

**HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Civil Revision No.37 of 2026**

Shravan Kumar Gupta .....Revisionist

Versus

Sarita Gupta .....Respondent

Present:-

Mr. Siddhartha Singh, Advocate for the defendant/revisionist.

Mr. Vikas Bahuguna, Advocate for the plaintiffs/respondents.

**Hon'ble Siddhartha Sah, J.**

The instant civil revision has been filed under Section 25 of the Provincial Small Cause Courts Act, 1887 ("the Act") against the order dated 18.03.2026 passed by the Judge, Small Cause Court/Ist Additional District Judge, Dehradun in SCC Case No.14 of 2024, Smt. Sarita Gupta vs. Shri Shravan Kumar Gupta, whereby, the amendment application filed by the defendant has been rejected.

2. Heard learned counsel for the parties and perused the record.

3. The plaintiff/respondent herein had filed SCC Case No.14 of 2024 before the Judge, Small Cause Court titled as Smt. Sarita Gupta vs. Shri Shravan Kumar Gupta for arrears of rent, ejectment and mense profit, *inter alia*, on the grounds that plaintiff had purchased the property/three shops through two sale deeds dated 29.03.2022 situated at New Property No.15, Dilaram Bazaar, Rajpur Road (No.52, Rajpur Road), Dehradun; the defendant/revisionist herein had been in occupation of one shop of the said property at a monthly tenancy of Rs.2500/- per month; defendant has not paid the rent since the year 2018; the property is in dilapidated condition and

the plaintiff/respondent herein had received notice dated 17.05.2022 from Nagar Nigam, Dehradun, under Section 331(1) of the Nagar Nigam Adhinyam, 1959 to demolish the said property; defendant neither paid the rent nor vacated the property.

4. The defendant/revisionist herein had filed written statement denying the plaint allegations *inter alia* on the grounds that defendant is not in arrears of rent; in the year 2018 previous owner Shri Radhey Lal had stopped taking rent from the defendant/revisionist herein then Misc. Case No.246 of 2019, Shravan Kumar Vs. Radhey Lal, under Section 30(1) of U.P. Act No.13 of 1972 was filed in the Court of Civil Judge, Dehradun, which was decided on 06.12.2021; defendant/revisionist herein had tendered the rent in Rent Misc. No.246 of 2019 of the shop/property till March, 2024, thereafter notices were issued to plaintiff on 14.02.2024 and rent for the period commencing from April, 2024 to May, 2025 was sent through Cheque No.330398 dated 12.09.2024 of Karnataka Bank Ltd. to plaintiff; the property/building is not in a dilapidated condition and the notice by Nagar Palika is manipulated.

5. During the pendency of the aforesaid SCC suit, the defendant/revisionist herein had filed an application under Order 6 Rule 17 CPC to amend the written statement *inter alia* on the ground that plaintiff has demolished the building except the shop under the tenancy and occupation of the defendant; plaintiff has got sanctioned a map/plan for shopping complex; plaintiff filed the aforesaid suit just to harass the defendant, there is no need of the shop to the plaintiff as he intended to built shopping complex in it. The proposed amendments seeking to add following paras after Para 30 read as under:-

“30A. That during the pendency of the suit, plaintiff has demolished the building except the Shop under the tenancy and occupation of the Defendant.

30B. That the Defendant has come across the Plan sanctioned by the authority in the name of Sarita Gupta; said plan numbered as C/0598/22-23, Dated 21/04/2023 and in light of the said Plan, plaintiff has come up with the Shopping Complex.

30C. That the property under the tenancy of the Defendant does not create any hindrance or hampers the view and the look of Shopping Complex and the ingress and egress to the Shopping Complex build by the plaintiff.

30D. That the plaintiff has filed the aforesaid Suit only to harass the Defendant as there is no need of the Shop to Plaintiff because already the Shopping Complex he intended to built has been built and the shop under the tenancy of the Defendant is not creating any hindrance to the said Shopping Complex.”

6. The plaintiff/respondent herein had filed objection to the amendment application filed by defendant contending therein that the amendment application is against the law and legally not tenable. The defendant has misused the process of law. The proposed amendment is not necessary for deciding the controversy between the parties nor the Small Cause Court has the jurisdiction to decide the proposed amendment. The trial of the suit had already commenced and the evidence of the plaintiff has already come to an end and for the last many dates, the case is pending for the evidence of the defendant, but the defendant has been protracting the proceedings of the present suit. In the said attempt and illegal objective, the defendant has filed the amendment application. In this regard, it needs to be specifically mentioned that the Hon'ble Uttarakhand High Court has passed the order for expeditious disposal of the case and thus contended that the amendment application deserves to be rejected. It was also contended that the amendment application is not maintainable in view of proviso to Order 6 Rule 17 and thus sought rejection of the amendment application.

7. Learned counsel for the plaintiff/respondent has provided a copy of the order dated 06.11.2025, whereby in Writ Petition (M/S) No.3082 of 2025, a Coordinate Bench passed an order wherein it had directed the Ist Additional District Judge, Dehradun to expedite the hearing of SCC Suit No.14 of 2024, Sarita Gupta vs. Shravan Kumar Gupta and to decide it within a period of 10 months from the date of production of certified copy of this order. The copy of order dated 06.11.2025 is placed on record.

8. The amendment application was numbered as Paper No.44C in the court of Judge, SCC/Ist Additional District Judge, Dehradun and the objections were numbered as Paper No.45C. The amendment application and the objections were heard by the Judge, SCC/Ist Additional District Judge, Dehradun and vide impugned order dated 18.03.2026, the said amendment application has been rejected.

9. Aggrieved against the said order dated 18.03.2026, the present revision has been filed by the defendant/revisionist under Section 25 of the Act.

10. Learned counsel for the defendant/revisionist has made the submission that the impugned order is erroneous in as much as while adjudicating the amendment application, the trial court's approach has to be liberal and there are several authorities in this regard. The next submission of the counsel for the defendant/revisionist is that there can be only three grounds of rejecting the amendment application for seeking amendment in a written statement -1. where there is a withdrawal of an admission, 2. Introducing time barred claim and 3. Introduction of mutually destructed pleas. It was next contended by learned counsel for the

defendant/revisionist that at the time of adjudicating an amendment application, a Court is not supposed to enter into merit of the case. It was also contended that if there is delay in filing the amendment application, the same can be compensated by adequate costs. In support of his submission, the counsel for the defendant/revisionist relied upon a judgment of a Coordinate Bench of this Court in the case of **Sanjay Badoni vs. Pradeep Chopra and another** in WPMS No.1050 of 2024, which was decided vide order dated 25.03.2026. He has referred to relevant paragraph nos.9, 11 and 17 of the said judgment which are held as under:-

“9. Learned counsel for the petitioner submitted that the Revisional Court committed manifest illegality in rejecting the amendment application by entering into the merits of the case, which was impermissible while deciding an application under Order VI Rule 17 CPC. It was contended that the proposed amendment was merely clarificatory and explanatory in nature and did not withdraw any admission nor introduce a new case.

11. Learned counsel argued that the law relating to amendment of written statement requires a liberal approach and even inconsistent or alternative pleas are permissible, particularly when no serious injustice is caused to the opposite party. It was thus submitted that the impugned order suffers from jurisdictional error, non-application of mind and failure to exercise jurisdiction vested in the court.

17. It is equally well settled that amendment of written statement stands on a different footing than amendment of plaint. The defendant is entitled to raise alternative and even inconsistent pleas, so long as the basic structure of defence is not completely altered and no clear admission is sought to be withdrawn in a manner causing irretrievable prejudice to the opposite party. A more liberal approach is warranted while considering amendment in written statement.”

11. The last submission of the learned counsel for the defendant/revisionist is that the proviso to Order 6 Rule 17 of the CPC is merely directory and not mandatory and on these submissions prayed that the revision be allowed and the impugned judgment and order dated 18.03.2026 be set aside.

12. Per contra, Mr. Vikas Bahuguna, learned counsel for the plaintiff/respondent has made the submission that the impugned

order has been passed in a SCC suit wherein parties are landlord and tenant. In SCC suit, the only determination has to be made by the Judge, SCC is whether the notice has been served or not and whether there is relationship of landlord and tenant between the parties.

13. The counsel for the plaintiff/respondent further submitted that the stage at which the amendment application was filed when the plaintiff had completed his evidence and it was pending at the stage of defendant's evidence. The counsel for the plaintiff/respondent further submitted that the position of law is that the primary object of allowing an amendment is to ensure that real controversy is to be adjudicated. In support of his submissions, the counsel for the respondent placed reliance upon the judgment of the Hon'ble Supreme Court in the case of ***Revajeetu Builders & Developers vs. Narayanaswamy & Sons & Others, 2009 (10) SCC 84*** and particularly drew attention of the Court to para 58 thereof which is as under:-

“58. The first condition which must be satisfied before the amendment can be allowed by the court is whether such amendment is necessary for the determination of the real question in controversy. If that condition is not satisfied, the amendment cannot be allowed. This is the basic test which should govern the courts' discretion in grant or refusal of the amendment.”

14. Placing reliance on Para 58 of the said judgment of the Hon'ble Supreme Court, the counsel for the plaintiff/respondent contended that the first condition which needs to be satisfied before the amendment can be allowed is whether such an amendment is necessary for determination of the real question in controversy. Taking the Court to the amendment application, the counsel for the plaintiff/respondent has made the submission that the amendments sought are irrelevant.

15. In view of the rival submissions of the counsel for the parties, the Court has to first see whether the Judge, SCC has

committed any jurisdictional error while passing the impugned order. Perusal of the impugned order dated 18.03.2026 would reveal that the Judge, SCC/Ist Additional District Judge, Dehradun has noted the averments made in the amendment application as well as the objections. The Trial Court has also taken into consideration the case laws governing the field and after considering the entire aspects of the amendment application and the case laws has concluded - upon consideration, it is evident that the present case is a summary suit relating to landlord-tenant relationship, wherein the primary issues for determination are whether such relationship exists between the parties, whether the defendant has defaulted in payment of rent and whether the notice is valid or not. The proposed amendment relates to facts that are not essential for the adjudication of the present dispute. The record further reflects that the matter is presently at the stage of the defendant's evidence and is approaching final adjudication. Moreover, even if, the present application filed by the defendant is not allowed, no prejudice is likely to be caused to the defendant. The timing of the application clearly indicates that it has been filed with the intent to cause unnecessary delay in the disposal of the suit. However, the Hon'ble Uttarakhand High Court has already directed that the proceedings of the present case be concluded expeditiously. Accordingly, in light of the foregoing discussion, the amendment application (Paper No.44C) is found to be devoid of merit and is hereby rejected and thus proceeded to make the amendment application by the impugned order dated 18.03.2026.

16. Now by preferring this revision under Section 25 of the Act, the defendant/revisionist has called upon the Court to test the legality of the impugned order dated 18.03.2026. The grounds for assailing the impugned order dated 18.03.2026, so far as the liberal

approach to be adopted while allowing amendment application and that there are limited grounds for rejecting an amendment application, as also the court does not enter into merit of the case while adjudicating an amendment application and that delay, if any, in preferring the amendment application can be compensated by costs, are all valid grounds for seeking amendment in the pleadings and particularly WS. But at the same time, the Court is not unmindful of the stage and the objective sought to be achieved by filing the amendment application by the defendant/revisionist.

17. On going through the record and on perusal of the amendment application, it is more than evident that the amendment application seeks to introduce the pleas which are not necessary for determining the real controversy involved in the case. The view being taken by the Court is as per the law laid down by the Hon'ble Supreme Court in the case of Revajeetu Builders & Developers (*supra*), wherein, the Supreme Court has categorically held in 58 para as follows:-

“58. The first condition which must be satisfied before the amendment can be allowed by the court is whether such amendment is necessary for the determination of the real question in controversy. If that condition is not satisfied, the amendment cannot be allowed. This is the basic test which should govern the courts' discretion in grant or refusal of the amendment.”

18. Moreover, there is already an order of Coordinate Bench of this Court to decide the suit expeditiously within a period of 10 months. From all the aspects of the case and after going through the record, it is evident that the trial court has not committed any jurisdictional error calling for interference in this revision under Section 25 of the Act. Therefore, the present revision deserves to be dismissed and is dismissed accordingly.

(Siddhartha Sah, J.)  
17.04.2026

Ravi