

(1956) 12 MP CK 0009
In the Madhya Pradesh High Court
Case No : C. Rev. No. 180 of 1956

Totaram	Vs	APPELLANT
Damodar		RESPONDENT

Date of Decision : 14-12-1956

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 14 Rule 5

Citation : (1957) JLJ 61

Hon'ble Judges : A.H. Khan, J

Bench : Single Bench

Advocate : J.P. Gupta, for the Appellant; J.P. Deewan, for the Respondent

Final Decision : Allowed

Judgement

Khan, J.—This revision is directed against the order of the Civil Judge First Class, Morena, and the grievance is that after the amendment of the issues, the Court refused permission to the defendant to cross-examine the witnesses of the plaintiff in the light of the amended issue.

2. The facts of the case in brief are that the plaintiff brought a suit against the defendant, alleging that the rent agreed between the parties was Rs. 25/- per month. The defendant resisted the suit on the ground that this house was formerly rented to his brother at Rs. 13/- per month, therefore the plaintiff cannot charge more. It is admitted by the learned counsel for the plaintiff that the suit was filed on 4-8-53; that along with it no rent-note was filed. Almost after about three years i.e. on 13th March 1955 the rent-note was filed and the present amendment was made a year and half after the filing of the rent- note.

3. In these circumstances the defendant is justified in cross-examining the witnesses of the plaintiff in the light of the amended issue. I would draw the attention of the Court to Order 14 Rule 5 of the Civil Procedure Code, which says that issues can be amended or additional issues can be framed at a latter stage on such term as the Court may think fit. After amending the issues, the Court

had asked the plaintiff to lead evidence further if he wanted to do so. On the refusal of the plaintiff to lead any evidence, the defendant was asked if he wanted to lead any evidence. He expressed his desire to lead evidence and also at the same time requested the Court to allow him to cross-examine the witnesses of the plaintiff in the light of the amended issues. "On such term as it may think fit" occurring in Order 14 Rule 5 would cover the request made by the defendant to cross-examine the plaintiff's witnesses.

4. For reasons stated above, the revision is allowed and the case is sent back to the trial Court with the direction to proceed further in the case in the light of the above observations. Parties should bear their own costs of this revision.