

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CR No.17/2025

Reserved on: 01.09.2026
Pronounced on: 03.09.2026
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Madhu Suri, Age 75 years
W/o Late Sh. Suman Kumar
R/o H.No.177, Exchange Road, Jammu

...Petitioner(s)

Through:-Mr. Sudesh Sharma, Advocate

V/s

M/s Ch. Aishi Ram Batra & Sons
B.C.Road, Jammu
Near Dental College through its Manager.

...Respondent(s)

Through:- Mr. Rahul Raina, Advocate

Coram: HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

JUDGMENT

1. This Civil Revision filed under Section 115 of the Code of Civil Procedure is directed against order dated 31st May, 2025 passed by the Sub-Judge, Jammu (hereinafter to be referred as “the trial Court”) in Civil suit bearing File No.19191/2017 titled Suman Kumar v. M/s Ch. Aishi Ram Batra and Sons, whereby petitioner’s application under Order XII Rule 6 CPC came to be rejected

Factual Matrix

2. The husband of the petitioner, namely, Suman Kumar, instituted a suit for ejectment of the respondent from the shop situated at Exchange Road, Jammu, on the ground that the suit shop was required by him

for commencing a business in association with his unemployed son. It was pleaded that the personal requirement of the plaintiff was greater than that of the defendant/respondent. According to the plaintiff, the respondent was not carrying on any business activity from the suit premises.

3. It was further pleaded in the plaint that a notice dated 11.05.2017 was served upon the respondent, calling upon it to hand over vacant possession of the suit shop to the plaintiff within 30 days from the date of receipt of the said notice. The respondent, instead of vacating the premises, submitted a reply to the notice. Since the respondent, despite receipt of the notice and termination of the tenancy, failed to hand over possession of the suit shop, the plaintiff was constrained to institute the suit seeking a decree of ejectment against the respondent.
4. In the written statement, the respondent opposed the relief sought in the suit. It was stated that the shop in question was a licensed premises from which the respondent was carrying on the business of wholesale kerosene dealership, pursuant to a licence granted by the Department of Consumer Affairs and Public Distribution. Thus, the respondent refuted the plaintiff's assertion that no business or other activity was being carried on from the suit premises.
5. It was further contended that the son of the plaintiff was a B.Sc. (Computer Science) and was pursuing his M.A. and, being a student, had no immediate requirement for the suit shop for carrying on any business. The respondent asserted that its requirement of the premises was greater and more pressing than that of the plaintiff. It was also

pleaded that the respondent was in lawful possession of the suit premises and that, in view of the premises being licensed for carrying on its business, there was no occasion for the respondent to hand over possession thereof to the plaintiff.

6. Thereafter, the petitioner preferred an application under Order XII Rule 6 CPC for decreeing the suit on the ground that the respondent has admitted the relationship of landlord and tenant between the petitioner and respondent and receipt of notice issued under Transfer of Property Act. It has been stated that since both these facts, which are required to be proved by the petitioner in a suit filed under Transfer of Property Act, have been admitted by the respondent in its written statement, suit is required to be decreed in terms of Order XII Rule 6 CPC.

7. The application of the petitioner was opposed by the respondent by filing objections. It has been stated that mere receipt of notice does not constitute an admission of all the pleadings, the petitioner has not established clear admission by the respondent justifying a decree under Order XII Rule 6 CPC. It has further been stated that the respondent in his defence has challenged the validity of the notice, relationship between the parties and the grounds of eviction.

8. Trial Court, after considering the pleadings of the both the sides, keeping in view the facts and circumstances, provisions of Order XII Rule 6 CPC and Section 58 of the Transfer of Property Act, rejected the application. The trial Court has placed reliance on the judgments of the Supreme Court viz. **Karan Kapoor v. Madhuri Kumar**,

(2022) 10 SCC 496, S.M.Asif v. Virendar Kumar Bajaj, (2015) 9 SCC 287 and Bhuvneshwar Prasad and another v. United Commercial Bank and others, AIR 2000 SC 2796. Aggrieved by the rejection of petitioner's application under Order XII Rule 6 CPC, petitioner has invoked the revisional jurisdiction of this Court on the grounds, the trial Court has failed to appreciate that in a suit for eviction under Transfer of Property Act, only two facts regarding existence of tenancy and issuance of notice under Section 106 of Transfer of Property Act need to be proved. Since both these facts have been admitted by the respondent in the written statement and the suit is required to be decreed under the provisions of XII Rule 6 CPC, findings recorded by the trial Court are perverse and that necessity of the petitioner and non-usage of the suit shop need not to be proved by the petitioner.

Arguments

9. Learned counsel appearing for the petitioner would argue that in a suit for eviction under the Transfer of Property Act, the plaintiff is required to prove only existence of tenancy between the landlord and the tenant and issuance of notice under Section 106 of the Transfer of Property Act and since both these facts have been admitted by the respondent in its written statement, decree as prayed for by the petitioner should have been passed in favour of the petitioner in view of clear admission of relationship of tenant and landlord and receipt of notice by the respondent. Placing reliance on a judgment of the Supreme Court in **M/s Payal Vision Ltd. v. Radhika Choudhary,**

(2012) 11 SCC 405, learned counsel would submit that all that is required to be established by the landlord is the existence of jural relationship of landlord and tenant between the parties and the termination of tenancy either by lapse of time or by notice served under Section 106 of the Transfer of Property Act.

10. *Per contra*, learned counsel appearing for the respondent would submit that the alleged admission was neither categorical nor unequivocal, which would justify a decree under Order XII Rule 6 CPC. He further argues that the controversy involved substantial disputed questions of facts which require adjudication upon evidence.

11. Heard learned counsel for the parties and perused the material available on record.

ANALYSIS

12. The controversy that falls for consideration in the present revision petition is as to whether, on the basis of the pleadings of the parties, the petitioner was entitled to a decree of eviction under Order XII Rule 6 CPC merely on account of the alleged admission of the relationship of landlord and tenant and receipt of notice of termination of tenancy.

13. Before considering the rival submissions, it would be appropriate to notice the scope and ambit of Order XII Rule 6 CPC. The provision enables the Court, at any stage of the suit, either on its own motion or on the application of any party, to pronounce judgment on admissions of fact made in the pleadings or otherwise, where such admissions are

sufficient to entitle the party to a judgment. The object underlying the provision is to enable the Court to pronounce judgment without requiring the parties to undergo a full-fledged trial in cases where there is no real controversy on material facts. However, the power is discretionary and is to be exercised only where the admission is clear, unambiguous, unequivocal and unconditional. A party cannot claim a decree under Order XII Rule 6 CPC as a matter of right merely by pointing out some admission in the pleadings.

14. The Supreme Court in ***Karan Kapoor v. Madhuri Kumar, (2022) 10 SCC 496***, while considering the scope of Order XII Rule 6 CPC, has reiterated that the power to pass judgment on admissions is discretionary and that the Court must be satisfied that the admission is specific, clear and categorical. Where the defence raised by the defendant is plausible and requires adjudication, the Court ought not to bypass the trial by passing a decree merely on the basis of an isolated admission. The Supreme Court, in the said case, also relied upon its earlier judgment in ***S.M. Asif v. Virendar Kumar Bajaj, (2015) 9 SCC 287***. It is equally true that in a suit for recovery of possession from a tenant whose tenancy is not protected by the Rent Control legislation, the landlord ordinarily has to establish the jural relationship of landlord and tenant and the termination of such tenancy by efflux of time or by a valid notice under Section 106 of the Transfer of Property Act. In ***M/s Payal Vision Ltd. v. Radhika Choudhary, (2012) 11 SCC 405***, the Supreme Court found that the pleadings in that case contained clear and unequivocal admissions

regarding both the landlord-tenant relationship and termination of tenancy and, therefore, upheld the decree passed under Order XII Rule 6 CPC.

15. There can, therefore, be no dispute with the proposition canvassed by learned counsel for the petitioner that, in an appropriate case, a suit for possession can be decreed on admissions under Order XII Rule 6 CPC. However, the question in the present case is not as to what is the requirement of law for obtaining a decree for possession in a simple landlord-tenant dispute; the question is whether the pleadings of the respondent contain such clear and unconditional admissions as would leave no issue requiring adjudication.

16. On a careful consideration of the pleadings placed on record, this Court is of the view that the answer has to be in the negative. The respondent has not merely admitted the receipt of the notice dated 11.05.2017. The defence set up by the respondent is that the suit premises were licensed premises from which it was carrying on the business of wholesale kerosene dealership pursuant to a licence granted by the competent Department. The respondent has specifically denied the assertion of the plaintiff that no business or activity was being carried on from the suit premises. The respondent has further disputed the alleged requirement of the plaintiff by asserting that the son of the plaintiff was pursuing his studies and had no immediate requirement of the premises for carrying on business. The respondent has also pleaded that its requirement of the premises was greater and more pressing.

17. Thus, the pleadings disclose that the respondent has raised a substantive defence to the claim for eviction. The mere fact that the respondent has acknowledged receipt of the notice cannot, by itself, be treated as an admission that the tenancy stood validly and lawfully terminated in terms of Section 106 of the Transfer of Property Act. Receipt of a notice and admission of the legal efficacy of such notice are two different things. Where the validity, effect and consequences of the notice are disputed, the Court cannot, at the stage of consideration of an application under Order XII Rule 6 CPC, proceed on the assumption that all requirements for a decree of possession stand admitted. The judgment relied upon by learned counsel for the petitioner in *M/s Payal Vision Ltd.* does not advance the case of the petitioner. In the said case, the Supreme Court proceeded on the basis that the pleadings of the parties clearly established the jural relationship of landlord and tenant as also termination of the tenancy.
18. In the case at hand, however, the respondent has not confined its defence to a bare denial of the plaintiff's claim. It has pleaded a specific factual defence regarding the nature and use of the premises and has disputed the plaintiff's assertion concerning non-use of the premises. It has also challenged the necessity pleaded by the plaintiff and asserted its own requirement. These pleas cannot be brushed aside as sham at the stage of consideration of an application under Order XII Rule 6 CPC.
19. In the present case, the trial Court has considered the pleadings of the parties and has found that the alleged admissions do not constitute

such unequivocal admissions as would justify passing a decree under Order XII Rule 6 CPC. The trial Court has also considered the judgments cited before it, including ***Karan Kapoor v. Madhuri Kumar, S.M. Asif v. Virendar Kumar Bajaj and Bhuvneshwar Prasad and another v. United Commercial Bank and others.***

20. The revisional jurisdiction of this Court is also limited. Unless the order passed by the subordinate Court suffers from jurisdictional error, material irregularity, perversity or is based upon an approach contrary to the settled principles of law, interference in revision is not warranted. Merely because another view may be possible on the pleadings would not furnish sufficient ground for interference in revisional jurisdiction.

21. In the facts of the present case, the conclusion arrived at by the trial Court that the alleged admissions were not sufficiently clear and categorical to warrant a decree under Order XII Rule 6 CPC is a view which is legally sustainable on the pleadings placed before the Court. The existence of disputed questions concerning the nature and use of the premises, the validity and effect of the notice and the defence raised by the respondent makes it inappropriate to bring the litigation to an end without affording the parties an opportunity to lead evidence.

22. The argument of learned counsel for the petitioner that the question of personal necessity or non-use of the premises is wholly irrelevant also does not require consideration at this stage. The petitioner has chosen to plead these facts in the plaint and the respondent has specifically

controverted them. Whether such pleas are material or legally relevant to the ultimate relief claimed is a matter which can appropriately be considered by the trial Court while adjudicating the suit on merits. At the stage of Order XII Rule 6 CPC, the Court is concerned only with whether there is an admission sufficient to warrant an immediate decree. In **Rajiv Ghosh v. Satya Narayan Jaiswal, 2025 INSC 467**, while interpreting the provisions of Order XII Rule 6 has observed that the provisions of Rule 6 are enabling and discretionary but not mandatory, obligatory or peremptory. It has also been observed by the Supreme Court that if the Court is of the opinion that it is not safe to pass a judgment on admissions or that a case involves questions which cannot be appropriately dealt with and decided on the basis of admission, it may refuse to pass a judgment and insist upon clear proof of even admitted facts. The relevant extract of the judgment reads thus:-

As observed in the Statement of Objects and Reasons for amending Rule 6, "where a claim is admitted, the court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on admitted claim. The object of the Rule is to enable the party to obtain a speedy judgment at least to the extent of the relief to which according to the admission of the defendant, the plaintiff is entitled."

The provisions of Rule 6 are enabling, discretionary and permissive. They are not mandatory, obligatory or peremptory. This is also clear from the use of the word "may" in the rule.

The powers conferred on the court by this rule are untrammelled and cannot be crystallized into any rigid rule of universal application. They can be exercised keeping in view and having regard to the facts and varying circumstances of each case.

If the court is of the opinion that it is not safe to pass a judgment on admissions, or that a case involves questions which cannot be appropriately dealt with and decided on the basis of admission, it may, in exercise of its discretion, refuse to pass a judgment and may insist upon clear proof of even admitted facts."

23. Recently, in **Pushpa and others v. Dayawati and others, 2026 INSC 603**, Supreme Court has held that the High Court could not have substituted its own interpretation in exercise of revisional jurisdiction under Section 115 CPC. Relevant portion of the judgment is reproduced hereunder:-

“44. However, the High Court, while exercising revisional jurisdiction under Section 115 the CPC, could not have substituted its own interpretation merely because another view was possible as the scope of revisional jurisdiction is limited. This Court in several decisions, namely, Pandurang Dhondi Chougule v. Maruti Hari Jadhav (supra), DLF Housing & Construction Co. (P) Ltd. v. Sarup Singh (supra) and Sher Singh v. Joint Director of Consolidation (supra), held that the revisional court cannot act as an appellate court and reassess findings of fact or substitute conclusions unless jurisdictional error or material irregularity is demonstrated. In the present case, the High Court reassessed the factual matrix and proceeded to substitute its own interpretation of the pleadings and such an exercise travelled beyond the permissible limits of Section 115 of the CPC.

45. We are also unable to accept the contention raised on behalf of respondent No.1 that inconsistent pleadings taken by defendant No.3 in another suit conclusively establish liability, because such inconsistencies may constitute material for cross-examination and appreciation during trial, however, such disputed factual circumstances of such nature cannot form the sole basis for passing a decree under Order XII Rule 6 of the CPC. It is a well settled law that a judgment on admission is an exception to the ordinary rule that civil disputes must be adjudicated after parties are afforded full opportunity to lead evidence because a decree under Order XII Rule 6 of the CPC results in denial of a trial and thus the provision must be applied with caution and only in cases where the admission is absolutely clear, categorical and unconditional.”

CONCLUSION

24. Viewed from this perspective, the impugned order dated 31.05.2025 does not suffer from any jurisdictional error or material irregularity

warranting interference by this Court in exercise of revisional jurisdiction. The trial Court has rightly declined to pass a decree on admissions and has left the disputed questions to be adjudicated after the parties would lead their evidence.

25. Consequently, the present revision petition is found to be devoid of merit and is, accordingly, dismissed. It is, however, made clear that the observations made herein shall not be construed as an expression of opinion on the merits of the respective claims and defences of the parties in the main suit. The learned trial Court shall decide the suit strictly in accordance with law and on the basis of the evidence brought on record, uninfluenced by any observation made in this order.

Jammu
03.09.2026
Vinod, Secy

(Moksha Khajuria Kazmi)
Judge

Whether the judgment is reportable: No