



2026:AHC:139030

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

S.C.C. REVISION No. - 25 of 2026

Vinod Chaurasia

.....Revisionist(s)

Versus

Shri Radha Kishan Ji Maharaj Virajman Mandir

.....Opposite Party(s)

Counsel for Revisionist(s)	: Birendra Kumar, Himanshu Dubey, Sr. Advocate
Counsel for Opposite Party(s)	: Prashant Rai, Rishi Kant Rai

Court No. - 35

HON'BLE DR. YOGENDRA KUMAR SRIVASTAVA, J.

Heard Sri Ashish Kumar Singh, learned Senior Advocate along with Sri Himanshu Dubey, counsel for the revisionist and Sri Prashant Rai, learned counsel appearing for the opposite party.

2. The present revision is directed against the order dated 23.03.2026 passed by the Additional District Judge, Court No. 8, Kanpur Nagar, in Small Cause Suit No.26 of 2022, whereby Application No.80-Ga filed by the revisionist-defendant under Order VI Rule 17 read with Section

introducing an altogether new factual foundation requiring fresh evidence and would, in substance, permit the revisionist to retract admissions already made in the written statement. Aggrieved thereby, the instant revision has been preferred.

4. The proceedings arise out of Small Cause Suit No. 26 of 2022 instituted by *Radha Krishna Ji Maharaj Virajman Mandir* through its alleged *Sarvarakar* seeking eviction of the revisionist-defendant, recovery of arrears of rent and other consequential reliefs. Upon completion of the pleadings, the suit proceeded to trial. The plaintiff filed documentary evidence as well as an affidavit in support of the claim, whereafter the suit was fixed for cross-examination of the plaintiff's witness.

5. At that stage, the revisionist moved Application No. 80-*Ga* under Order VI Rule 17 read with Section 151 CPC seeking amendment of the written statement. The principal basis for the proposed amendment was the pendency of Civil Suit No. 1484 of 2023, wherein disputes relating to the management of the trust and the authority of the person claiming to be the *Sarvarakar* were stated to be pending adjudication. On the strength of the said proceedings, the revisionist sought to introduce additional pleadings disputing the competence of the *Sarvarakar* to maintain the present suit and to incorporate further averments relating to the constitution and management of the trust.

6. The amendment application was opposed by the plaintiff contending that the trial had already commenced and that the proposed amendment sought to introduce an entirely new factual controversy requiring fresh evidence. It was further urged that the amendment was an

foundation of the defence, necessitate fresh evidence and permit the revisionist to resile from admissions already made in the written statement. Aggrieved thereby, the present revision has been preferred.

8. The object underlying Order VI Rule 17 CPC is to enable the court to determine the real controversy between the parties and to avoid multiplicity of proceedings. At the same time, the power of amendment is discretionary and is not to be exercised where the amendment would fundamentally alter the nature of the case, occasion irretrievable prejudice to the opposite party, or permit a litigant to resile from clear and unequivocal admissions to the detriment of the adversary. Equally, once the trial has commenced, the proviso to Order VI Rule 17 enjoins the party seeking amendment to establish that, despite due diligence, the matter sought to be introduced could not have been raised earlier.

9. The Supreme Court in **Revajeetu Builders and Developers v. Narayanaswamy and Sons**¹, has exhaustively laid down the factors governing amendment of pleadings, inter alia, whether the amendment is necessary for determining the real question in controversy, whether it introduces a new or inconsistent case, and whether it would prejudice the other side. Similarly, in **Modi Spinning and Weaving Mills Co. Ltd. v. Ladha Ram & Co.**², it has been held that a party cannot be permitted to amend its pleadings so as to displace admissions made earlier, if such admissions have conferred a right upon the opposite party.

10. Further, the proviso to Order VI Rule 17 CPC, inserted by the Amendment Act of 2002, places an additional restriction that once the

has been held that the proviso is couched in mandatory terms and must be strictly complied with.

11. On the findings returned by the court below, the proposed amendment cannot be said to be a mere clarification; rather, it seeks to introduce a fresh factual foundation and to depart from admissions already made in the written statement, a course which is ordinarily impermissible under the settled principles governing amendment of pleadings.

12. During the course of hearing, learned counsel for the revisionist fairly submitted that, in view of subsequent developments, the amendment as sought may no longer survive for consideration. It has, however, been urged that the legal consequences flowing from such developments may yet require adjudication and that the revisionist be permitted to advance all such legal submissions before the court below. Learned counsel appearing for the opposite party does not dispute that pure questions of law, resting on admitted or undisputed facts and not necessitating further evidence, may be raised at any stage of the proceedings, subject to the governing statutory framework.

13. The submission merits acceptance. There exists a clear distinction between the amendment of pleadings, which seeks to alter or supplement the factual basis of a party's case, and the canvassing of pure questions of law arising on the facts already borne out by the record. Rejection of an application for amendment does not, by itself, foreclose the right of a litigant to urge such legal contentions as are otherwise available in law. The trial court shall remain at liberty to examine any such contention on its own merits, provided its determination does not require

the factual foundation of the case, the latter rests upon the pleadings and material already on record. Consequently, refusal of an amendment does not, by itself, preclude a party from urging legal submissions founded on the existing pleadings, provided their adjudication does not require investigation into fresh facts or occasion prejudice to the opposite party.

15. In the facts of the present case, and particularly in view of the fair stand adopted by learned counsel for the revisionist that the amendment itself need not be pressed, no ground for interference with the order impugned is made out in exercise of revisional jurisdiction. It is, however, observed that disposal of the present revision shall not preclude either party from raising all such legal submissions as may be available to them before the court below, which shall consider and determine the same independently, strictly in accordance with law and uninfluenced by any observation contained herein.

16. Subject to the aforesaid observations, the revision stands **disposed of**.

(Dr. Yogendra Kumar Srivastava,J.)

July 10, 2026

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