
SAFEGUARDING PROCEDURAL FAIRNESS: EXAMINING SECTION 115 AND THE HIGH COURT'S REVISIONAL JURISDICTION

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ABSTRACT

This essay discusses the High Court's Revisional Power (Section 115) over its Subordinate Court. The Civil Procedure Code's Section 115 describes the High Court's authority to request the transcript of any case that a lower court has determined and in which there is no right of appeal. It is impossible to dispute the extent of Section 115 of the Code when it comes to the exercise of revisional power and redress by revision; nonetheless, it must meet the requirements outlined in Section 115 of the Code. The necessity of High Court revision and the potential for a miscarriage of justice in situations when an appeal is not accessible. The High Court is empowered to amend and revoke interlocutory orders, even though they can be challenged in an appeal from the final decree or judgment in the case. If a civil judge engages in any illegal activity, such as using authority that is not legally his to exercise or failing to follow statutory procedures, the High Court will correct the error in the exercise of its Revisional jurisdiction. In using its authority under Section 115 of the Code, this revisional court should decide the issue on its merits rather than because the parties failed to appear.

I. Introduction

Any court's decisions may be the consequence of unintentional errors or human error that creeps into the process even with the best of intentions. If a subordinate court oversteps its bounds of judicial authority or declines to carry out its legally assigned duties, an application may be made to contest the decision, according to the law. It may elect to independently amend a case if it determines that a lower court has not operated within its authority. The court may modify its ruling and put it into effect again after revision. To preserve equity and ensure the truth of justice, this clause was enacted. A procedural statute pertaining to the supervision of civil cases in India is the Code of Civil Procedure, 1908. It establishes the process for revision and specifies the conditions under which the High Court may amend civil proceedings.

A case's revision differs from its review, which is a reanalysis of the case, and appeal, which is an application against a court's decision. To revise something is to go over it with great care, attention, and diligence. The High Court has the authority to amend cases because it is designated as having revisional jurisdiction under Section 115 of the Code of Civil Procedure. The High Court possesses the authority to review cases determined by lower courts in order to guarantee the administration of justice and preservation of equity. These jurisdictional mistakes made by lower courts may be corrected by the High Court. This gives any party that feels wronged the chance to change an order made by a lower court that is not appealable.

When an appeal is not possible in a case handled by a lower court, the High Court has the authority to review it, in certain cases provided under Section 115 of CPC.

II. Research Problem

Does Revision ensure correct judicial administration and prevent miscarriages of justice during proceedings?

III. Power of Revision under - Section 115 of the CPC

The court stated in *Major S.S. Khanna v. Brig. F.J. Dillon* that "the section comprises of two sections, the main recommends the conditions in which the High Court's jurisdiction emerges, i.e. there is a case chose by a subordinate Court in which no appeal misleads the High Court, the second sets out the circumstances in which no appeal deceives the High Court, the second

out the circumstances in which the Jurisdiction might be exercised." In accordance with S.115, the High Court has presented this revisional authority in order to effectively execute its superintending and visitation powers over subordinate courts; Clearly, the authority granted is limited to maintaining subordinate courts within the boundaries of their own jurisdictions. It falls under the High Court's general investigative jurisdiction, but S. 115's contributing provisions completely restrict its use.

Revisional jurisdiction is not entirely analogous to an indisputable appeal, even though it is merely a portion of redrafting authority. The High Court does not have to consider the merits of the evidence when exercising its revisional powers; instead, it must determine whether the court whose order is being revised has duly and properly complied with the requirements of the law and whether any irregularities in the disappointment or exercise of jurisdiction are, for instance, to justify tampering with the decree. If the order isn't appealable and both of the requirements listed in S. 115 are met, the remedy by way of revision cannot be refused.

The High Court may exercise its revisional Jurisdiction where it appears that the lower court has:

1. The subordinate court has used jurisdiction that is not legally granted to it.
2. The subordinate court has not exercised the legal jurisdiction granted to it.
3. The subordinate court unlawfully, materially irregularly, in violation of a statute, or by making procedural mistakes during the trial that could have influenced the verdict, exerts its authority.

Considering that the District Court should have the sole authority to make an order under this provision for situations arising from distinct suits or other proceedings of any value, the High Court should have this authority. In addition, the Committee recommended that S. 115 of the Code be held subject to the modification that no revision application should lie against an interlocutory order unless both of the accompanying conditions are satisfied. Specifically, the Committee stated that the High Court or the District Court should not, under this section, change or switch any order choosing an issue, made over the span of a suit or other continuing;

- (i) If the order were to change or revert, it would ultimately result in the suit or other

continuation.

- (ii) That if the order is allowed to remain in place, it will most likely result in a denial of justice or irreversible harm.

Their Lordships of the Judicial Committee noted in *N.S. Venkatagiri Ayyanger v. The Hindu Religious Endowments Board Madras*¹, decided on January 24, 1949, that there is no basis for the belief that Section 115 of the Code of Civil Procedure was intended to give the High Court the authority to intervene and correct unacceptable and apparent errors of subordinate courts in order to prevent grave injustice in cases that are not appealable. It only applies to situations when there is no basis for an appeal and where the legislature has clearly intended for the trial court's decision to be final, regardless of its accuracy.

□ **Jurisdiction of the Court**

'Jurisdiction' is a linguistic layer with multiple colors. In a case that is not appealable, Section 115 grants the High Court the authority to make revisions. Only jurisdiction, its irregular exercise or non-exercise, and its unconstitutional presumption are covered by Section 115. Nevertheless, the insignificant fact that the lower court's decision was incorrect does not amount to an illegality or a serious irregularity, regardless of whether it was based on a factual or legal error.

Section 115 of the Code of Civil Procedure, 1908 (C.P.C.) provides that.

Revisional jurisdiction may be used in cases involving jurisdictional inquiries, i.e., inquiries concerning the improper exercise or non-exercise of jurisdiction or the unlawful suspicion of jurisdiction by a court, and which are not coordinated against the completion of law or fact in which jurisdictional inquiries are not included. Thus, even if the lower court makes an incorrect determination that a particular suit is barred by *res judicata*, that it is banished by limitation, or that it proceeds based on an incorrect development of the various arrangement's provisions of an Act, the High Court will not interfere in the exercise of its revisional jurisdiction.

□ **Discretionary Powers**

¹ P.C.A. No. 94 of 1947, decided on January 24, 1949.

Major S.S. Khanna v. F.J. Dhillon, A.I.R. 1964 S.C. 497, shows that the Supreme Court's exercise of jurisdiction under S. 115, C.P.C., is discretionary, and that the court will undoubtedly intervene if the requirements in S. 115 sections (a), (b), and (c) are met.

Once more, the exercise of revisional jurisdiction under this section is purely discretionary. The High Court will not intervene if an irregularity has resulted in the advancement of justice, regardless of whether the lower court acted illegally or without jurisdiction. It is possible to use the authority to prevent injustice.

Section 115 grants authority to be used in a way that supports justice closures rather than undermines them. When such happens, the revisional powers won't normally be used if there is another remedy that may be obtained through an appeal or lawsuit. If the candidate has access to another beneficial treatment, the High Court will not intervene. But if such a strategy is essential given a justifiable concern for justice, it might interfere.

The court has the discretionary authority to add or reject a gathering from a procedure, but it must do so carefully and legally. If legal caution has been used—for example, by adding a gathering or refusing to include one under Order I, Rule 10—while considering all the facts and circumstances of the case, the High Court will not intervene in the exercise of that legal attentiveness in the future.

IV. Condition for Revision

According to Section 115 of the Code of Civil Procedure, the High Court may only use its revisional authority under certain circumstances. In order for the High Court to use its revisional jurisdiction, each of these requirements must be satisfied. These are listed in the following order:

Precedent

The subordinate court must already have rendered a decision and issued a verdict in this matter. If a case is not resolved upon and no verdict is rendered, it cannot be changed. The CPC, 1908, did not define the term "case decided." As a result, there have been several contradictory rulings regarding the subject of whether the aforementioned language also comprised an interlocutory

command. The case of Major S.S. Khanna v. Brig. F.J. Dillon, 1963² settled this dispute and established that Section 115 applies to interlocutory orders as well. Shah J. reported witnessing it said that “The expression ‘case’ is a word of comprehensive import; it includes civil proceedings other than suits, and is not restricted by anything contained in Section 115 to the entirety of the proceedings in a civil court. To interpret the expression “case” as an entire proceeding only and not a part of the proceeding would be to impose an unwarranted restriction on the exercise of powers of superintendence and may result in certain cases in denying relief to the aggrieved litigant where it is most needed and may result in the ‘perpetration of gross injustice.’”

The Supreme Court held in the case of Baldevdas Shivlal V. Filmistan Distributors (India) (P) Ltd., 1969³, that a case is considered decided if the court determines a right or obligation of the parties in controversy for the purposes of the suit. It is not possible to record each order in the lawsuit as a case decided.

On the Joint Committee of Parliament's advice, the Amendment Act of 1976 inserted an explanation to Section 115. This clarifies that any decision made or issue decided during a lawsuit or other action is included in the term "case decided."

No Appeal Lies

The case decided by the subordinate court cannot be the subject of an appeal. If there is an appeal pending against the case, the High Court is not permitted to make revisions to it because doing so would conflict with the appeal and vice versa. Only after the appeal is denied may the amendment be submitted. Both the first and second appeals are included in the term "appeal." Consequently, the revision can only be false if the appeal is denied or is not false.

Subordinate Court

Revisional jurisdiction cannot be used by the High Court unless a court beneath it has made a decision in the case. The exclusive forum for consideration is a civil court; those functioning in an administrative role are excluded from this. Generally speaking, the presiding officer of the court in question will preside over the proceedings when it is specified that the court should

² 1964 AIR 497

³ 1970 AIR 406

decide a certain case. However, the statute's requirements must be taken into account when deciding whether a judicial officer is acting as a *persona designata* or as a court when it is specified that a certain judge shall resolve a subject. In any situation where an application is filed by an aggrieved party, the High Court's revision is primarily intended to correct jurisdictional or procedural errors that subordinate courts may have made throughout the course of proceedings.

Alternative Remedy

Revisional jurisdiction cannot be asserted as a right by any party who has been wronged; rather, it is a power that the High Court exercises at its discretion. Before exercising the power of revisional jurisdiction, a number of considerations are taken into account. In the event that the aggrieved party has access to an effective alternative remedy, the court may choose to advise that remedy and provide relief to the party instead of exercising its revisional authority. By doing this, revisional jurisdiction is kept out of the wrong hands and is only used when absolutely required.

V. Limitation of Revisional Jurisdiction.

A 90-day period begins on the date of the decree, order, or sentence that is being sought to be amended and runs through the filing of the revision under the Code of Civil Procedure, according to Article 131 of the Schedule of Limitation Act. As a result, there is a 90-day window within which to file a revision in opposition to the contested order. Within the allotted time, the revision application must be submitted to the High Court.

Salekh Chand v. Deepak Sharma (2015)⁴ is a case that The revisionist filed an application under Section 5 of the Limitation Act while the revision petition was pending. However, the Court ruled that Article 131 of the Schedule of Limitation Act specified a ninety-day statute of limitations for filing a revision. As a result, the revision petition was approved and may move forward without being limited.

In the 1966 case of *Samudrala Nagabhushanam V. Venkana Raghavayy*⁵, the court determined that Section 22 of the Andhra Pradesh Buildings Control Act, 1960, rather than Rule 41-A(2)

⁴ Criminal Revision No. 10/2014

⁵ AIR 1968 AP 70

of the Appellate Side Rules of the Andhra Pradesh High Court, governed the petition for revision in this specific case. Thus, there is no restriction that prevents the change.

VI. Section 115 of the Code delineates the powers conferred by the Indian Constitution.

Authorities granted for revision under the Indian Constitution: - The Indian Constitution's Article 226 gives high courts the ability to provide directives, orders, or writs to any person or body, including the administration (where appropriate). These writs may include the concepts of habeas corpus, mandamus, denial, quo warranto, certiorari, or any combination of these. -

- To authorize any of the fundamental rights outlined in Part III of the Constitution;
- For any other purpose.

This paper has been selected for discussion because it is equally important as article 32. It should be noted that the high court may grant a writ under condition above only in cases where it can be shown that the victim of abuse has a fundamental right that has been violated, and under provision (b) above, the court may grant a writ only after concluding that the victim of abuse has a legitimate right that qualifies him for any of the aforementioned writs and that the right has been violated. The scope of this article has been the source of intense debate in a number of instances decided by the Supreme Court, many High courts, and other courts. The general opinion is that a man may file a motion with the High Court only in the event that he is unable to get any other reasonably adequate, beneficial, and timely remedy.

We can assume that Article 227 of the Indian Constitution affirms that every High court shall have supervisory authority over all courts and tribunals throughout the regions over which it has jurisdiction (except from a court established by a statute associated with the armed forces). As a result, it may:

- Request reports from these courts;
- Establish and publish broad guidelines and support frameworks for managing these courts' operations and training.

- Establish formats for books, passages, and documents that the officials of any such courts must maintain.
- Agree on charges that will be allowed for the sheriff and all other officials and representatives of these courts.

This jurisdiction is only sometimes used. It can be used to correct mistakes in jurisdiction, but it shouldn't be used to obstruct pure discoveries of truth—that is, to put it another way, the domain of a court that is redrafting itself. This is where the revision power enters the picture. Revision serves the purpose of giving the revision court the authority to satisfy itself about the correctness, legality, or legitimacy of any finding, sentence, or order that is recorded or issued, as well as the consistency of any proceedings of the lower criminal court. Article 226 and 227 of the Constitution grant the High Court jurisdiction, and the Amendment Act in Section 115 of the Code of Civil Procedure cannot and does not in any way affect that authority.

VII. Does the High Court have the authority to fix egregious legal errors through revision if the outcome of those errors significantly impacts the case?

Revision powers granted to the High Court cannot be used to rectify legal errors, no matter how serious the errors may be or how they may affect the case's merits.

This authority granted to the High Court can only be used in cases in which it can justifiably determine that the lower court has overreached its jurisdiction, has ceased to exercise its jurisdiction, or has behaved unlawfully or irregularly in the course of exercising its jurisdiction—that is, has committed a procedural error that requires a mandatory procedure and the error had resulted in failure of justice or some such thing.

In *Sheo Kumar Dwiwedi v. Shri Thakur Ji Maharaj*⁶, the Allahabad High Court went so far as to hold that, although articulating the aforementioned principles, the lower court may have erred in determining what constituted a formal defect as defined by Rule 1 of Order 23 (which deals with suit withdrawal or partial claim abandonment) or in determining what could be considered sufficient grounds as defined by Rule 1 (3) (b) of Order 23 of the Code of Civil

⁶ (1957) A.L.J. 536

Procedure. The error could only have been a legal one; it had no bearing on the court's authority to issue an order or to refuse to issue one in accordance with Order 23 requirements. As a result, the revisional jurisdiction could not be used.

VIII. Interlocutory Order

The Supreme Court has ruled that the High Courts with writ jurisdiction may consider petitions seeking a review of the trial court's decision on requests against its interim orders, even in the event of a boycott under the amended Section 115 of the Civil Procedure Code (CPC). In 1999, the Center amended Section 115 of the CPC to prohibit the recording of petitions in High Courts seeking revision of a trial court's order choosing an appeal against its interim order in a civil suit. This was done in response to the Malimath Committee's suggestions to expedite the slow-moving trial proceedings in civil cases. Section 115 was modified, and it went into effect on July 1, 2002. The modification was enacted because the government believed that groups were abusing the High Courts' revisional authority to postpone proceedings by challenging a variety of trial court interim rulings while a case was pending. The highest court with jurisdiction over the matter proceeded with an appeal filed by Surya Devi Rai, whose motion against a trial court's interim decision was denied by the High Court due to the amended Section 115 of the CPC.

The "Supplemental Proceedings" are included in Section 94 of Part VI of the Code of Civil Procedure, and it describes how the court may issue interlocutory orders to save the goals of justice from being defeated. The court is able to: -

- If the defendant disobeys any security orders, issue a warrant for his arrest or send him to a civil prison.
- Give the defendant instructions to turn over any property that he owns and place it at the court's disposal as security.
- If a guilty individual disobeys, issue a temporary injunction, send him to a civil prison, and order the attachment and sale of his possessions.
- Appoint a receiver for any property, and then use property attachment and sale to compel the receiver to fulfill his obligations.

- Make whatever interlocutory orders that the court deems appropriate and practical.

The following are some instances of interlocutory orders:

- Designating a commissioner to carry out seizures and searches.
- Interim Injunctions.
- Designating a Court Receiver to handle any rent or payment collection.
- Assign security in order to uphold a cause.

In *Subcommittee on Judicial Accountability v. Union of India, 1991*⁷, the case under discussion, it was decided that the Supreme Court would not issue any interlocutory orders that could potentially interfere with or have the effect of prejudgment on any sensitive mail matter.

IX. Conclusion

The High Court's extraordinary revision authority should be used as required to correct procedures that have been marred by jurisdictional errors in lower courts, as these can undermine the goals of the rule of law and lead to a miscarriage of justice. The High Courts are given the ability to make revisions in order to provide the harmed party with redress in the event that jurisdictional errors cause the legal system to break down. The High Court has the authority to reopen a matter if it finds that a lower court has not operated within its legal authority while acting within its purview.

⁷ 1992 AIR 320