



HIGH COURT OF UTTARAKHAND AT NAINITAL

Civil Revision No.85 of 2026

Saurabh Balyan

...Revisionist

Versus

1. Smt. Meera Goel

...Respondent

2. Praveen Goyal

3. Deepshikha

...Proforma respondents

Presence:-

Mr. Vikas Bahuguna, learned counsel for the revisionist

Mr. Arvind Vashishtha, learned Senior Counsel assisted by Ms. Disha Vashishtha and Ms. Devanshi Joshi, learned counsel the respondent no.1

Date of Judgment: 21.08.2026

Hon'ble Shri Justice Subhash Upadhyay, J.

1. By means of present civil revision, filed under section 115 of CPC, the revisionist has assailed the order dated 14.07.2026 passed by learned 3rd Additional Civil Judge (S.D.), Dehradun in O.S. no.447/2022, whereby the application no.305C2 filed by the revisionist/defendant no.2 under Order XIV Rule 5 CPC, seeking framing of additional issues, has been rejected.

2. Brief facts of the case are that an Original Suit No.447/2022 was filed by the respondent no.1/plaintiff against the revisionist and proforma respondent nos.2 and 3 herein. The proforma respondent nos.2 and 3 herein were arrayed as defendant nos.1 and 3



and the revisionist was arrayed as defendant no.2 in the said suit. The aforesaid suit was filed for permanent injunction thereby restraining the revisionist/defendant no.2 and proforma respondent nos.2 and 3 herein from interfering in the title, peaceful possession, use and enjoyment of the scheduled property specified in the plaint. The respondent no.1/plaintiff contended that the mother of the plaintiff (Smt. Jadishwari Gupta) purchased the land bearing khasra no.39/1 (new no.26Ga) having an area of 455.24 sq.mts. situated in Village Brahmawala (Sahastradhara Road), Dehradun (*hereinafter referred to the 'suit property'*) from Smt. Pushpa Tandon vide registered sale deed dated 22.03.2004 and her name was duly mutated in the revenue records. It is the further case of respondent no.1/plaintiff that, her mother being the absolute and exclusive recorded owner / bhumidhar of the suit property, vide registered Will dated 22.03.2004, bequeathed the said property in favour of respondent no.1/plaintiff. After the death of Smt. Jagdishwari Gupta on 02.10.2016, the respondent no.1/plaintiff became the absolute and exclusive owner of the said suit property. It is the further case of respondent no.1/plaintiff that one Shri Ashish Bhargav having no concern or connection with



the suit property through his alleged authorised representative namely Praveen Goyal-proforma respondent no.2/defendant no.1 filed a false and frivolous suit being suit no.139 of 2020 Ashish Bhargav vs. Anand Prakash and without impleading the respondent no.1/plaintiff in the suit obtained an ex-parte injunction. The said suit was in respect of khasra no.39/3 (new no.26Ka and 40ka). Under the garb of the ex-parte injunction, the possession of the respondent no.1/plaintiff over the suit property was sought to be disturbed.

3. In the suit, though the respondent no.1/plaintiff was not made a party but her brother was impleaded as defendant no.2 by his childhood name "Raju". The respondent no.1/plaintiff filed an impleadment application in the said suit and a preliminary objection was also filed by her brother and after hearing the parties, learned Civil Judge (S.D.), vide order dated 09.06.2020, modified the injunction order and directed the parties to maintain status quo. During the pendency of the said suit, Ashish Bhargav through his attorney executed three sale deeds. Two sale deeds were executed in favour of proforma respondent no.2/defendant no.1 and one sale deed in favour of revisionist/defendant no.2. In the pending suit



no.139/2020, brother of the respondent no.1/plaintiff initiated proceedings under Order 39 Rule 2A of CPC against Shri Ashish Bhargav and the attesting witness Virender Verma for execution of aforesaid sale deeds, in defiance to the interim injunction order of *status quo*. The said proceedings were said to be pending at the time of institution of the suit.

4. The Respondent no.1 / plaintiff apprehended that after the sale deeds being executed in favour of proforma respondent no.2/defendant no.1 and the revisionist/defendant no.2, suit no.139/2020 would not be contested by Shri Ashish Bhargav. As the dismissal of the said suit would affect her right, as such the respondent no.1/plaintiff filed the suit no.447/2022 against the revisionist and the proforma respondent nos.2 and 3 herein for permanent injunction. In the aforesaid suit no.447/2022 the revisionist/defendant no.2 filed his written statement and contended that Smt. Pushpa Tandon, who sold the property to the mother of respondent no.1/plaintiff, did not possess any lawful title or authority in her favour. The proforma respondent nos.2 and 3/defendant nos.1 and 3 also filed their separate written statements. The learned Trial Court, vide order dated



03.07.2026, framed the issues in the case. Thereafter, on an application filed by proforma respondent no.2/defendant no.1 under order XIV Rule 5 CPC, the Trial Court, vide its order dated 09.07.2026, framed an additional issue. Subsequently, the revisionist/defendant no.2 also filed an application bearing paper no.305-C2 under Order XIV Rule 5 CPC praying for framing of additional issues, however, the said application was rejected by the Trial Court by the impugned order dated 14.07.2026, against which the present revision has been filed.

5. Learned counsel for the revisionist submits that the entire claim of ownership of respondent no.1/plaintiff is founded upon a void and fraudulent chain of title i.e. the alleged sale deed dated 22.03.2004, the subsequent mutation and the alleged Will. Thus, the said issue goes to the root of the plaintiff's title and the learned Trial Court erred in dismissing the application no.305-C2 filed by the revisionist for framing the additional issue.

6. He further submits that while allowing the application of proforma respondent no.2/defendant no.1 under order XIV Rule 5 CPC the learned trial court took into consideration the pleadings made in his written statement and framed the additional issues, whereas in considering



the application filed by the revisionist, the said provisions were not followed and the jurisdiction sought to be exercised was not done. He further submits that the Trial Court failed to appreciate that framing of proper issues is crucial in deciding the real questions involved in the controversy between the parties and ensure a fair and effective trial. The failure to frame said issue has seriously prejudiced the claim and defence of the revisionist.

7. Per contra, learned counsel appearing for the respondent no.1/plaintiff made preliminary objection and contended that as per the proviso to Section 115(1) CPC (as substituted by the CPC Amendment Act, 2002), the Hon'ble Court shall not vary or reverse any order made in the course of a suit except where the order, if it had been made in favour of the party applying for revision, would have finally disposed of the suit. He further submits that there is no jurisdictional error or material irregularity in the impugned order and the application filed by the revisionist has been decided on merits by recording cogent reasons. He further submits that Section 115 CPC is not an avenue for correcting an order merely because it is alleged to be erroneous on facts or in law. Moreover, the proceedings of the suit has been expedited by order dated 06.04.2026



passed by the High Court in WPMS No.813/2026 “Meera Goyal vs. Praveen Goyal & Others”, wherein this Court had directed the learned Trial Court to decide the O.S. no.447/2022 within four months. He further submits that the additional issues sought to be framed and to be incorporated as additional issues by the revisionist are already covered by the issues and the additional issues framed by the Court and the learned trial court has considered the said fact and has thus held that the issues already framed take care of the additional issues sought to be incorporated by the revisionist.

8. Heard learned counsel for the parties and perused the record. The facts which are not in dispute in the present case are that the learned Trial Court on 03.07.2026 had framed the following issues:-

“i) Whether the plaintiff is the owner / bhumidhar in possession of the suit property on the basis of the Will dated 23.03.2004

ii) Whether the defendants have attempted to interfere with the peaceful possession of the plaintiff?

iii) Whether the plaintiff's suit is barred by Sections 34 and 41 of the Specific Relief Act, 1963?

iv) Whether the plaintiff has undervalued the suit?

v) Whether the plaintiff has paid insufficient court fee”

vi) Whether the plaintiff is entitled to the relief claimed?



9. Thereafter, on an application filed by proforma respondent no.2/defendant no.1 in the suit, who sought two additional issues to be framed, one additional issue was framed on 09.07.2026, which is as follows:-

“vi) Whether the plaintiff's mother, Smt. Jagdishwari Gupta, had a lawful right to transfer the disputed property by Will, and if so, its effect?”

10. The revisionist/respondent no.2 thereafter moved an application no.305C2 on 12.07.2026 for framing of four additional issues. The issues sought to be framed by the revisionist are as follows:-

“1. क्या प्रतिवादीगण द्वारा वादग्रस्त भूमि के सम्बन्ध में वादिनी के कथित स्वामित्व अधिकार को विवादित किये जाने तथा वादिनी के स्वामित्व पर मेघाच्छादित उत्पन्न होने के कारण वादिनी द्वारा घोषणा का अनुतोष मांगे बिना स्थायी निषेधाज्ञा का वाद विधि में पोषणीय है?

2. क्या श्रीमती पुष्पा टंडन को वादिनी की माता श्रीमती जगदीश्वरी गुप्ता के पक्ष में वादग्रस्त भूमि का विक्रय विलेख दिनांक 22/03/2004 निष्पादित करने का कोई वैधानिक अधिकार एवं वादग्रस्त भूमि का स्वामित्व प्राप्त था ?

3. क्या वादिनी को अपनी माता श्रीमती जगदीश्वरी गुप्ता की कथित वसीयत के आधार पर वादग्रस्त भूमि पर कोई वैध स्वामित्व एवं अधिकार प्राप्त हुआ है?

4. क्या वादिनी की माता श्रीमती जगदीश्वरी गुप्ता के पक्ष में वादग्रस्त भूमि के विक्रय विलेख दिनांक 22/03/2004 में कूटरचना कर राजस्व अभिलेखों में वादिनी की माता श्रीमती जगदीश्वरी गुप्ता का नामान्तरण (Mutation) हुआ है? यदि हाँ तो उसका प्रभाव?”



11. Learned counsel for the revisionist, during the course of arguments, submitted that issue no.2 sought to be framed as an additional issue goes to the root of the matter besides other three issues which are also relevant for deciding the controversy.

12. Learned Trial Court, considering the application filed by the revisionist and by the impugned order, came to a conclusion that the issues sought to be incorporated are already covered under the issues and the additional issues framed by the Court. The finding recorded by the Trial Court in para 6 of the order dated 14.07.2026 reads as under:-

“6. जहां तक प्रतिवादी संख्या-2 की ओर से योजित प्रार्थना-पत्र में याचित अतिरिक्त वाद बिन्दु विरचित किये जाने की याचना का प्रश्न है तो इस सम्बन्ध में उल्लेखनीय है कि न्यायालय द्वारा पूर्व में दिनांक 03.07.2026 को 06 वाद बिन्दुओं एवं दिनांक 09.07.2026 को अतिरिक्त वाद बिन्दु संख्या-7 का विरचन किया जा चुका है, उक्त विरचित वाद बिन्दुओं के अवलोकन से विदित है कि प्रतिवादी संख्या-2 द्वारा जिन तथ्यों के निस्तारण हेतु अतिरिक्त वाद बिन्दुओं के विरचन किये जाने की याचना की गई है, उक्त तथ्यों का निर्धारण न्यायालय द्वारा पूर्व में विरचित वाद बिन्दुओं के निस्तारण में समाहित होना परिलक्षित है। ऐसी स्थिति में प्रतिवादी संख्या-2 की ओर से याचित अतिरिक्त वाद बिन्दुओं को इस स्तर पर विरचित किये जाने का कोई औचित्य नहीं रह जाता है। अतः प्रतिवादी संख्या-2 की ओर से प्रस्तुत प्रार्थना पत्र स्वीकार किया जाना न्यायोचित प्रतीत नहीं होता है। आदेश तदनुसार—”



13. The object of framing the issues is to deliberate upon the questions on which the parties have to lead evidence and the purpose is to indicate the party on whom the burden of proof lies. Moreover, non-framing of an issue in a particular manner, as sought by the party, is insignificant when the parties are well aware of their rival case. The power to amend or strike out any issue under Order XIV Rule 5 CPC rests upon the Court and the additional issues can be framed, as may be necessary, for determining the matter in controversy. In the present case, the learned Trial Court had exercised the said power and has come to a conclusion that the matter in controversy can be considered and decided under the issues already framed. This Court has taken into consideration the issues and the additional issues framed by the learned Trial Court and has also seen the additional issues sought to be framed by the revisionist and is in agreement with the finding recorded by the Trial Court that the issues sought to be framed by the revisionist are already covered under the issues already framed. Moreover, the Coordinate bench of this Court in WPMS no.813/2026 had directed the Trial Court to expedite the matter and to decide the same, preferably within four



months. Thus, the learned Trial Court is justified in making the efforts to decide the suit expeditiously.

14. In view of the above, this Court is of view that the finding recorded by the learned Trial Court does not suffer from any infirmity or illegality. The parties are well aware of their rival claims and can lead evidence in support of their claims under the issues and additional issues already framed by the Trial Court.

15. Accordingly, the revision lacks merit and the same is hereby dismissed.

(Subhash Upadhyay, J.)

21.08.2026

Rajni