2026:AHC:58829

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 1505 of 2026

Smt. Munni Devi

.....Petitioner(s)

Versus

Smt. Shashikala Pandey

.....Respondent(s)

Counsel for Petitioner(s)	:	Prakhar Tandon
Counsel for Respondent(s)	:	Shiv Kumar Yadav, Utpal Chatterji

Court No. - 35

HON'BLE DR. YOGENDRA KUMAR SRIVASTAVA, J.

Heard Sri Prakhar Tandon, learned counsel for the petitioner and Sri Utpal Chatterji, learned counsel for the respondent.

2. This petition under Article 227 of the Constitution of India has been instituted to assail the order dated 16.07.2025 passed by the Additional District Judge, Court No.8, Kanpur Nagar in Civil Revision No.130 of 2024 (*Munni Devi vs. Shashikala*), whereby the application (Paper No. 29-G) moved by the petitioner–revisionist under Order VI Rule 17 of the Code of Civil Procedure, 1908 read with Section 151 CPC seeking amendment in the grounds of revision has been rejected.

3. The factual matrix giving rise to the present proceedings is required to be noticed in some detail. SCC Suit No. 190 of 2013 was instituted by the respondent–landlord seeking eviction of the petitioner–defendant, along with recovery of arrears of rent, taxes and damages. The said suit came to be decreed on 29.02.2024 by the Court of Small Causes. Aggrieved thereby, the petitioner, who was the defendant in the suit, preferred a revision under Section 25 of the Provincial Small Cause Courts Act, which was registered as Civil Revision No. 130 of 2024. The revisional court dismissed the revision on 07.11.2024. The said revisional order was challenged before this Court under Article 227 of the Constitution of India, and this Court, upon finding that the order suffered from non-application of mind, set aside the same and remanded the matter to the revisional court for fresh decision in accordance with law.

4. During the pendency of the revision after remand, the petitioner moved an application (Paper No. 29-G) seeking amendment of the grounds taken in the

memorandum of revision, which came to be rejected by order dated 01.03.2025. Aggrieved by the said order, the petitioner again approached this Court under Article 227 of the Constitution of India, and this Court, upon noticing that the revisional order was bereft of reasons, set aside the same and directed the revisional court to pass a fresh order in accordance with law.

5. The said application was opposed by the respondent–landlord by filing objections (Paper No. 31-G supported by affidavit 32-G), contending, inter alia, that the proposed amendments were wholly belated, contrary to the clear admissions made by the petitioner in the reply to notice as well as in the written statement, and amounted to re-agitating issues which had already been rejected in earlier proceedings. It was specifically urged that similar pleas had earlier been sought to be introduced by way of amendment before the trial court, which application stood rejected up to the revisional stage and is stated to be the subject matter of proceedings under Article 227 before this Court. It was further contended that the present attempt is nothing but an effort to withdraw binding admissions and to introduce entirely new and inconsistent pleas at a highly belated stage, thereby causing serious prejudice to the respondent.

6. A close scrutiny of the amendment application discloses that the petitioner sought to introduce four additional grounds labelled "A", "B", "C" and "D". These proposed grounds, though framed as grounds of revision, were in substance not confined to raising legal submissions but sought to fundamentally alter the nature of the defence. Ground "A" alleged that the trial court had misappreciated the pleadings in treating the petitioner as a tenant and had failed to properly consider denial of ownership. Ground "B" sought to challenge the validity of the notice dated 13.09.2013 terminating the tenancy. Ground "C" asserted that the structure in dispute had not been purchased by the landlord but was constructed by the defendant herself, thereby attempting to set up an independent right in the property. Ground "D" invoked Section 23 of the Provincial Small Cause Courts Act on the premise that a question of title was involved and, therefore, the Small Causes Court lacked jurisdiction to entertain the suit.

7. The revisional court, upon consideration of the amendment application and the material on record, has observed that the proposed amendments were not merely elaborative or clarificatory legal grounds based on the existing record, but sought to introduce fresh factual assertions and pleas inconsistent with the original defence. It has further noted that in the written statement filed before the trial court, the petitioner had admitted the relationship of landlord and tenant and her possession as a tenant at a monthly rent. The

revisional court has also recorded that earlier attempts were made by the petitioner to amend the written statement so as to introduce similar pleas regarding ownership of the structure and applicability of Section 23 of the Provincial Small Cause Courts Act, which stood rejected by the trial court as well as in revision, and that the matter is stated to be pending before this Court.

8. On an appraisal of the record and the rival submissions the court below rejected the amendment application primarily on the ground that the same was hit by the proviso to Order VI Rule 17 of the Code of Civil Procedure, 1908, as the petitioner had failed to demonstrate due diligence and the proposed amendments were highly belated and prejudicial to the opposite party.

9. The principal issue, therefore, concerns the scope and applicability of Order VI Rule 17 of the Code of Civil Procedure, 1908, particularly the proviso thereto, in the context of amendment of grounds in revisional proceedings, and the circumstances in which the requirement of "due diligence" may be invoked. In this backdrop, it becomes necessary to examine whether the said proviso, which restricts amendments after commencement of trial, can at all be applied to proceedings which are not in the nature of a trial but are appellate or revisional in character, and further, whether an application seeking amendment of grounds in a revision can be rejected solely on the ground of absence of due diligence, or whether it must instead be tested on broader principles governing the exercise of supervisory and revisional jurisdiction, including the nature of the grounds sought to be introduced, their nexus with the existing record, and the question of prejudice to the opposite party.

10. At this stage, it would be apposite to reproduce Order VI Rule 17 of the Code of Civil Procedure, 1908, as it presently stands:

> "**17. Amendment of pleadings**.—The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:
>
> Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial."

11. A plain reading of the aforesaid provision indicates that while the power to permit amendment is couched in wide and enabling terms, the proviso engrafts a clear limitation on the exercise of such power once the trial has commenced, by incorporating the requirement of due diligence. The expression "pleadings" occurring in Order VI is statutorily defined and confined to the plaint and written statement. These pleadings constitute the foundational framework of a civil suit, delineating the issues to be tried and the evidence to be led. The proviso, therefore, is designed to prevent belated alterations in this foundational framework once the trial has commenced, so as to avoid prejudice to the opposite party and delay in adjudication.

12. The concept of "commencement of trial" has been judicially interpreted to mean the stage when issues are framed and the case proceeds to recording of evidence. The embargo created by the proviso is thus intrinsically linked to the progress of a suit and the need to maintain procedural discipline during trial. The underlying legislative intent is to curb dilatory tactics and ensure that parties bring forward their entire case at the earliest possible stage.

13. In contradistinction, revisional proceedings do not involve a trial in the aforesaid sense. A revisional court exercises a limited jurisdiction to examine the legality, propriety or jurisdictional correctness of the order impugned, on the basis of the record already available. No evidence is recorded, and the revisional court does not adjudicate disputed questions of fact de novo. The entire exercise is confined to scrutiny of the record of the subordinate court. Consequently, the literal application of the proviso to Order VI Rule 17 CPC, which is predicated upon commencement of trial, does not fit into the scheme of revisional jurisdiction.

14. The legal position that emerges is that while the principles underlying Order VI Rule 17 of the Code of Civil Procedure, 1908 may, in an appropriate case, be invoked by analogy, the proviso thereto cannot be applied in a rigid, literal or mechanical manner to amendment of grounds in appellate or revisional proceedings. The said proviso is engrafted in the context of amendment of pleadings in a suit and is intended to regulate the course of trial by preventing belated alterations after commencement of evidence. Its application is, therefore, structurally and contextually confined to proceedings where a "trial", in the strict sense known to civil procedure, takes place.

15. In appellate and revisional jurisdictions, the Court is not engaged in a trial but in a scrutiny of the legality, propriety or correctness of the order impugned, ordinarily on the basis of the material already on record. In such

proceedings, it is a well-accepted principle that a ground involving a pure question of law, arising from the admitted or established facts on record, may be permitted to be raised at any stage, provided its consideration does not necessitate any further evidence. The underlying rationale is that the Court ought not to be precluded from examining a legal contention which goes to the root of the matter, merely on account of its omission at an earlier stage, if such consideration would subserve the ends of justice.

16. At the same time, the absence of a strict statutory embargo akin to the proviso to Order VI Rule 17 CPC does not imply that the power to permit amendment of grounds is unregulated or can be exercised as a matter of course. The discretion vested in the Court is to be exercised judiciously and on well-settled principles. A clear distinction must be maintained between a "ground" which is purely legal and arises from the existing record, and a "plea" which introduces new factual assertions requiring investigation or evidence. While the former may, in an appropriate case, be permitted even at a later stage, the latter ordinarily cannot be allowed, particularly in revisional proceedings where the Court is confined to the record of the subordinate court.

17. Further, the Court must be vigilant to ensure that the process of amendment is not employed as a device to circumvent earlier orders, to reopen concluded issues, or to withdraw admissions which have accrued to the benefit of the opposite party. The principle that admissions in pleadings constitute substantive evidence and cannot be lightly permitted to be withdrawn is equally attracted in such situations. Considerations of prejudice to the opposite party, finality of proceedings, and the bona fides of the applicant assume critical importance.

18. Thus, while the procedural framework must be applied in a manner that advances the cause of justice and facilitates adjudication of the real controversy, it must also guard against abuse of process and ensure that litigation is not rendered interminable by permitting shifting stands at successive stages. The governing principle, therefore, is not the rigid application of the proviso to Order VI Rule 17 CPC, but a balanced exercise of judicial discretion, guided by the nature of the proposed amendment, its necessity for determining the controversy on the existing record, and its impact on the rights of the opposite party.

19. The limitations on permitting amendment are further reinforced by the settled principle that admissions made in pleadings cannot ordinarily be permitted to be withdrawn by way of amendment. An admission in a pleading is not a mere statement but constitutes substantive evidence of the

fact admitted, and forms the foundation on which the opposite party structures its case. Such admissions confer a valuable and vested advantage upon the opposite party, who is entitled to proceed on the footing that the admitted position need not be proved by independent evidence.

20. Permitting withdrawal or dilution of such admissions at a subsequent stage, particularly after the matter has been adjudicated or has progressed substantially, would not only unsettle the basis of the proceedings but also cause serious prejudice to the opposite party by depriving it of the benefit accrued from such admission. It would, in effect, allow a party to resile from a clear and conscious stand taken earlier and to substitute it with a mutually destructive or inconsistent plea, thereby altering the entire character of the case.

21. The law, therefore, draws a clear distinction between clarifying an existing plea and displacing an admission. While the former may be permissible in appropriate circumstances, the latter is viewed with considerable circumspection and is ordinarily declined, unless exceptional circumstances are shown. This principle applies with greater rigour in appellate or revisional proceedings, where the Court is concerned with examining the correctness of the decision on the basis of the record as it stood before the trial court, and not with permitting parties to reconstruct their case by retracting admissions and introducing inconsistent stands at a later stage.

22. From the discussion aforesaid, the legal position which emerges may be crystallised thus: the proviso to Order VI Rule 17 CPC, which engrafts a limitation based on "due diligence" after commencement of trial, is essentially confined to amendment of pleadings in suits and is rooted in the need to prevent disruption of trial once evidence has commenced. The said rigour cannot be extended, in a mechanical or literal manner, to appellate or revisional proceedings, where no trial in the strict sense takes place and the Court is primarily concerned with examining the legality and correctness of the impugned order on the basis of the existing record. Consequently, an application seeking amendment of grounds in a revision cannot be rejected solely on the ground of absence of due diligence. At the same time, such applications are not to be allowed as a matter of course; the Court must scrutinise whether the proposed grounds are bona fide, whether they raise pure questions of law arising from the record, or whether they seek to introduce new factual pleas, displace admissions, or cause prejudice to the opposite party. It is these broader considerations, and not the rigid application of the proviso, which must guide the exercise of discretion in

such matters.

23. Applying these principles to the facts of the present case, it becomes evident that the proposed amendments are not in the nature of pure legal grounds. The attempt to deny ownership, to assert that the structure was constructed by the defendant, and to invoke Section 23 of the Provincial Small Cause Courts Act necessarily involves introduction of new factual assertions which were neither pleaded nor adjudicated in the suit. These pleas are also directly inconsistent with the admissions made by the petitioner in the written statement regarding tenancy. Permitting such amendments would require reopening of the entire factual matrix and would effectively convert the revisional proceedings into a trial, which is impermissible.

24. The plea regarding invalidity of notice, though ostensibly legal, is also not free from factual elements, particularly when it was not raised at the appropriate stage in the written statement or reply to notice. Its introduction at the stage of revision would prejudice the respondent by depriving her of the opportunity to meet the case at the trial stage.

25. The conduct of the petitioner in seeking to introduce similar pleas earlier, which were rejected up to the revisional stage, further indicates that the present application is not bona fide but is an attempt to circumvent earlier orders and to delay the final adjudication. In such circumstances, even though the concept of "due diligence" as contained in the proviso to Order VI Rule 17 CPC may not strictly apply, the absence of due diligence assumes relevance as an indicator of lack of bona fides and an abuse of the process of the Court.

26. The court below, while rejecting the application, has relied upon the proviso to Order VI Rule 17 CPC and the failure of the petitioner to demonstrate due diligence. Though the reasoning, to that extent, may not be strictly accurate in law, the ultimate conclusion reached by the court below is in consonance with the settled principles governing amendment of pleadings and the limited scope of revisional jurisdiction.

27. The supervisory jurisdiction of this Court under Article 227 is not intended to correct every error of reasoning, but to ensure that the subordinate courts act within the bounds of their authority and in accordance with law. Interference is warranted only when there is manifest illegality or perversity. In the present case, the rejection of the amendment application is fully justified on merits and does not suffer from any jurisdictional error.

28. In the totality of the circumstances, this Court is of the considered view that while the proviso to Order VI Rule 17 CPC cannot be mechanically applied to amendment of grounds in revisional proceedings, the amendment sought by the petitioner is in substance an attempt to introduce new factual pleas, withdraw admissions and reopen concluded issues, which is impermissible in law. The impugned order, therefore, does not warrant interference.

29. The petition is, accordingly, **dismissed**.

30. The petitioner shall, however, remain at liberty to urge all such legal grounds as may otherwise be available to him in law in the pending revision, to the extent they arise from the existing record. It is made clear that any observations contained in this judgment are confined to the adjudication of the present petition and shall not be construed as an expression on the merits of the revision. The revisional court shall decide the revision independently, in accordance with law, on the basis of the material on record, and without being influenced or prejudiced by any observations made herein.

March 20, 2026
RKK/-

(Dr. Yogendra Kumar Srivastava,J.)