



**Judgment Reserved on:05.06.2026**  
**Judgment Delivered on:19.06.2026**

**HIGH COURT OF UTTARAKHAND AT NAINITAL**  
**HON'BLE SRI JUSTICE SUBHASH UPADHYAY**  
**CIVIL REVISION NO.8 OF 2026**

Virendra Kumar Bahuguna

...Revisionist

**Versus**

Ravindra Kumar Bahuguna

...Respondent.

Counsel for the revisionist : Ms. Indu Sharma, learned counsel  
Counsel for the respondent : Mr. Siddhartha Singh, learned  
counsel.

**JUDGMENT: (per Mr. Subhash Upadhyay, J.)**

The present civil revision under Section 115 of the C.P.C. has been filed assailing the order dated 16.05.2025 passed by the learned Civil Judge (Senior Division), Dehradun in O.S. No.578 of 2023, "Virendra Kumar Bahuguna Vs. Ravindra Kumar Bahuguna", whereby the objection filed by the respondent with regard to the Court fee was allowed and the revisionist was asked to pay the Court fee on the market value of the suit property.

2. As per the averments made in the revision, revisionist's father late Shri Devi Dutt Bahuguna was owner of the house No.156B, Dharampur, Dehradun, which consisted of four portions and each portion had a two-room set, kitchen and washroom. Shri Devi Dutt Bahuguna had four sons and two daughters. During his lifetime, the father of the revisionist executed a registered Will on 20.06.1988, whereby the three



portions of the house were given to the three sons except the revisionist and it was stipulated in the Will that during the lifetime, the father of the revisionist would be residing in the fourth portion and further after his death, the vacant portion was to be occupied by his wife and after her death the said portion was to be occupied by any of the three sons and it was provided that the son who would occupy the fourth portion would pay ₹20,000/- to the revisionist. Thus, as per the Will the revisionist was not given a right to occupy any portion and the only right which was devolved in his favour was that any of his three brothers who would occupy the vacant portion after the death of their mother would pay ₹20,000/- to the revisionist. Revisionist's father died on 10.05.1992 and after his death the revisionist's mother also passed away on 07.05.1995 and, thereafter, the respondent occupied the said fourth portion.

3. It is the case of the revisionist that he was not aware of the Will dated 22.06.1988 and he learnt about the said Will through someone on 20.12.2023 and, thereafter, he applied for copy of the Will from the office of Sub-Registrar, Dehradun and after going through the Will he discovered the said facts.

4. Based on the above-mentioned facts, an Original Suit No.578 of 2023 was filed by the revisionist initially with a



prayer that a decree of permanent injunction be passed against the respondent restraining him from selling, transferring or creating any third-party interest in the suit property i.e. the fourth portion occupied by the respondent after the death of his mother.

5. The revisionist stated in the plaint that at the time of execution of the Will the value of the land and the building was ₹20,000/- which at the current rate is ₹90 lakh and the respondent is liable to pay the said amount to the revisionist. Later on, the plaint was amended and paragraph no.13A and prayer AA was added to the effect that the respondent is in illegal possession of the suit property as he has not complied with the conditions of the Will and, as such, a prayer was made for grant of decree of mandatory injunction against the respondent for providing possession to the revisionist.

6. The revisionist also contended in paragraph no.13A of the plaint that either the vacant portion of the suit property be delivered to him or in the alternative the market value of the property assessed by the revisionist to be ₹90 lakh be paid by the respondent to the revisionist.

7. The respondent filed an objection that the property has been overvalued by the revisionist and also submitted that the Court fee paid was to be determined as per Section 7(v) of the Court Fees Act.



8. Learned Trial Court framed the issue as to whether the property is overvalued by the revisionist and as to whether the Court fee paid for relief AA is inadequate.

9. Learned Trial Court vide order impugned came to a conclusion that the value of the property as determined by the revisionist is proper and rejected the objections of the respondent.

10. Learned Trial Court decided the issue of Court fee against the revisionist and concluded that as the revisionist has claimed the relief of mandatory injunction and possession, as such, the Court fee is liable to be paid on the market value of the property as determined by the revisionist.

11. Learned counsel for the revisionist submits that the revisionist was required to pay the Court fee with regard to the relief claimed and as per Court Fees Act, the Court fee was to be paid on the rental value of the property as determined by the Municipal Corporation. She further submits that as there is no procedure prescribed under the Court Fees Act as to how market value of any property is to be determined, as such, the market value was to be determined, on the basis of the rental value, as decided by the Hon'ble Allahabad High Court also in the case of **C.L. Basra Vs. Pearey Lal Basra (1960) 0 AIR (ALL) 590.**

12. Per contra, learned counsel for the respondent



submits that initially the revisionist had filed the suit claiming that the revisionist is the joint owner and is in possession of the suit property and a relief for perpetual prohibitory injunction was sought against the sale, transfer and creation of third-party interest. The revisionist, as per his own case, had stated that an amount of ₹20,000/- was to be paid in the year 1995 and the current value of the property was ₹90 lakh. The valuation of the property, as claimed by the revisionist, was found to be correct.

13. Later on, by amendment the revisionist claimed a relief of mandatory injunction and sought possession from the respondent, as such, the Court fee is to be paid on the market value of the property and Section 7(v) of the Court Fees Act would be applicable.

14. Learned counsel for the respondent further submitted that the entire memo of the revision is silent with regard to any jurisdictional error and, as such, the revision under Section 115 CPC is liable to be dismissed.

15. Heard learned counsel for the parties and perused the record.

16. The facts, which are not in dispute in the present case, are that the revisionist has claimed the relief in the suit on the basis of the Will executed by his late father. The issue, which arises in the present civil revision, is that as to whether



the Court fee was to be paid as per Section 7(v) of the Court Fees Act on the market value of the suit property.

17. The issue of determination of Court fee is to be seen not only with respect to the relief claimed but also with respect to the substance of the plaint. In this regard, the contents of paragraph no.1, paragraph nos.5 to 9 and paragraph no.14 of the plaint are relevant which read as under:

“1.यह कि वादी सम्पत्ति संख्या-156 बी, धर्मपुर, देहरादून, जिसका विस्तार से वर्णन इस वादपत्र के अन्त में सूची में वर्णित सम्पत्ति में किया गया है, का संयुक्त रूप से मालिक, स्वामी, काबिज व अध्यासी है।

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5. यह कि वसीयत दिनांक 22.06.1988 के पेज संख्या-4 में वादी के पिता स्व० श्री देवी दत्त बहुगुणा द्वारा यह स्पष्ट रूप से उल्लिखित किया गया है कि सम्पत्ति के बीच का सेट जिसमें वे स्वयं तथा उनकी पत्नी इस समय रह रहे हैं, उनके मरने के बाद उसमें उनकी धर्मपत्नी रहेंगी तथा उनकी धर्मपत्नी के मरने के बाद तीनों भाईयों में से जो लड़का उस सेट को रखेगा, वह दूसरे लड़के विरेन्द्र (वादी) को रुपये 20,000/- जमीन व मकान की एवज में उस समय उसकी कीमत के अनुसार अदा करेगा।

6. यह कि वादी के पिता स्व० श्री देवी दत्त बहुगुणा का दिनांक 10.05.1992 को देहान्त हो गया था। उनके देहान्त के पश्चात् उक्त सेट में वादी की माता अर्थात् स्व० श्री देवी दत्त बहुगुणा की पत्नी स्व० श्रीमती सर्वेश्वरी देवी बहुगुणा रहती रही और दिनांक 07.05.1995 को उनका भी देहान्त हो गया था।

7. यह कि वादी को अपने द्वारा निष्पादित वसीयत दिनांक 22.06.1988 का ज्ञान दिनांक 20.12.2023 को हुआ, जब वादी को किसी के माध्यम से यह पता चला कि उनके पिता द्वारा प्रश्नगत् सम्पत्ति की बाबत अपने जीवनकाल में एक वसीयत सम्पादित की गयी थी। इस पर वादी द्वारा दिनांक 20.12.2023 को ही सबरजिस्ट्रार कार्यालय, देहरादून से प्रश्नगत् वसीयत की प्रमाणित प्रतिलिपि प्राप्त करने हेतु आवेदन किया गया तथा वसीयत के पढ़ने के उपरांत वादी को सत्यता पता चली।

8. यह कि प्रतिवादी को वसीयत में वर्णित उक्त सेट जिसका इस वादपत्र के अन्त में सूची में वर्णित सम्पत्ति में उल्लेख किया गया है, प्राप्त हुआ, परन्तु प्रतिवादी द्वारा वादी से वसीयत को छिपाया गया और वसीयत में उल्लिखित धनराशि आज तक वादी को प्रदान नहीं की गयी।

9. यह कि वसीयत के आधार पर वर्ष 1995 में वसीयत में उल्लिखित उक्त सेट की जमीन व मकान का मूल्यांकन रुपये 20,000/- था जो कि वर्तमान में बहुत अधिक हो गया है। प्रतिवादी, वादी को वर्तमान बाजारी मूल्य के अनुसार मकान व जमीन की



कीमत के एवज में लगभग रुपये 90,00,000/- अदा करने हेतु कानूनी रूप से उत्तरदायी है।

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14. यह कि वाद का कारण दिनांक 07.05.1995 को स्थान देहरादून में माननीय न्यायालय के क्षेत्राधिकार में उत्पन्न हुआ जब वादी के पिता के देहान्त के पश्चात् दिनांक 07.05.1995 को वादी की माता का देहान्त हो गया और वादपत्र की सूची में वर्णित सम्पत्ति प्रतिवादी ने कब्जा किया तथा वादी को वसीयत में उल्लिखित उक्त सम्पत्ति की एवज में रुपये 20,000/- अदा नहीं किये तत्पश्चात् दिनांक 20.12.2023 को वादी को वसीयत का ज्ञान होने पर तत्पश्चात् कल दिनांक 21.12.2023 को वादी को वसीयत के अनुसार पैसा अदा करने से मना करने पर तथा सम्पत्ति को विक्रय करने की धमकी देने पर उत्पन्न हुआ। उक्त वाद कारण आज भी जारी है।”

18. On the basis of the said averments made in the plaint, initially the relief “A” was claimed which reads as under:

“क. यह कि प्रतिवादी, उसके प्रतिनिधि, हित प्रतिनिधि, वारिसान, उत्तराधिकारी, एजेंट, आदि-आदि को स्थायी निषेधाज्ञा की आज्ञाप्ति से निषिद्ध किया जाये कि वे वादपत्र की सूची में वर्णित सम्पत्ति को विक्रय व स्थानांतरित न करे तथा न ही सम्पत्ति में किसी तृतीयपक्ष का अधिकार सृजित करे तथा न ही इसका कारण बने।”

19. Later on, the revisionist amended the plaint and added paragraph no.13A and prayer AA, which reads as under:

“13अ यह कि वादपत्र की सूची में वर्णित सम्पत्ति में प्रतिवादी को अवैध कब्जा है, क्योंकि उसने वसीयत दिनांक 22.06.1988 का अनुपालन नहीं किया है। इस कारण यह न्याय संगत है कि प्रतिवादी को आज्ञात्मक व्यादेश से आदेशित किया जाये कि वह वादपत्र की सूची में वर्णित सम्पत्ति का कब्जा व अध्यासन वादी को सौंप दें अथवा विकल्प में वादी को आज के बाजारी मूल्य के अनुसार रुपये 90,00,000/- अदा कर दें।”

“कक” यह कि प्रतिवादी उसके हित प्रतिनिधि, प्रतिनिधि, वारिसान, उत्तराधिकारी, एजेंट आदि-आदि को आज्ञात्मक व्यादेश से सूचित किया जाये कि वे वादपत्र की सूची में वर्णित सम्पत्ति से अपना अवैध कब्जा हटाकर वादी को सौंप दे। इस आशय व निर्णय व डिक्ली वादी के पक्ष में तथा प्रतिवादी के विरुद्ध पारित किया जाये।”

20. Thus, the revisionist, as per his own case, valued



the property to be of ₹90 lakh and contended that the respondent is in illegal possession of the suit property and, as such, claimed possession of the suit property, which consisted of the land and house. The contention of the learned counsel for the revisionist that the market value of the property was to be assessed as per rental value of the property as determined by the Municipal Corporation and the case was covered by the judgment of the Hon'ble Allahabad High Court in the case of **C.L. Basra(supra)** is bereft of any merit.

21. In the case of **C.L. Basra (supra)**, the rental value of the property was determined by the plaintiff therein and the learned Trial Court relied on the said rental value and discarded the report of the Advocate Commissioner, who has held the value of the property otherwise.

22. In the present case, there is no pleading in the plaint with regard to any rental value of the suit property and, on the contrary, the revisionist had assessed the market value of the suit property as ₹90 lakh, which valuation has been upheld by the learned Trial Court by rejecting the objections of the respondent.

23. Admittedly, the revisionist is not in possession of the suit property and has claimed the possession of the suit property, which consists of land and house, as such, the determination of the said issue by the learned Trial Court that



Court fee is to be paid on the market value, as per Section 7(v) of the Court Fees Act, cannot be termed to be perverse. Moreover, there is no averment that the order impugned is an order without jurisdiction. Thus, scope of interference under Section 115 of the CPC is limited. The Hon'ble Apex Court in the case of **Varadarajan Vs. Kanakavalli and Others (2020) 11 SCC 598** has held as hereunder:

*"15...The High Court in exercise of revision jurisdiction has interfered with the order passed by the executing court as if it was acting as the first court of appeal. An order passed by a subordinate court can be interfered with only if it exercises its jurisdiction, not vested in it by law or has failed to exercise its jurisdiction so vested or has acted in exercise of jurisdiction illegally or with material irregularity. The mere fact that the High Court had a different view on the same facts would not confer jurisdiction to interfere with an order passed by the executing court. Consequently, the order passed by the High Court is set aside and that of the executing court is restored. The appeal is allowed."*

24. In view of the above, the Court is of the view that the learned Trial Court has neither transgressed any principle of law nor there is any contravention of any rule or procedure. Accordingly, the revision fails and the same is dismissed.

25. As a sequel thereto, the miscellaneous applications, if any pending, shall stand closed.

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**SUBHASH UPADHYAY, J.**

Dt:19.06.2026  
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