

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.19 of 2021

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Kavindra Singh @ Kamendra Singh, aged about 72 years, Male Son of Late Rameshwar Singh, Resident of Village-Mehus, P.S.-Mehus, District Sheikhpura.

... .. Defendant-Appellant- Petitioner/s
Versus

1. Sanjay Kumar, Son of Late Brahmdeo Singh, Resident of Village-Mehus, P.S.-Mehus, District Sheikhpura.

..... Defendant 1st Set-Respondent-Opposite Party

2. Ranjay Kumar, Son of Late Brahmdeo Singh, Resident of Village-Mehus, P.S.-Mehus, District Sheikhpura.
3. Dilip Singh, Son of Kavindra Singh @ Kamendra Singh, Resident of Village-Mehus, P.S.-Mehus, District Sheikhpura.

..... Defendant 2nd Set-Respondents-Opposite Parties

4. Smt. Mithilesh Devi, Wife of Sri Kavindra Singh @ Kamendra Singh, Resident of Village-Mehus, P.S.-Mehus, District Sheikhpura.

... ..Intervenor Respondent-Opposite Party

with
CIVIL REVISION No. 22 of 2021

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Mithilesh Devi, aged about 68 years, Female Wife of Sri Kavindra Singh @ Kamendra Singh, Resident of Village-Mehus, P.S.-Mehus, District Sheikhpura.

... ..Intervenor-Appellant- Petitioner/s
Versus

1. Sanjay Kumar, Son of Late Brahmdeo Singh, Resident of Village-Mehus, P.S.-Mehus, District Sheikhpura.

..... Defendant 1st Respondent-Opposite Party

2. Ranjay Kumar, Son of Late Brahmdeo Singh, Resident of Village-Mehus, P.S.-Mehus, District Sheikhpura.
3. Kavindra Singh @ Kamendra Singh, Son of Late Rameshwar Singh, Resident of Village-Mehus, P.S.-Mehus, District Sheikhpura.
4. Dilip Singh, Son of Sri Kavindra Singh @ Kamendra Singh, Resident of Village-Mehus, P.S.-Mehus, District Sheikhpura.

... ..Defendant 2nd Set-Respondent/s. Opposite Parties

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Appearance :

(In CIVIL REVISION No. 19 of 2021)

For the Petitioner/s : Mr. Ajay Behari Sinha, Sr. Advocate



Mr. Syed Rizwanul Haque, Advocate
Ms. Seema Gazala, Advocate
Mr. Khalid Anwar, Advocate
For the Respondent/s : Mr. Binay Kumar, Advocate
Mr. Vivek Kumar, Advocate
(In CIVIL REVISION No. 22 of 2021)
For the Petitioner/s : Mr. Ajay Behari Sinha, Sr. Advocate
Mr. Syed Rizwanul Haque, Advocate
Ms. Seema Gazala, Advocate
Mr. Khalid Anwar, Advocate
For the Respondent/s : Mr. Binay Kumar, Advocate
Mr. Vivek Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
CAV ORDER

18 02-07-2026 Heard learned counsel for the petitioners as well as
learned counsel for the respondents.

2. The present Civil Revision Applications have been filed under Section 115 of the Code of Civil Procedure, 1908 (hereinafter referred to as ‘CPC’) arising out of a common order dated 12.11.2020 (hereinafter referred to as ‘impugned order’) passed by the learned District Judge, Sheikhpura (hereinafter referred to as ‘Appellate Court’) in Miscellaneous Civil Appeal Nos. 02 of 2019 and 03 of 2019, whereby both the appeals were dismissed and the orders dated 10.02.2017 passed in Title Suit No.14 of 2015 and the order dated 27.02.2019 passed in Misc. Case Nos.12 of 2017 and 13 of 2017 by the learned Munsif, Sheikhpura (hereinafter referred to as ‘Trial Court’) were affirmed. Since both the revision applications emanate from the same Title Suit, involve common questions of facts and law, and assail the same appellate order, they were heard together and are



being disposed of by this common judgment.

3. The brief facts, are that Title Suit No.14 of 2015 was instituted by Mostt. Sharda Devi before the learned Trial Court seeking, inter alia, a declaration that the deed of gift dated 08.11.1989 allegedly executed in favour of defendant no.1 was illegal, void *ab initio* and not binding upon her. The plaintiff also sought partition of the properties described in Schedule-II of the plaint on the assertion that the same continued to remain joint notwithstanding the execution of the alleged deed of gift. During the pendency of the suit, the sole plaintiff died. According to the petitioners, the plaintiff died on 15.04.2016 leaving behind her legal heirs, whereas defendant nos.1 and 2 asserted that she had died earlier on 28.02.2016. Consequent upon the death of the plaintiff, defendant no.3, namely Kavindra Singh, filed an application under Order I Rule 10(2) read with Section 151 of the CPC praying to be transposed as a plaintiff on the ground that he was one of the legal heirs of the deceased plaintiff and had also acquired an interest in part of the suit property by virtue of a registered sale deed allegedly executed by the deceased in his favour prior to her death. A similar application was also filed by Smt. Mithilesh Devi (petitioner in Civil Revision No.22 of 2021) claiming transposition on the



basis of her alleged purchase of a portion of the suit property from the deceased plaintiff.

4. The learned Trial Court, *vide* order dated 10.02.2017, rejected the applications seeking transposition and, accepting the plea raised by defendant nos.1 and 2, held that the suit had abated on account of the death of the sole plaintiff and consequently closed the proceedings. Thereafter, the petitioners and Smt. Mithilesh Devi (petitioner in Civil Revision No.22 of 2021) independently filed Misc. Case Nos.13 of 2017 and 12 of 2017 under Order XXII Rule 9(2) read with Order XXII Rule 3 and Section 151 of the CPC seeking setting aside of the abatement and continuation of the suit. Both the Miscellaneous Cases came to be dismissed by a common order dated 27.02.2019.

5. Aggrieved thereby, the petitioners in both the cases i.e. Kavindra Singh @ Kamendra Singh and Smt. Mithilesh Devi preferred Misc. Civil Appeal Nos.02 of 2019 and 03 of 2019 respectively before the learned Appellate Court. The learned Appellate Court, by the common order dated 12.11.2020, dismissed both the appeals and affirmed the orders dated 10.02.2017 and 27.02.2019 passed by the learned Trial Court. The legality and correctness of the said common



appellate judgment are under challenge in the present Civil Revision Applications.

6. Before the learned Appellate Court, Opposite Party Nos.1 and 2 opposed both the appeals by filing their objections. It was submitted that the appeals were not maintainable either in law or on facts. According to them, the impugned order dated 10.02.2017 was passed after hearing all concerned parties and had attained finality since neither an appeal nor a revision had been preferred there against. It was further submitted that the subsequent miscellaneous cases had been instituted only to overcome the legal consequences flowing from the earlier order dated 10.02.2017 and to create a fresh cause for filing an appeal.

7. The opposite parties further submitted that the deceased plaintiff had herself instituted the suit against all the defendants, including the present petitioners, alleging serious acts of fraud and illegal deprivation of her rights. In such circumstances, the petitioners, against whom allegations had been levelled by the plaintiff, could not legally seek transposition or substitution in the capacity of a plaintiff after her death. It was also submitted that the petitioners himself had pleaded in his written statement that the suit was not maintainable and was liable to be dismissed and, therefore, he



could not subsequently assert a right to continue the very same suit as a substituted plaintiff. It was alleged that the sale deeds relied upon by the petitioners and his wife were executed after the death of the plaintiff and were not genuine.

8. Upon consideration of the pleadings, the rival submissions and the records of Title Suit No.14 of 2015, the learned Appellate Court found that the order dated 10.02.2017 rejecting the prayer for transposition and recording abatement had been passed after affording opportunity of hearing to all concerned parties. The learned Appellate Court further noticed that the said order had never been directly challenged by the petitioners of both the cases before any superior forum and had, therefore, attained finality. The learned Appellate Court also observed that the petitioners had, in his own written statement, questioned the maintainability of the suit and sought its dismissal. In view of such pleadings, the learned Appellate Court held that the petitioners could not subsequently seek substitution or transposition as a plaintiff for prosecuting the same suit. It further held that, in the facts of the case, the right to sue did not survive within the meaning of Order XXII Rule 3 of the CPC and, therefore, the learned Trial Court had rightly treated the suit as having abated on the death of the sole



plaintiff. On the aforesaid reasoning, the learned Appellate Court concluded that the appeals were devoid of merit and accordingly dismissed both Misc. Civil Appeal Nos.02 of 2019 and 03 of 2019 by the common order dated 12.11.2020 while affirming the orders passed by the learned Trial Court.

9. Learned counsel appearing on behalf of the petitioners submitted that both the learned Appellate Court and Trial Court have committed a manifest error of law in holding that Title Suit No.14 of 2015 stood abated on the death of the sole plaintiff. It is submitted that no formal order declaring the suit to have abated had ever been passed in accordance with the provisions of Order XXII of the CPC and, therefore, the learned Appellate Court and Trial Court erred in proceeding on the assumption that the suit had automatically abated. It is further submitted that once the right to sue survives, the Court is required to permit substitution or transposition of the persons entitled to continue the proceedings instead of terminating the suit on a technical ground.

9.i. Learned counsel for the petitioners further submitted that the petitioner in Civil Revision No.19 of 2021, being one of the legal heirs of the deceased plaintiff as well as a purchaser of a portion of the suit property under a registered



sale deed allegedly executed by the deceased during her lifetime, had acquired a substantial and direct interest in the subject matter of the litigation. Learned counsel submitted that the application filed by the petitioners under Order I Rule 10(2) read with Section 151 of the CPC seeking transposition as a plaintiff ought to have been allowed, particularly when the relief claimed in the suit related to the estate of the deceased plaintiff and the petitioners had a legally recognizable interest in prosecuting the suit.

9.ii. It is next submitted that the learned Trial Court committed a jurisdictional error in rejecting the application filed by the petitioner (Kavindra Singh) for transposition and thereafter dismissing the subsequent applications filed under Order XXII Rule 9(2) read with Order XXII Rule 3 and Section 151 of the CPC without properly examining whether the right to sue survived. According to the learned counsel, both the learned Appellate Court and Trial Court failed to appreciate that the petitioners and the other revision petitioners had approached the Court within the prescribed period seeking to continue the proceedings and, therefore, the question of abatement did not arise in the facts of the present case.

9.iii. Learned counsel further submitted that the



impugned orders have been passed by adopting an unduly technical approach, resulting in the closure of the suit without adjudication on its merits. It is submitted that the dispute pertains to valuable immovable property and the legality of a registered deed of gift, which ought to have been decided after a full-fledged trial. According to the learned counsel, the learned Appellate Court and Trial Court failed to exercise the jurisdiction vested in them by law by refusing to permit continuation of the suit, thereby causing serious prejudice to the petitioners in both the Civil Revision.

9.iv. On the aforesaid premises, learned counsel for the petitioners in both the cases that the impugned common order dated 12.11.2020 passed by the learned Appellate Court affirming the orders dated 10.02.2017 and 27.02.2019 passed by the learned Trial Court, suffers from patent illegality and material irregularity in the exercise of jurisdiction and is, therefore, liable to be set aside in exercise of the revisional jurisdiction of this Court.

10. *Per contra*, learned counsel appearing on behalf of Opposite Party Nos.1 and 2 supported the impugned order and submitted that both the learned Appellate Court and Trial Court have concurrently recorded findings of fact after due



appreciation of the pleadings and materials available on record, and the same do not warrant interference in exercise of the limited revisional jurisdiction under Section 115 of the CPC. It is submitted that the sole plaintiff having died during the pendency of the suit, and no valid substitution having been effected in accordance with the provisions of Order XXII of the CPC, the suit stood abated by operation of law. According to the learned counsel, the learned Trial Court merely recorded the statutory consequence of such abatement and rightly rejected the subsequent applications filed by the petitioners.

10.i. Learned counsel further submitted that the petitioner (Kavindra Singh), who was defendant no.3 in the original suit, had himself filed a written statement specifically asserting that the suit was not maintainable and was liable to be dismissed. It is submitted that having adopted such a stand, the petitioner (Kavindra Singh) cannot subsequently seek his transposition as a plaintiff to prosecute the very same suit. It is further submitted that the original plaintiff had levelled serious allegations of fraud and collusion against all the defendants, including the present petitioners, and therefore no community of interest existed between the plaintiff and the petitioner (Kavindra Singh) so as to justify his transposition as a plaintiff.



It is submitted that the learned Appellate Court and Trial Court have rightly held that such transposition would fundamentally alter the nature of the proceedings.

10.ii. It is next submitted that the petitioners as well as his wife claimed title on the basis of alleged sale deeds executed during the pendency of the suit. Learned counsel submitted that such transfers are hit by the doctrine of *lis pendens* embodied under Section 52 of the Transfer of Property Act and, therefore, do not confer any independent right to seek impleadment or transposition. It is further submitted that the petitioners have failed to establish themselves as legal representatives of the deceased plaintiff in accordance with law and have approached the Court by suppressing material facts and relying upon inconsistent documents regarding the date of death of the plaintiff. Learned counsel submitted that such conduct disentitles the petitioners from any discretionary relief in revisional jurisdiction.

10.iii. Learned counsel further submitted that the scope of interference under Section 115 of the CPC is extremely limited and cannot be equated with appellate jurisdiction. It is submitted that the petitioners are merely seeking a re-appreciation of the evidence and concurrent findings of fact



recorded by the learned Appellate Court and Trial Court, which is wholly impermissible in revisional proceedings. In support of the aforesaid proposition, reliance has been placed upon ***Major S.S. Khanna v. Brig. F.J. Dillon***, reported in ***1963 SCC OnLine SC 72; AIR 1964 SC 497***, to submit that interference in revision is confined to jurisdictional errors. Further, learned counsel put his reliance upon ***Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh***, reported in ***(2014) 9 SCC 78*** to submit that revisional jurisdiction does not permit re-appreciation of evidence or interference with concurrent findings of fact; and upon ***K.K. Modi v. K.N. Modi and Ors.***, reported in ***(1998) 3 SCC 573***, to submit that repeated litigation over settled issues amounts to an abuse of the process of law.

10.iv. Learned counsel has also relied upon the decisions in ***Ramesh Hirachand Kundanmal v. Municipal Corporation of Greater Bombay and Ors.***, reported in ***(1992) 2 SCC 524***; ***Vidur Impex and Traders Pvt. Ltd. and Ors. v. Tosh Apartments Pvt. Ltd. and Ors.***, reported in ***(2012) 8 SCC 384***; and ***Mumbai International Airport Pvt. Ltd. v. Regency Convention Centre and Hotels Pvt. Ltd. and Ors.***, reported in ***(2010) 7 SCC 417*** to submit that transposition or impleadment is permissible only where the applicant has a direct and legally



protectable interest in the subject matter and where such impleadment is necessary for complete and effective adjudication of the dispute. It is submitted that a purchaser *pendente lite* does not acquire an independent right to be impleaded or transposed and that, in the facts of the present case, the interest of the petitioners being adverse to that of the original plaintiff, the learned Appellate Court and Trial Court have committed no illegality in rejecting their applications. On these premises, learned counsel prayed for dismissal of both the Civil Revision Applications.

11. I have given my thoughtful consideration to the rival submissions advanced on behalf of the parties and have carefully gone through the pleadings, the impugned orders passed by the learned Appellate Court as well as the learned Trial Court and the materials brought on record. I have also considered the authorities relied upon by the learned counsel for the parties. In the backdrop of the aforesaid facts and submissions, the sole point that falls for determination in the present Civil Revision Applications is whether the common order dated 12.11.2020 passed by the learned Appellate Court, affirming the orders dated 10.02.2017 and 27.02.2019 passed by the learned Trial Court suffer from any jurisdictional error,



patent illegality or material irregularity in the exercise of jurisdiction so as to warrant interference by this Court in exercise of its revisional jurisdiction under Section 115 of the CPC.

12. Before advertng to the rival contentions on merits, it is apposite to examine the scope and ambit of the revisional jurisdiction of this Court under Section 115 of the CPC. The jurisdiction conferred under the said provision is supervisory and not appellate in nature. The revisional power is intended to ensure that subordinate Courts act within the bounds of the jurisdiction vested in them and follow the procedure prescribed by law. It is well settled that this Court, while exercising jurisdiction under Section 115 of the CPC, does not sit as a Court of appeal to reassess or re-appreciate the evidence or to substitute its own conclusions merely because another view is possible on the facts. Interference is warranted only where the subordinate Court has exercised a jurisdiction not vested in it by law, has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity. Mere errors of fact or even errors of law, unless they have the effect of occasioning a jurisdictional failure or a material irregularity in the exercise of jurisdiction, do not



justify interference in revision.

13. In the present case, the challenge is directed against the concurrent orders of the learned Trial Court and the learned Appellate Court whereby the applications preferred by the petitioners for transposition, substitution and setting aside the alleged abatement have been rejected. The petitioners seek to assail the findings recorded by the learned Appellate Court as well as the learned Trial Court with regard to the effect of the death of the sole plaintiff, the survival of the right to sue and their entitlement to continue the proceedings. The question, therefore, is not whether another view on the factual matrix is possible, but whether the learned Appellate Court and Trial Court, while adjudicating the applications under the provisions of Order I and Order XXII of the CPC, have acted beyond the jurisdiction vested in them, have declined to exercise jurisdiction vested by law, or have exercised such jurisdiction in a manner vitiated by patent illegality or material irregularity. Unless such jurisdictional infirmity is demonstrably established from the record, this Court would not be justified in unsettling the concurrent findings merely because the petitioners seek a different appreciation of the facts or a different interpretation of the material available on record.



14. At the same time, it is equally well settled that where a subordinate court proceeds on an erroneous assumption regarding the extent of its jurisdiction, ignores a mandatory statutory provision, declines to exercise a jurisdiction vested in it, or adopts a procedure which has the effect of defeating the ends of justice, the revisional jurisdiction under Section 115 of the CPC can be invoked to correct such jurisdictional error. It is, therefore, in the light of these settled principles governing the exercise of revisional jurisdiction that the legality and propriety of the impugned orders passed by the learned Appellate Court as well as the learned Trial Court are required to be examined.

15. The contours of revisional jurisdiction under Section 115 of the CPC has been enumerated by the Hon'ble Supreme Court *Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh (supra)*, has observed as under:

"28. Conceptually, revisional jurisdiction is a part of appellate jurisdiction but it is not vice versa. Both, appellate jurisdiction and revisional jurisdiction are creatures of statutes. No party to the proceeding has an inherent right of appeal or revision. An appeal is continuation of suit or original proceeding, as the case may be. The power of the appellate court is coextensive with that of the trial court. Ordinarily, appellate jurisdiction involves rehearing on facts and



law but such jurisdiction may be limited by the statute itself that provides for the appellate jurisdiction. On the other hand, revisional jurisdiction, though, is a part of appellate jurisdiction but ordinarily it cannot be equated with that of a full-fledged appeal. In other words, revision is not continuation of suit or of original proceeding. When the aid of Revisional Court is invoked on the revisional side, it can interfere within the permissible parameters provided in the statute. It goes without saying that if a revision is provided against an order passed by the Tribunal/appellate authority, the decision of the Revisional Court is the operative decision in law. In our view, as regards the extent of appellate or revisional jurisdiction, much would, however, depend on the language employed by the statute conferring appellate jurisdiction and revisional jurisdiction.”

16. Moreover, the revisional jurisdiction under Section 115 of the CPC have been authoritatively delineated by the Hon’ble Apex Court in ***Shiv Shakti Coop. Housing Society v. Swaraj Developers and Ors.***, reported in ***(2003) 6 SCC 659***, wherein it has been held that the revisional power is supervisory in nature and cannot be equated with appellate jurisdiction; interference is permissible only where the subordinate Court has acted without jurisdiction or with material irregularity in the exercise of such jurisdiction.



17. Bearing the aforesaid principles in mind, this Court proceeds to examine whether the impugned orders disclose any jurisdictional infirmity warranting interference under Section 115 of the CPC. The challenge raised by the petitioners essentially revolves around the findings recorded by the learned Appellate Court and Trial Court that the suit had abated on the death of the sole plaintiff, that the petitioners were not entitled to be transposed or substituted in her place, and that the subsequent applications filed under the provisions of Order XXII of the CPC were not maintainable. Since these findings form the very foundation of the impugned orders, it becomes necessary to examine whether the learned Appellate Court and the learned Trial Court have arrived at the said conclusions by correctly appreciating the statutory scheme governing abatement, substitution and transposition or whether, in doing so, they have committed any jurisdictional error or material irregularity so as to justify interference by this Court in exercise of its revisional jurisdiction.

18. Applying the aforesaid principles to the facts of the present case, this Court finds that the learned Trial Court had entertained all the applications preferred by the petitioners under Order I Rule 10(2), Order XXII Rules 3, 9 and 10 read with



Section 151 of the CPC and afforded adequate opportunity of hearing to all the contesting parties before passing the order dated 10.02.2017. A perusal of the said order demonstrates that the learned Trial Court examined the genealogy of the parties, the nature of the reliefs claimed in the plaint, the rival claims regarding the status of the petitioners, the plea of purchase set up by the petitioners and the objections raised by the contesting defendants before arriving at the conclusion that the petitioners were not entitled to be transposed or substituted in place of the deceased plaintiff. Thus, it cannot be said that the learned Trial Court either declined to exercise the jurisdiction vested in it or exercised jurisdiction not vested in it by law.

19. It further appears from the record that after the order dated 10.02.2017, the petitioners instituted Misc. Case Nos.12 of 2017 and 13 of 2017 under Order XXII Rule 9(2) read with Order XXII Rule 3 and Section 151 of the CPC seeking substantially the same relief. The learned Trial Court, while deciding the said miscellaneous proceedings *vide* order dated 27.02.2019, recorded that the issues sought to be raised therein had already been considered and decided on merits by the earlier order dated 10.02.2017 and that no new circumstance had been brought on record warranting reconsideration of the



matter. The learned Trial Court, therefore, declined to reopen the issues already adjudicated and dismissed the miscellaneous proceedings. Whether such conclusion is ultimately correct on merits is not the determinative consideration in the present revisions. The question is whether the learned Trial Court acted within the bounds of its jurisdiction, and this Court finds no jurisdictional infirmity in the procedure adopted or the decision-making process.

20. The learned Appellate Court thereafter independently examined the entire matter while deciding Misc. Civil Appeal Nos.02 of 2019 and 03 of 2019. The learned Appellate Court considered the rival submissions, scrutinized the orders passed by the learned Trial Court and affirmed the findings by assigning independent reasons. The learned Appellate Court also noticed that the order dated 10.02.2017 had not been independently assailed before the appropriate forum and that the subsequent proceedings were essentially founded upon the very issues which had already been adjudicated. The impugned appellate order, therefore, cannot be said to suffer from any perversity or failure to exercise jurisdiction warranting interference in revisional jurisdiction.

21. The principal endeavor of the petitioners before



this Court is to persuade this Court to take a view different from that taken by the learned Appellate Court as well the learned Trial Court with regard to the effect of the death of the sole plaintiff, the entitlement of the petitioners to continue the proceedings and the legality of the orders passed under Order I Rule 10 and Order XXII of the CPC. Such an exercise would necessarily require a fresh appreciation of the factual matrix and a re-evaluation of the conclusions concurrently recorded by the both the learned Courts. The revisional jurisdiction under Section 115 of the CPC is not intended to substitute the view of the High Court for that of the subordinate courts merely because another view is possible. As explained by the Supreme Court in ***Major S.S. Khanna v. Brig. F.J. Dillon and Ors. (supra)***, the revisional power is confined to correcting jurisdictional errors and does not permit the High Court to function as a court of first appeal on facts.

22. The Hon'ble Apex Court in ***Major S.S. Khanna v. Brig. F.J. Dillon and Ors. (supra)*** has observed as under:

"32.The power given by Section 115 of the Code is clearly limited to the keeping of the Subordinate Courts within the bounds of their jurisdiction. It does not comprehend the power exercisable under the writ of Prohibition or mandamus. It is also not a



full power of Certiorari inasmuch as it arises only in a case of jurisdiction and not in a case of error. It has been ruled by the Judicial Committee and also by this Court that the section is concerned with jurisdiction and jurisdiction alone involving a refusal to exercise jurisdiction where one exists or an assumption of jurisdiction where none exists and lastly acting with illegality or material irregularity. Where there is no question of jurisdiction in this manner the decision cannot be corrected for it has also been ruled that a Court has jurisdiction to decide wrongly as well as rightly. But once a flaw of jurisdiction is found the High Court need not quash and remit as is the practice in English law under the writ of certiorari, but pass such order as it thinks fit.”

23. Having considered the record in its entirety, this Court is of the considered opinion that the petitioners have failed to demonstrate that the learned Appellate Court as well as the learned Trial Court exercised jurisdiction not vested in them by law, failed to exercise jurisdiction so vested, or acted in the exercise of their jurisdiction illegally or with material irregularity. The findings recorded by the learned Trial Court and affirmed by the learned Appellate Court are the result of an adjudicatory exercise undertaken after hearing the parties and considering the materials placed on record. In the absence of any jurisdictional error or patent illegality in the decision-



making process, no case for interference under Section 115 of the CPC is made out. The point for determination is, accordingly, answered against the petitioners.

24. In view of the foregoing discussion, this Court is satisfied that the learned Trial Court, while passing the orders dated 10.02.2017 and 27.02.2019, acted within the bounds of the jurisdiction vested in it and considered the rival claims of the parties in accordance with law. The learned Appellate Court has also independently re-examined the matter and affirmed the said orders by assigning cogent reasons. The petitioners have failed to point out any jurisdictional error, patent illegality or material irregularity in the exercise of jurisdiction by the learned Appellate Court or the learned Trial Court so as to attract the revisional jurisdiction of this Court under Section 115 of the CPC. The grievances raised by the petitioners essentially invite this Court to re-appreciate the factual findings concurrently recorded by both the learned Courts, which is beyond the permissible scope of revisional jurisdiction. Consequently, this Court finds no valid ground to interfere with the impugned judgment and orders of the learned Appellate Court.

25. Accordingly, the impugned common order dated 12.11.2020 passed by the learned District Judge, Sheikhpura in



Misc. Civil Appeal Nos. 02 of 2019 and 03 of 2019, affirming the orders dated 10.02.2017 and 27.02.2019 passed by the learned Munsif, Sheikhpura, are hereby affirmed.

26. The present Civil Revision Applications are, accordingly, dismissed.

27. There shall be no order as to costs.

(Ramesh Chand Malviya, J)

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