

(2016) 08 AHC CK 0155
In the Allahabad High Court
Case No : S.C.C. Revision No. 199 of 2016.

**C.A. Kriti Tandon - Revisionist @HASH M/S Neha Sai Das Jewelers -
Opposite Party**

Date of Decision : 20-08-2016

Acts Referred:

Citation : (2017) 171 AIC 918 : (2017) 120 ALR 568 : (2016) 3 ARC 781

Hon'ble Judges : Pankaj Mithal, J.

Bench : Single Bench

Advocate : Prakhar Tandon, Advocate, for the Revisionist

Final Decision : Allowed

Judgement

Pankaj Mithal, J. - Sri Prakhar Tandon, learned counsel for the plaintiff-revisionist.

2. Notice issued to the respondent-tenant on this revision by registered post has not been returned, nor the acknowledgement has been received back as per the office report dated 19.08.2016.

3. In view of the above, service of notice upon the respondent is deemed to be sufficient.

4. Heard Sri Prakhar Tandon, learned counsel for the plaintiff-revisionist on merits of the revision. No one appears for the respondent.

5. The revision is directed against the order dated 25.04.2016 passed by Additional District Judge, Kanpur Nagar, in exercise of powers of Small Causes Court in SCC Suit No. 72 of 2015. The court below by the aforesaid order has rejected the application of the plaintiff-revisionist for the amendment in plaint.

6. The plaintiff-revisionist applied for amendment of the plaint to incorporate an additional ground of denial of title for the eviction of the respondent-tenant which has been rejected.

7. The suit as initially filed was for arrears of rent and eviction.

8. In the written statement, the respondent-tenant made allegations amounting

to denial of title of the plaintiff-revisionist.

9. In Dr. Y.V.S. Gahlaut v. Smt. Saroj Garg and others, 1999 (2) ARC 274, the learned single Judge while dealing with the similar application for amendment of the plaint of a suit on the ground of arrears of rent and eviction held that where a tenant in written statement denies the title of the plaintiff, the plaintiff-landlord is entitle to seek amendment of the plaint so as to include the denial of title as a ground for eviction. The ground of ejectment based on denial of title can always be incorporated by way of amendment in order to avoid the multiplicity of the suit.

10. In view of the above decision, the law is settled that where a suit is filed for arrears of rent and eviction and the tenant in the written statement denies the title, the landlord can always amend the plaint so as to add denial of title as a ground for eviction to avoid multiplicity of proceedings.

11. In this situation, the court below has failed to exercise jurisdiction vested in it to permit the amendment.

12. Accordingly, the order dated 25.04.2016 is quashed and the application for amendment as filed by the plaintiff-revisionist is allowed. The necessary amendment may be carried out by the plaintiff-revisionist in the plaint within two weeks from the date of production of a certified copy of this order before the court below which he shall produce within three weeks from today.

13. The revision stand allowed accordingly.