Paper No.120ga(2), by the court of 1st Additional Civil Judge, (Senior Division) Haridwar, doesn't suffer from any apparent error. As such, it doesn't call for any interference to exercise my revisional powers under section 115 of the CPC. The revision lacks merit and the same is accordingly dismissed. (Sharad Kumar Sharma, J.) 10.11.2023 NR
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