



2026:AHC:168155

HIGH COURT OF JUDICATURE AT ALLAHABAD

S.C.C. REVISION No. - 90 of 2026

Manish Bansal

.....Revisionist(s)

Versus

Jagdish Prasad Mittal and 7 others

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Devansh Misra
Counsel for Opposite Party(s)	:	

AFR

Court No. - 35

HON'BLE DR. YOGENDRA KUMAR SRIVASTAVA, J.

Heard Sri Devansh Misra, learned counsel for the revisionist.

2. The present revision has been preferred challenging the order dated 20.05.2026 passed by the learned Additional District Judge, Court No.1, Bulandshahr in S.C.C. Suit No.08 of 2019 (Jagdish Prasad and others vs. Ram Kumar and others), whereby the application (Paper No.142A1) filed by the revisionist seeking his impleadment in the suit has been rejected.

3. The dispute arises in respect of a shop situated on the ground floor of a two-storey construction which, according to the pleadings, originally belonged to late Jagdish Prasad Mittal.

4. The revisionist thereafter moved application Paper No. 142A1 seeking his impleadment in the suit. It was pleaded that late Jagdish Prasad Mittal had, during his lifetime, executed an unregistered Will dated 22.11.2019 in his favour in the presence of two witnesses. According to the revisionist, he subsequently came to know of the said Will and, on its basis, claimed rights in the disputed property. It was further pleaded that the plaintiff had wrongly asserted exclusive rights over the property on the basis of another Will and that, consequently, the revisionist was a necessary and proper party to the pending proceedings.

5. The application was opposed by the plaintiff. It was contended that the revisionist was a stranger to the family of late Jagdish Prasad Mittal and that the Will relied upon by him was a fabricated document brought on record only with a view to delay the proceedings. It was further contended that the plaintiff was relying upon the registered Will dated 23.09.2019 executed by the deceased and that the revisionist had no role either in the landlord-tenant relationship or in the controversy falling for adjudication before the Small Causes Court. The plaintiff also pointed out that the suit had remained pending for considerable time and that the proceedings had earlier been directed to be expedited.

6. The learned court below, upon consideration of the rival submissions, noticed that the revisionist's claim for impleadment was founded upon the unregistered Will dated 22.11.2019, whereas the plaintiff was relying upon the registered Will dated 23.09.2019. The court below further noticed that the revisionist had not obtained any declaration from a competent court recognising his rights under the Will relied upon by him. The application for impleadment was accordingly rejected.

7. Learned counsel for the revisionist submits that the learned court below committed an error in treating the Will dated 22.11.2019 as forged and in observing that the revisionist was a stranger to the family. According to learned counsel, the revisionist has claimed rights in the disputed property on the basis of the said Will, and its genuineness and

legal effect could not have been rejected without affording an opportunity for evidence.

8. It is further submitted that the revisionist has already instituted Original Suit No. 45 of 2025 seeking a declaration of his rights on the basis of the unregistered Will dated 22.11.2019 and that the said suit is pending consideration. It is, however, not disputed that no interim injunction has been granted in favour of the revisionist in the said suit.

9. Learned counsel has also drawn attention to the fact that late Jagdish Prasad Mittal was not residing with Vipin Kumar Mittal, but was residing with his second wife and daughter.

10. Reliance has also been placed upon the general principle that an unregistered Will is not rendered invalid merely on account of its non-registration and that a testamentary disposition may validly exclude natural heirs. On this premise, it is contended that, having regard to the claim raised by the revisionist, he ought to have been impleaded under Order I Rule 10 CPC so that the dispute concerning the property could be effectively adjudicated.

11. The further submission is that, since a question of title is involved, the learned Small Causes Court ought to have exercised the power under Section 23 of the Provincial Small Cause Courts Act, 1887 and returned the plaint for presentation before the competent court having jurisdiction to determine the question of title.

12. The submissions advanced by learned counsel for the revisionist have been considered and the material placed on record has been examined.

13. The **principal question that arises for consideration** is whether a person claiming an independent right or title in the subject property becomes a necessary or proper party to a Small Causes Suit merely on account of such claim, where adjudication of the same is not necessary for determining the plaintiff's entitlement to the relief sought in the suit.

14. The claim of the revisionist is founded upon the Will dated 22.11.2019, whereas the plaintiff relies upon the registered Will dated

23.09.2019. The claim raised by the revisionist thus involves questions relating to the genuineness, due execution and legal effect of the Will relied upon by him, as also the rights, if any, flowing therefrom.

15. At this stage, it is necessary to clarify that the question whether the Will dated 22.11.2019 is genuine or forged does not arise for final determination in the present revision. The learned court below was considering an application for impleadment and was not called upon to finally adjudicate the testamentary rights claimed by the revisionist. The observations made in the impugned order concerning the nature of the Will, therefore, cannot be treated as a final adjudication of its validity.

16. The submission that the Will dated 22.11.2019 is not rendered invalid merely because it is unregistered may be correct as a general proposition. Likewise, the mere fact that a testamentary disposition excludes a natural heir does not, by itself, determine its validity. These propositions, however, do not answer the question whether the revisionist is a necessary or proper party to the present suit.

17. The question of impleadment has to be considered with reference to the nature of the controversy requiring adjudication in the suit. The requirement of being a necessary or proper party is to be examined with reference to the relief sought and the questions which the Court is required to determine for granting such relief. A person asserting an independent title in the property cannot, merely on the basis of such assertion, insist upon being impleaded where determination of such title is neither necessary nor germane to the adjudication of the dispute before the Small Causes Court.

18. In the present case, the revisionist does not claim any right arising out of the landlord-tenant relationship forming the subject matter of the Small Causes Suit. His claim is founded independently upon the Will dated 22.11.2019. Adjudication of such claim would necessarily involve determination of the genuineness, due execution and legal effect of the said Will and the rights allegedly flowing therefrom. These questions are

distinct from the limited controversy falling for consideration before the Small Causes Court.

19. The mere assertion of an interest in the subject property does not, therefore, make a person either a necessary or a proper party. What is material is whether, in the absence of such person, the Court can effectively and completely adjudicate upon the controversy before it. The power of impleadment under Order I Rule 10 CPC is intended to facilitate effective adjudication of the dispute brought before the Court and not to enlarge the scope of the suit by introducing an independent dispute which is not necessary for deciding the relief claimed by the plaintiff.

20. In the present case, the landlord-tenant dispute can be adjudicated upon without finally determining the testamentary claim set up by the revisionist. His presence would neither be indispensable for passing an effective adjudication nor assist the Small Causes Court in determining any issue which falls for consideration within the scope of the suit. The claim founded upon the Will dated 22.11.2019 may have a bearing upon the revisionist's independent rights in the property, but that circumstance by itself does not make him a necessary or proper party to the present proceedings.

21. The aforesaid view also finds support from the judgment of this Court in **Murti Markandeshwar Ji Maharaj Gopal Ki Bagiya City Jhansi v. Smt. Jyoti Gangwani and another**¹, wherein this Court, while considering an application for impleadment by a third party claiming an independent right in the premises, held that proceedings concerning the landlord-tenant relationship cannot be enlarged by impleading a person merely because such person seeks to assert an independent claim of title. It was observed that questions relating to title or ownership, which fall outside the scope of the limited rent proceedings, are required to be agitated before the competent forum in appropriately instituted proceedings. The Court further held that a person asserting an independent title or right adverse to the landlord does not, merely on that account, become either a necessary

¹ 2026:AHC:142875

or a proper party to proceedings concerning the landlord-tenant relationship.

22. Though the aforesaid judgment arose in the context of proceedings under the U.P. Regulation of Urban Premises Tenancy Act, 2021, the principle underlying the decision is relevant to the controversy at hand. The revisionist in the present case also asserts an independent right in the disputed property on the basis of the Will dated 22.11.2019 and seeks, through impleadment, to introduce a dispute concerning his alleged title into proceedings before the Small Causes Court. The determination of such claim is not necessary for adjudication of the landlord-tenant dispute which forms the subject matter of the present suit.

23. It is equally important to distinguish between an incidental consideration of title and a final adjudication of title. The fact that some question relating to title may arise incidentally in a Small Causes Suit does not, by itself, render the suit incompetent or require that every person asserting a competing title be brought on record. The relevant question is whether the plaintiff's entitlement to the relief claimed depends upon final determination of the disputed title, and not merely whether a third party asserts a competing title.

24. The contention based upon Section 23 of the Provincial Small Cause Courts Act, 1887, therefore, also does not advance the case of the revisionist. Section 23 contemplates return of the plaint where the right of the plaintiff and the relief claimed by him depend upon the proof or disproof of a title which the Small Causes Court cannot finally determine. The provision is concerned with the foundation of the plaintiff's right to the relief claimed and not merely with the existence of some dispute relating to title in respect of the suit property. The mere assertion of an independent title by a third person does not, by itself, attract Section 23.

25. The position would be different where the very entitlement of the plaintiff to the relief claimed in the Small Causes Suit is dependent upon the final determination of a substantial question of title which the Small Causes Court is not competent to determine. In such a situation, the

requirements of Section 23 may arise. The present case, however, does not fall in that category. The revisionist has not demonstrated that the plaintiff's right to the relief claimed in the Small Causes Suit depends upon adjudication of the revisionist's testamentary claim under the Will dated 22.11.2019.

26. The mere existence of a disputed claim of title by the revisionist, therefore, neither necessitates his impleadment nor warrants return of the plaint under Section 23 of the Act. The revisionist's claim is an independent claim concerning his alleged rights under the Will and is not shown to constitute a question upon which the plaintiff's entitlement to the relief claimed in the present suit depends.

27. The circumstances relied upon by the revisionist concerning the residence of late Jagdish Prasad Mittal, the electoral roll entries and the other facts referred to in the grounds of revision may have some bearing upon the competing testamentary claims set up by the parties. Those matters, however, relate to the merits of the respective claims under the two Wills and do not bear upon the question whether the revisionist is a necessary or proper party to the present proceedings. Likewise, the earlier orders directing the suit to proceed ex parte and their subsequent recall relate to the participation of the existing parties in the proceedings and have no material bearing upon the revisionist's entitlement to seek impleadment.

28. It is, therefore, necessary to clarify that this Court has not undertaken any final adjudication upon the genuineness, due execution or legal effect of the Will dated 22.11.2019. No finding is being recorded upon the rival testamentary claims. The consideration in the present revision is confined to the question whether the assertion of an independent right on the basis of the said Will makes the revisionist a necessary or proper party to the pending Small Causes Suit.

29. It is also relevant that the revisionist has already instituted Original Suit No. 45 of 2025 seeking declaration of his rights on the basis of the Will dated 22.11.2019 and that the said suit is pending consideration. It is

not disputed that no interim injunction has been granted in favour of the revisionist therein. The pendency of the said suit provides an appropriate forum for adjudication of the independent claim raised by the revisionist, but its pendency does not, by itself, confer any right upon him to be impleaded in the present Small Causes Suit.

30. The **principle that emerges** is that a third person claiming an independent title in the suit property does not become a necessary or proper party to a Small Causes Suit merely because the title asserted by him may compete with, or be inconsistent with, the title claimed by the plaintiff. Unless adjudication of such claim is necessary for determining the plaintiff's entitlement to the relief sought, an independent title dispute cannot be introduced into the proceedings through an application under Order I Rule 10 CPC.

31. Viewed in the above perspective, the revisionist has failed to demonstrate that his presence is either necessary or proper for the effective adjudication of the landlord-tenant dispute forming the subject matter of the Small Causes Suit. His claim founded upon the Will dated 22.11.2019 constitutes an independent claim of title, the adjudication of which is neither necessary for deciding the suit nor shown to be dependent upon the relief claimed by the plaintiff.

32. In view of the foregoing discussion, the order dated 20.05.2026 passed by the learned court below does not suffer from any jurisdictional error, material irregularity or perversity warranting interference by this Court in exercise of its revisional jurisdiction under Section 25 of the Provincial Small Cause Courts Act, 1887.

33. The revision is, accordingly, **dismissed**.

(Dr. Yogendra Kumar Srivastava,J.)

August 11, 2026

Sushma