



IN THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

CIVIL REVISION No.94 of 2026

Arvind Joshi & Others

--Revisionists

Versus

Manju Joshi & Others

--Respondents

Presence:-

Mr. Piyush Garg along with Ms. Priyanka Agrawal, learned counsel for the revisionists.

Mr. Nagesh Aggarwal, learned counsel for the respondent no.3.

Hon'ble Siddhartha Sah, J. (oral)

Learned counsel for the parties are *ad idem* that the caveat has been wrongly reported in the name of Mr. Sunil Chandra, inasmuch as the orders assailed in this revision are the orders dated 11.07.2026 and 29.07.2026. The order under caveat on behalf of Mr. Sunil Chandra was with respect to the order dated 05.05.2026. The Registry appears to have wrongly reported the caveat.

2. By means of the present Civil Revision, the plaintiffs/revisionists have assailed the orders dated 11.07.2026 and 29.07.2026 passed by the learned Civil Judge (Senior Division), Almora in Original Suit No.09 of 2025, 'Arvind Joshi and others vs. Manju Joshi and others'.



3. By means of the order dated 11.07.2026, the trial court rejected the adjournment application bearing Paper No. 138-C on the premise that the plaintiffs had sought repeated adjournments. By virtue of the order dated 11.07.2026, the trial court foreclosed the right of the plaintiffs to produce their witnesses for cross-examination and also observed that the affidavits would not be read in evidence.

4. On 29.07.2026, a recall application was preferred on behalf of the plaintiffs/revisionists, seeking recall of the order dated 11.07.2026, which also came to be rejected by the trial court vide the impugned order dated 29.07.2026.

5. Assailing the orders dated 11.07.2026 and 29.07.2026, learned counsel for the plaintiffs/revisionists would submit that 11.07.2026 was the first date fixed for the cross-examination of the plaintiffs' witnesses and that the adjournment was sought on account of the absence of learned counsel for the plaintiffs/revisionists. Therefore, the trial court erred in rejecting the adjournment application on the premise that repeated adjournments had been sought on behalf of the plaintiffs/revisionists and also committed an illegality in holding, in the said order dated 11.07.2026, that the affidavits of evidence would not be read in evidence.

6. Learned counsel for the plaintiffs/revisionists would also submit that promptly, on the very next date, the recall application was filed, which came to be rejected on



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29.07.2026. He would further submit that there was no deliberate delay, as has been observed by the learned trial court, and he, thus, submits that one opportunity may be granted to produce the plaintiffs' witnesses for cross-examination, on which date the cross-examination would be attempted to be completed.

7. Learned counsel for respondent no. 3/defendant no.3 would submit that, by virtue of the order dated 30.10.2025, this Court had passed an order for expediting the proceedings of the said civil suit; hence, the plaintiffs/revisionists ought to have been careful enough and should not have sought an adjournment. Therefore, the orders dated 11.07.2026 and 29.07.2026 cannot be interfered with.

8. Having heard learned counsel for the parties and having gone through the record, it transpires that 11.07.2026 was the very first date on which the cross-examination of the plaintiffs' witnesses was to be conducted. The observation of the learned trial court that the plaintiffs had sought repeated adjournments, in the aforesaid facts, when it was the very first date on which the cross-examination of the plaintiffs' witnesses was to be conducted, *per se* does not appear to be correct. Even otherwise, it would be in the interest of justice that a fair opportunity be granted to each and every party to present their case.



9. Holding that the affidavits would not be read in evidence would, *per se*, be an illegality, as it would foreclose the right of the plaintiffs to lead their evidence and present their witnesses for cross-examination. Hence, the aforesaid orders are unsustainable, as they would tantamount to denial of an opportunity of hearing to the plaintiffs/revisionists. Thus, the aforesaid orders deserve to be set aside.

10. It also needs to be stated that, since there is an order passed by a Coordinate Bench of this Court for the expeditious disposal of the civil suit, it is directed that, on the next date fixed, which, as informed by learned counsel for the parties, is 20.08.2026, the plaintiffs shall produce their witnesses, who shall be cross-examined on that day or the next working day.

11. At this stage, learned counsel for respondent no. 3/defendant no.3 would urge that, since the order was passed closing the rights of the plaintiffs and providing that the affidavits of the plaintiffs would not be read in evidence, the defendants made endorsement that they do not want to adduce their evidence at this stage. Since the orders dated 11.07.2026 and 29.07.2026 are being set aside, in all fairness, it will also be open to the defendants to adduce their evidence in accordance with law.

12. The impugned orders dated 11.07.2026 and 29.07.2026 are accordingly set-aside.



13. With the aforesaid observations, the present Civil Revision under Section 115 of the Code of Civil Procedure stands disposed of.

(Siddhartha Sah, J.)

13.08.2026

Akash