Supreme Court of India
Panchdeo Narain Srivastava vs Km. Jyoti Sahay And Anr. on 18 February, 1983
Equivalent citations: AIR 1983 SC 462, 1983 (1) SCALE 719, 1984 Supp (1) SCC 594
Bench: A.N.Sen, D Desai
ORDER

1. This appeal neither calls for an elaborate judgment nor a detailed discussion of the point involved in the appeal. We do not propose to give exhaustive reasons in support of our decision for in our opinion decisions on the subject are legion and we consider it unnecessary to refer to them in details.

2. Appellant-plaintiff filed Title Suit No. 122 of 1978 in the Court of 3rd Munsif at Patna for a declaration that he is entitled to withdraw a certain amount deposited by the second defendant in the court. Two respondents were impleaded as defendants in the plaint. Appellant-plaintiff had described himself as the son of uterine brother of Rama Shanker Prasad. Subsequently plaintiff moved an application for amendment of the plaint inter alia seeking deletion of the word 'Uterine' from the plaint, The Trial Court granted the application for amendment. First respondent preferred C. R. No. 921 of 1980 in the High Court of Judicature at Patna. The learned judge of the High Court after setting out the history of litigation allowed the revision application of the first respondent observing as under:

I however feel satisfied at least to this extent that in view of the legal position, this word 'Uterine' has got a significance and may work in favour of either side to a very great extent. In this context therefore as it would amount to change the basis of the claim I am of the view that the amendment should not have been allowed.

This is the only reason which appealed to the learned single judge for interfering with an order granting amendment in exercise of the revisional Jurisdiction under Section 115 of the CPC. The original plaintiff has preferred this appeal by special leave.

3. Even if the High Court was justified in holding that the deletion of the word 'Uterine' has some significance and may work in favour of either side to a very great extent yet that itself would not provide any justification for rejecting the amendment in exercise of its revisional jurisdiction. We may, in this connection, refer to Ganesh Trading Co. v. Moji Ram wherein this Court after a review of number of decisions speaking through Beg, C. J. observed that procedural law is intended to facilitate and not to obstruct the course of substantive justice. But the learned Counsel for the respondents contended that by the device of amendment a very important admission is being withdrawn. An admission made by a party maybe withdrawal or may be explained away. Therefore, it cannot be said that by amendment an admission of fact cannot be withdrawn. The learned trial judge, granting the application for amendment was satisfied that in order to effectively adjudicate upon the dispute between the parties, amendment of the pleading was necessary. The High Court in its revisional jurisdiction for a reason which is untenable ought not to have interfered with the order made by the trial court. The learned Counsel for the respondents in this connection read one unreported decision of this Court in which this Court upheld the decision of the High Court setting

aside the order granting amendment in exercise of its revisional jurisdiction. We have gone through the judgment. The decision does not lay down any particular principle of law and appears to be a decision on its own facts. And ordinarily, it is well settled that unless there is an error in exercise of jurisdiction by the Trial Court, the High Court would not interfere with the order in exercise of its revisional jurisdiction.

4. Viewed from this angle, we find no justification for the High Court interfering with the order made by the learned trial court granting the application for amendment to the plaint. We accordingly allow this appeal and set aside the judgment of the High Court and restore the order of the learned trial judge.

5. At the request of the learned Counsel for the respondents, it is hereby clarified that it will be open to the respondents to cross-examine the plaintiff on all points on which plaintiff can be legitimately cross-examined and this decision would neither bar nor preclude any question that can be legally put to the plaintiff in his cross-examination. There will be no order as to costs of the hearing in this Court.