



2026:UHC:2113

Judgment delivered on:25.03.2026

Judgment reserved on:05.01.2026

**IN THE HIGH COURT OF UTTARAKHAND**

**AT NAINITAL**

**Writ Petition (M/S) No. 1050 of 2024**

Sanjay Badoni

.....Petitioner

Vs.

Pradeep Chopra and Another

.....Respondents

**Presence:**

Mr. Siddhartha Singh, learned counsel assisted by Mr. D.S. Negi, learned Advocate for the Petitioner.

Mr. Piyush Garg, learned counsel for the Respondents.

**Hon'ble Ashish Naithani, J.**

1. The present writ petition under Article 227 of the Constitution of India has been preferred by the petitioner assailing the order dated 27.03.2024 passed by the learned Vth Additional District Judge, Haridwar in SCC Revision No. 9 of 2023 (Sanjay Badoni vs. Pradeep Chopra and another), whereby the amendment application filed by the petitioner under Order VI Rule 17 of the Code of Civil Procedure seeking incorporation of a clarificatory and alternative plea in the written statement came to be rejected.
2. The controversy, in brief, arises out of SCC Case No. 1 of 2021 instituted by the respondents herein as plaintiffs for recovery of arrears of rent and eviction of the petitioner from the shop in question on the ground of default in payment of rent and termination of tenancy. The learned Trial Court, upon appreciation of the evidence on record, decreed the suit in favour of the plaintiffs vide judgment and decree



dated 10.05.2023 holding, inter alia, that the provisions of U.P. Act No. 13 of 1972 were not applicable to the property in dispute and further directed the defendant to pay mesne profits.

3. Aggrieved thereby, the petitioner preferred SCC Revision No. 9 of 2023 before the learned District Judge, Haridwar. During pendency of the said revision, the petitioner moved an application under Order VI Rule 17 CPC seeking amendment in the written statement for incorporation of a clarificatory and explanatory averment and for raising an alternative plea regarding continuance of tenancy. The said amendment application, however, came to be rejected by the Revisional Court by the impugned order dated 27.03.2024, primarily on the ground that the amendment was not permissible at that stage.
4. Feeling aggrieved by rejection of the amendment application and alleging jurisdictional error and illegality in exercise of discretion by the Revisional Court, the petitioner has invoked the supervisory jurisdiction of this Court under Article 227 of the Constitution of India seeking interference with the impugned order.
5. The record further reflects that the respondents herein, as plaintiffs, had instituted SCC Case No. 1 of 2021 before the Court of JSCC / Civil Judge (S.D.), Haridwar seeking recovery of arrears of rent and eviction of the petitioner from the shop in dispute on the allegation that the petitioner was a tenant at the rate of Rs. 733/- per month, was in arrears of rent since 01.10.2020 and that the tenancy stood terminated through notice dated 13.12.2020. It was also pleaded that the property in question was a new construction assessed for the first time in the year 1987 and, therefore, exempt from the provisions of U.P. Act No. 13 of 1972.



6. The petitioner herein, as defendant, contested the suit by filing written statement asserting, inter alia, that he had been a tenant since the time of the previous owner on the basis of lease dated 14.05.1997; that the property was an old construction; that the rent had been regularly tendered; that the plaintiffs had refused to accept rent sent through money order; and that he was entitled to the benefit of Section 20(4) of U.P. Act No. 13 of 1972.
7. After evidence of the parties, the learned Trial Court vide judgment and decree dated 10.05.2023 decreed the suit in favour of the plaintiffs holding that the provisions of U.P. Act No. 13 of 1972 were not applicable and directed eviction of the defendant along with payment of arrears and mesne profits. Aggrieved thereby, the petitioner preferred SCC Revision No. 9 of 2023, during pendency whereof the amendment application filed under Order VI Rule 17 CPC came to be rejected by the Revisional Court vide order dated 27.03.2024, which has been impugned in the present writ petition.
8. Heard learned counsel for the parties and perused the records.
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.
10. It was further submitted that the amendment was necessary for proper adjudication of the controversy and for determining the real question in dispute between the parties. The petitioner had acted with due diligence and the amendment was sought bonafide during



pendency of the revision without causing any prejudice to the respondents.

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.
12. Per contra, learned counsel for the respondents supported the impugned order and submitted that the amendment application was rightly rejected as the petitioner sought to introduce a new and inconsistent defence at a belated stage of proceedings.
13. It was contended that by way of proposed amendment the petitioner intended to withdraw earlier admissions and set up a fresh case, which is impermissible in law. The amendment was barred by the proviso to Order VI Rule 17 CPC as the trial had already concluded and no satisfactory explanation of due diligence had been furnished.
14. Learned counsel further submitted that the alleged lease relied upon by the petitioner was unregistered and inadmissible in evidence and the tenancy had already been terminated in accordance with law. It was argued that the amendment was neither necessary for adjudication of the case nor bona fide and, therefore, the Revisional Court rightly exercised its discretion in rejecting the same.
15. Upon due consideration, this Court observes that the controversy in the present petition is confined to the legality and propriety of the order dated 27.03.2024 whereby the learned Revisional Court rejected the amendment application filed by the petitioner under Order VI Rule 17 CPC during pendency of SCC Revision No. 9 of 2023. It is not in



dispute that the amendment was sought in the written statement and not in the plaint.

16. The settled position of law is that the primary object of allowing amendment of pleadings is to ensure that the real controversy between the parties is adjudicated upon and that technicalities do not defeat substantive justice. The Court, while dealing with an application under Order VI Rule 17 CPC, is required to examine whether the proposed amendment is necessary for effective and complete adjudication of the dispute and whether it causes serious prejudice to the opposite party which cannot be compensated in law.
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.
18. From the record, it is evident that the petitioner sought incorporation of a clarificatory and explanatory plea and also intended to raise an alternative defence in the event the property in question is held to be outside the purview of U.P. Act No. 13 of 1972. The amendment was defensive in nature. It neither introduced a wholly new cause of action nor sought to displace the foundational defence already taken in the written statement. Rather, it was intended to supplement and elaborate the existing stand. The law consistently recognizes that amendment of written statement is to be viewed more liberally than amendment of plaint.



19. The learned Revisional Court, however, while rejecting the amendment application, appears to have examined the sustainability of the defence on merits and the admissibility of certain documents, which exercise was beyond the scope of enquiry at the stage of deciding amendment. The Court was not required to adjudicate upon the correctness or ultimate success of the defence sought to be incorporated. The correctness of the plea is a matter to be tested at the stage of final adjudication and not at the stage of amendment.
20. The proviso to Order VI Rule 17 CPC requires the Court to consider whether the party, despite due diligence, could not have raised the matter before commencement of trial. In the present case, the amendment was sought during pendency of the revision proceedings. The petitioner had explained that the amendment was clarificatory in nature and intended to bring on record an alternative plea already germane to the controversy. The explanation furnished cannot be said to be wholly unsatisfactory or lacking bona fides.
21. The Revisional Court has not recorded any categorical finding that the petitioner lacked due diligence or that the amendment was mala fide. The rejection appears to be premised more on apprehension regarding merits than on the statutory parameters governing amendment. The respondents have also failed to demonstrate any real or irreparable prejudice that would be caused if the amendment is permitted.
22. It also deserves consideration that the amendment, if allowed, would not have resulted in reopening of concluded evidence before the Trial Court. The matter was pending in revision and the respondents would have had adequate opportunity to respond to the amended plea. No irreversible prejudice is demonstrated from the record. Where the subordinate court fails to apply settled principles governing amendment



of pleadings and exercises jurisdiction in a manner resulting in miscarriage of justice, interference under Article 227 of the Constitution becomes warranted.

23. In the considered opinion of this Court, the learned Revisional Court has misdirected itself by entering into the merits of the defence and by adopting a restrictive approach inconsistent with the settled liberal principles applicable to amendment of written statement. The discretion vested in it has not been exercised in accordance with law.
24. The amendment sought by the petitioner is necessary for determining the real controversy between the parties and for complete adjudication of the dispute pending in revision. Denial of such opportunity would result in curtailing the petitioner's right to place his full defence before the Court and may lead to multiplicity of proceedings.

### **ORDER**

For the reasons recorded hereinabove, this Court is satisfied that the impugned order dated 27.03.2024 passed by the learned Vth Additional District Judge, Haridwar suffers from material irregularity and failure to exercise jurisdiction in accordance with settled legal principles governing amendment of pleadings.

The impugned order is accordingly set aside.

The amendment application filed by the petitioner under Order VI Rule 17 CPC stands allowed. The petitioner shall carry out the amendment within a period to be fixed by the Revisional Court.

The Revisional Court shall thereafter afford opportunity to the respondents to file consequential pleadings, if so advised, and shall proceed to decide SCC Revision No. 9 of 2023 expeditiously, strictly in



2026:UHC:2113

accordance with law and without being influenced by any observation made in the present judgment on merits of the case.

The writ petition stands **allowed**.

**(Ashish Naithani J.)**

Dated:25.03.2026

NR/