



A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 5377 of 2026

Asif Ansari

.....Petitioner(s)

Versus

Himanshu Sharma and another

.....Respondent(s)

Counsel for Petitioner(s)	: Rajesh Gupta, Satya Prakash Mishra, Vinay Kumar Singh
Counsel for Respondent(s)	: Birendra Kumar, Himanshu Dubey

Court No. - 35

HON'BLE DR. YOGENDRA KUMAR SRIVASTAVA, J.

1. Heard Sri Satya Prakash Mishra, learned counsel for the petitioner and Sri Himanshu Dubey, learned counsel appearing for the respondents.

2. The present petition under Article 227 of the Constitution of India has been instituted questioning the correctness of the order dated 26.03.2026 passed by the Rent Tribunal/Additional District Judge, Court No. 1, Saharanpur in Rent Appeal No. 234 of 2025 (*Asif Ansari v. Himanshu Sharma and Another*), whereby the petitioner's application under Order VI Rule 17 of the Code of Civil Procedure seeking amendment of the memorandum of appeal has been rejected.

4. The amendment sought by the petitioner was intended to incorporate certain pleas founded upon the principles of *res judicata* and estoppel. The Rent Tribunal, after examining the pleadings and the memorandum of appeal, recorded a categorical finding that the said pleas already constituted part of the petitioner's case and had also been specifically incorporated amongst the grounds of challenge in the appeal. The Tribunal was, therefore, of the opinion that the proposed amendment did not seek to introduce any new factual foundation or legal issue and that permitting such amendment would merely delay the adjudication of the appeal. Accordingly, the application came to be rejected.

5. Learned counsel appearing for the petitioner has assailed the aforesaid order by contending that the proposed amendment was necessary to avoid any technical objection at the stage of final hearing and that no prejudice would have been caused to the respondents had the amendment been permitted.

6. However, during the course of hearing, learned counsel for the petitioner fairly does not dispute the factual position recorded by the Tribunal that the contentions founded upon the principles of *res judicata* and estoppel already form part of the pleadings and also find place amongst the grounds urged in the memorandum of appeal.

7. The question which, therefore, falls for consideration is whether, in the facts of the present case, rejection of the amendment application calls for interference under Article 227 of the Constitution.

8. The controversy, though arising out of an interlocutory procedural order, presents a question of some significance, namely, whether refusal of an amendment under Order VI Rule 17 of the Code of Civil Procedure, where the proposed contentions already form part of the

9. Order VI Rule 17 CPC is an enabling provision intended to advance the cause of justice by permitting such amendments as may be necessary for determining the real questions in controversy between the parties. The provision is not an end in itself. Its object is neither to multiply pleadings nor to permit repetitive incorporation of matters already existing on record. The Court, while considering an application for amendment, is essentially required to examine whether the proposed amendment is necessary for an effective adjudication of the dispute and whether refusal thereof would occasion prejudice or failure of justice.

10. It has consistently been held that the discretion to allow or refuse an amendment is to be exercised on well-settled judicial principles, the primary consideration being whether the proposed amendment is necessary for determining the real controversy between the parties and whether its allowance or refusal would occasion prejudice or injustice to the opposite party. Equally, where the proposed amendment merely reiterates what is already implicit or explicit in the existing pleadings, or seeks only to elaborate legal submissions without introducing any new factual foundation, the Court would be justified in declining such amendment as unnecessary. Procedural law is intended to facilitate effective adjudication and not to encourage prolixity or duplication in pleadings.

11. The distinction between pleadings containing material facts and submissions founded upon those facts is equally well recognised. Material facts constitute the foundation of a cause, whereas legal submissions represent the inferences and consequences flowing therefrom. Once the material facts necessary to attract a legal principle are already pleaded, the Court is not rendered powerless merely because

12. It follows, therefore, that where the principles of *res judicata* or estoppel are demonstrably founded upon the existing pleadings and the material already available before the Court, rejection of an amendment application does not extinguish the party's right to advance such legal submissions during the course of final hearing. The rejection merely signifies that no further amendment of the pleadings is considered necessary; it does not amount to an adjudication upon the merits of the legal plea itself.

13. The scope of interference under Article 227 of the Constitution is considerably narrower than that of an appellate or revisional jurisdiction. The jurisdiction is supervisory and is intended to ensure that courts and tribunals subordinate to the High Court function within the limits of their authority. It is not designed to permit re-appreciation of every interlocutory order or to substitute the opinion of the High Court for that of the subordinate forum merely because another view is possible.

14. The legal position governing the exercise of supervisory jurisdiction under Article 227 of the Constitution stands authoritatively settled by the decisions of the Supreme Court in ***Shalini Shyam Shetty v. Rajendra Shankar Patil***¹ and ***Garment Craft v. Prakash Chand Goel***². These decisions reiterate that supervisory jurisdiction is attracted only where the order under challenge suffers from patent perversity, manifest illegality, jurisdictional error, gross violation of principles of natural justice, or where interference becomes indispensable to prevent a manifest failure of justice. Mere errors of fact or law, or even the possibility of another plausible view, do not justify invocation of Article 227.

15. Viewed from the aforesaid perspective, every procedural order

16. In the present case, the Rent Tribunal has returned a categorical finding that the pleas relating to *res judicata* and estoppel already stand incorporated in the pleadings as well as in the memorandum of appeal. Significantly, the petitioner has not been able to assail this factual finding. Once this position is accepted, the inevitable consequence is that rejection of the amendment has not deprived the petitioner of any substantive right. The legal submissions remain available for consideration at the stage of final hearing on the strength of the pleadings already on record.

17. The impugned order, therefore, neither occasions any failure of justice nor discloses any jurisdictional error warranting interference under Article 227 of the Constitution. At the same time, since the legal pleas continue to subsist in the existing pleadings, it is clarified that the petitioner shall remain entitled to urge all submissions founded thereon before the Rent Tribunal, which shall consider the same on their own merits, uninfluenced by the rejection of the amendment application.

18. The legal position may, therefore, be summarised thus:

(i) An amendment under Order VI Rule 17 CPC is intended to facilitate effective adjudication of the real controversy and is not meant to duplicate or reiterate existing pleadings.

(ii) Where the proposed amendment merely restates legal pleas already discernible from the pleadings or the memorandum of appeal, refusal of such amendment causes no legal prejudice.

(iii) Rejection of an amendment application does not bar a party from advancing pure questions of law arising from the existing pleadings at the stage of final hearing.

factual finding has not been disputed before this Court. Consequently, rejection of the amendment application has neither deprived the petitioner of any substantive right nor foreclosed any legal contention available on the existing pleadings. The impugned order, therefore, neither occasions a failure of justice nor suffers from any jurisdictional error, patent illegality or perversity warranting interference in exercise of the supervisory jurisdiction under Article 227 of the Constitution.

20. At this stage, learned counsel for the petitioner submits that since the pleas relating to *res judicata* and estoppel already form part of the pleadings and the memorandum of appeal, liberty may be reserved to the petitioner to urge all such submissions before the Rent Tribunal at the stage of final hearing.

21. Learned counsel appearing for the respondents does not dispute the legal position that pure questions of law arising from the pleadings can always be urged at the stage of final arguments.

22. The submission deserves acceptance. Rejection of the amendment application cannot be construed as foreclosing the petitioner's right to advance legal submissions founded upon the pleadings already on record. The Tribunal would remain under an obligation to examine every contention legitimately arising from the pleadings and the grounds of appeal while rendering its final decision.

23. Applying the aforesaid principles, this Court finds no ground to interfere with the order impugned in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India. It is, however, clarified that rejection of the petitioner's application under Order VI Rule 17 CPC shall not preclude the petitioner from advancing, at the stage of final hearing of the appeal, all legal submissions founded upon the

24. It merits emphasis that rejection of an application for amendment does not, by itself, determine the fate of a legal plea otherwise arising from the existing pleadings. Procedural orders must be assessed with reference to their substantive impact upon the rights of the parties, for procedural law is a handmaid of justice and not an end in itself. Consequently, where refusal of an amendment neither occasions prejudice nor results in failure of justice, and the legal contention remains capable of being urged on the existing pleadings, supervisory interference under Article 227 of the Constitution would ordinarily be unwarranted.

25. Subject to the aforesaid observations and clarifications, the petition stands **disposed of**.

(Dr. Yogendra Kumar Srivastava,J.)

July 02, 2026

Arun K. Singh