

In the Court of District Judge, Mahoba
Present: RAM NAGINA YADAV (HJS)-UP5737



UPMB010018782024

Civil Revision No.-11/2024

Jhunnilal aged 57 years son of Sri Chiranjilal, r/o village
 Rajauni, Paragana & Tehsil Kulpahar, District Mahoba (U.P.)

..... **Revisionist**

versus

Jagannath aged 78 years son of Sri Durjana r/o village Rajauni,
 Paragana & Tehsil Kulpahar, District Mahoba (U.P.)

..... **Opposite Party**

Under Section 115 C.P.C.

JUDGMENT

1. The instant civil revision has been filed under Section U/s. 115 Code of Civil Procedure by defendant of Original Suit No.132/2020, aggrieved by the order dated 06.07.2024 of Civil Judge (Jr. Div.) Kulpahar Mahoba by which lower Court has allowed amendment application of the plaintiff/opposite party paper no.31Ka.
2. The facts in brief of this case are that plaintiff/opposite party Jagannath filed Original Suit No. 132 of 2020, Jagannath Vs. Jhunnilal before the Court of Civil Judge (Jr. Div.) Kulpahar, Mahoba. During the pendency of suit plaintiff/opposite moved amendment application paper no.31Ka seeking required amendment which was allowed by the lower Court on cost of Rs.5,00/-and disposed off objection paper no.34Ga. Being aggrieved by the impugned order dated 06.07.2024 this civil revision has been preferred by the defendant/revisionist.
3. Argument of both sides were heard on 20.05.2026.
4. It has been argued on behalf of the revisionist that the impugned order dated 06.07.2024 passed by the lower Court is against law and facts. Lower Court has illegally allowed the amendment application. Impugned order dated 06.07.2024 is not sustainable in the eye of law. Plaintiff filed original suit no. 132/2020 against the defendant before the lower Court seeking relief of cancellation of sale deed dated 06.06.2000. Plaintiff wants to convert original cancellation suit into declaration suit by way of filing amendment application with a view to change nature and form of the case. Lower Court has committed illegality by allowing the said amendment application of the plaintiff.

No amendment has been sought by the plaintiff regarding valuation of the suit.

5. S.31 of Specific Relief Act provides for adjudication of document as void and for its cancellation as follows-

31. When cancellation may be ordered.—

(1) Any person against whom a written instrument is void or voidable, and who has reasonable apprehension that such instrument, if left outstanding may cause him serious injury, may sue to have it adjudged void or voidable; and the court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

(2) If the instrument has been registered under the Indian Registration Act, 1908 (16 of 1908), the court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation.

6. The suit of the plaintiff/O.P. was for cancellation of sale deed. Lower Court permitted him to amend it to seek relief of declaration of the document as void. Court can also order for cancellation u/s 31 Specific Relief Act. Declaration and cancellation both relief are covered under s.31 Specific Relief Act. There is no change of nature.

7. **S.115 C. P. C. provides for revision as under:**

Revision under S.115 CPC- U.P. Amendment

(1) A superior court may revise an order passed in a case decided in an original suit or other proceeding by a subordinate court where no appeal lies against the order and where the subordinate court has-

- (a) exercised a jurisdiction not vested in it by law; or
- (b) failed to exercise a jurisdiction so vested; or
- (c) acted in the exercise of its jurisdiction *illegally or with material irregularity*.

S.115 (3) provides for bars against exercise of revisional jurisdiction-

(3) The Superior Court shall not, under this section, vary or reverse any order made except when,-

- (i) the order, if it had been made in favour of the party applying for revision would have finally disposed of the suit or other proceeding; or
- (ii) the order, if allowed to stand, would occasion a failure of justice or cause irreparable injury to the party against whom it is made:

8. The Lower Court has jurisdiction to allow or reject an amendment application. There is no jurisdictional error in passing impugned order nor there is any illegality or irregularity. So far as objection as to valuation is concerned it can be raised separately. This revision petition has no force and liable to be rejected with cost.

9. **Order:-** The instant Civil Revision Petition has no force and rejected with cost accordingly. Lower Court be informed to proceed as per law.

Dated: 27/05/2026

District Judge,
Mahoba

Pronounced in the open court today.

Dated: 27/05/2026

District Judge,
Mahoba