



2026:AHC:179767

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 9537 of 2026

Smt. Gayatri Devi

.....Petitioner(s)

Versus

Smt. Omwati Devi and another

.....Respondent(s)

Counsel for Petitioner(s)	: Tarun Agarwal
Counsel for Respondent(s)	: Sudhanshu Pandey

A.F.R.

Court No. - 35

HON'BLE DR. YOGENDRA KUMAR SRIVASTAVA, J.

1. Heard Sri Tarun Agarwal, learned counsel for the petitioner and Sri Sudhanshu Pandey, learned counsel appearing for respondent no. 1.
2. The present petition under Article 227 of the Constitution of India has been filed by the petitioner, Smt. Gayatri Devi, assailing the order dated 06.02.2024 passed by the learned Judge, Small Causes Court, Aligarh in S.C.C. Suit No. 49 of 2018, Smt. Omwati Devi v. Vivek Bhardwaj, whereby her application Paper No. 81-Ga, filed under Order I Rule 10 read with Section 151 of the Code of Civil Procedure, 1908 (hereinafter referred to as the "CPC"), seeking her impleadment in the suit, was rejected.
3. The petition also calls in question the order dated 02.05.2026 passed by the learned Special Judge, Prevention of Corruption Act/Additional District and Sessions Judge, Court No. 1, Aligarh in S.C.C. Revision No. 11 of 2024, whereby the revision preferred by the

petitioner against the aforesaid order dated 06.02.2024 was dismissed and the order of the learned Judge, Small Causes Court, was affirmed.

4. Respondent no. 1 instituted the aforesaid S.C.C. suit against respondent no. 2 seeking his eviction from the disputed shop and recovery of arrears of rent and damages. Her case was that she was the owner and landlady of the disputed shop by virtue of a sale deed dated 05.09.2017 and that respondent no. 2 was her tenant at a monthly rent of Rs.3,500/-. It was further pleaded that respondent no. 2 had committed default in payment of rent with effect from 04.10.2017 and that his tenancy had consequently been terminated.

5. The petitioner sought her impleadment in the suit on the basis of an independent claim of ownership and landladyship over the disputed shop. According to her, the property originally belonged to her husband, Narendra Singh, who had taken a loan from Dinesh Kumar, husband of respondent no. 1. It was alleged that, upon repayment of the loan, a sale deed dated 19.06.2017 was executed in favour of the petitioner.

6. The petitioner further alleged that respondent no. 1 thereafter procured execution of the sale deed dated 05.09.2017 in her own favour by practising fraud and misrepresentation upon the petitioner. It was stated that the petitioner, being an uneducated lady, was made to sign or affix her thumb impression on certain documents on the representation that the documents related to a loan transaction of Rs.3,00,000/-. According to the petitioner, it was only upon subsequently obtaining a certified copy of the document that she came to know that a sale deed had, in fact, been executed in favour of respondent no. 1.

7. The petitioner thereafter instituted Original Suit No. 485 of 2018, Smt. Gayatri Devi v. Smt. Omwati Devi, seeking cancellation of the sale deed dated 05.09.2017. The said suit is stated to be pending before the competent civil court.

8. On the strength of the aforesaid claim, the petitioner asserted that she was the actual owner and landlady of the disputed shop and that respondent no. 2 was her tenant. She also alleged collusion between

respondent nos. 1 and 2 and contended that the decision in the S.C.C. suit could adversely affect her rights unless she was impleaded as a party.

9. The petitioner further relied upon the stand taken by respondent no. 2 in the S.C.C. proceedings. According to her, respondent no. 2 had disputed the existence of the landlord-tenant relationship between himself and respondent no. 1 and had claimed that the petitioner was the landlady. Respondent no. 2 was also stated to have expressed his willingness to pay rent to the person who was ultimately found entitled to receive the same.

10. Respondent no. 1 opposed the application for impleadment. It was contended that the S.C.C. suit was confined to the determination of the landlord-tenant relationship between the parties to the suit and the grounds pleaded for eviction. According to respondent no. 1, the petitioner was seeking to introduce an independent dispute concerning title, validity and cancellation of the rival sale deeds, together with allegations of fraud and misrepresentation, all of which were matters outside the scope of the proceedings before the Small Causes Court and were already the subject matter of Original Suit No. 485 of 2018.

11. The learned Judge, Small Causes Court, examined the claim set up by the petitioner and found that the same was essentially founded upon a dispute concerning title and ownership of the disputed shop. The court noticed that while the petitioner claimed rights on the basis of the sale deed dated 19.06.2017, she was also disputing the sale deed dated 05.09.2017 relied upon by respondent no. 1.

12. The court below further observed that the scope of the S.C.C. proceedings was confined to determination of the landlord-tenant relationship between the parties to the suit and the consequences flowing therefrom. The questions concerning the validity and legal effect of the rival sale deeds, the allegations of fraud and the competing claims of ownership were found to be beyond the scope of the proceedings before the Small Causes Court, particularly when the petitioner had already

instituted a suit before the competent civil court for cancellation of the sale deed dated 05.09.2017.

13. In these circumstances, the learned Judge, Small Causes Court, concluded that the presence of the petitioner was neither necessary for the effective adjudication of the controversy in the S.C.C. suit nor conducive to its determination. Her impleadment, it was held, would introduce an independent dispute relating to title and thereby enlarge the scope of the proceedings. Application Paper No. 81-Ga was accordingly rejected by order dated 06.02.2024.

14. The revisional court, while examining the challenge to the aforesaid order, considered the pleadings and material on record and observed that the question of ownership was distinct from the existence of a landlord-tenant relationship. It held that the material questions arising in the S.C.C. suit were whether the relationship of landlord and tenant existed between respondent nos. 1 and 2 and whether the grounds pleaded for eviction had been established.

15. The revisional court also considered the stand taken by respondent no. 2 in amended paragraph 15-A of his written statement, wherein he had accepted respondent no. 1 as his landlady and stated that rent was being deposited in her favour. On consideration of the said pleading, the revisional court found that, for the purposes of the pending S.C.C. proceedings, the landlord-tenant relationship between respondent nos. 1 and 2 stood admitted by respondent no. 2.

16. Finding no reason to interfere with the order passed by the learned Judge, Small Causes Court, the revisional court dismissed S.C.C. Revision No. 11 of 2024 by order dated 02.05.2026 and affirmed the order dated 06.02.2024.

17. Learned counsel for the petitioner submits that the courts below have failed to correctly appreciate the pleadings of respondent no. 2. According to him, respondent no. 2 had disputed the existence of the landlord-tenant relationship between himself and respondent no. 1 and had asserted that the petitioner was the actual landlady of the disputed

shop. It is, therefore, contended that, in view of the nature of the pleadings, the petitioner was at least a proper party whose presence was required for an effective adjudication of the controversy.

18. Learned counsel further submits that the petitioner had instituted Original Suit No. 485 of 2018 even before institution of the S.C.C. suit, wherein the sale deed dated 05.09.2017 relied upon by respondent no. 1 has been specifically challenged. It is argued that the petitioner has thus asserted her claim independently and prior in point of time, and that any finding in the S.C.C. proceedings concerning the status of respondent no. 1 as landlady may prejudice the petitioner's rights in the disputed shop.

19. Per contra, learned counsel appearing for respondent no. 1 supports the orders passed by the courts below. It is submitted that the petitioner is seeking to introduce an independent dispute relating to title into proceedings whose scope is confined to the landlord-tenant relationship between the parties to the S.C.C. suit and the grounds for eviction. It is further submitted that the petitioner's claim, including her challenge to the sale deed dated 05.09.2017, is already pending adjudication in Original Suit No. 485 of 2018 and that the determination of that dispute is neither necessary nor relevant for deciding the relief claimed by respondent no. 1 against respondent no. 2. The petitioner's presence, therefore, is not necessary for the effective adjudication of the S.C.C. suit.

20. The principal question which arises for consideration is whether a person claiming an independent right or title in the suit property becomes a necessary or proper party to a suit before the Small Causes Court merely because the title so asserted competes with or is inconsistent with the title claimed by the plaintiff-landlord.

21. The answer must necessarily be found with reference to the nature and scope of the proceedings before the Small Causes Court. Order I Rule 10 CPC confers upon the court the power to add a person whose presence is necessary for the effective and complete adjudication of the questions involved in the suit. The exercise of such power is not

governed merely by the existence of an interest, however substantial, claimed by the person seeking impleadment in the subject property. The relevant consideration is whether the presence of such person is necessary for adjudicating the controversy which the court is competent to decide and the relief which is claimed in the proceedings.

22. The distinction between a necessary party and a proper party is also material. A necessary party is one in whose absence no effective order can be made, whereas a proper party is one whose presence enables the court to effectually and completely adjudicate upon the questions involved in the proceedings, though an effective order can be made even in such person's absence. The question, in either case, has to be determined with reference to the controversy actually brought before the court and not merely on the basis of an independent interest claimed in the subject property.

23. The aforesaid principle finds support in the judgment of the Supreme Court in **Kanaklata Das and others v. Naba Kumar Das and others**¹, wherein, while considering the question of impleadment in an eviction suit, the Supreme Court reiterated that the landlord and tenant are the necessary parties to such proceedings and that a person claiming an independent right, title or interest in the suit property does not, merely on that account, become a necessary or proper party. The Court further emphasised that, while considering an application under Order I Rule 10 CPC, the question to be examined is whether the presence of the proposed party is necessary for effectively and completely adjudicating the dispute which is actually involved in the suit.

24. The mere assertion of an independent title in the suit property, therefore, does not confer upon the claimant an automatic right to be impleaded. If the claim set up by the proposed party raises a distinct controversy which is neither necessary for nor foundational to the determination of the relief sought in the suit, such controversy cannot be

1 (2018) 2 SCC 352

introduced into the proceedings merely through an application under Order I Rule 10 CPC.

25. In the present case, respondent no. 1 instituted the S.C.C. suit claiming herself to be the owner and landlady of the disputed shop and seeking eviction of respondent no. 2, together with recovery of rent and damages. The controversy before the Small Causes Court is thus required to be examined with reference to the landlord-tenant relationship pleaded by respondent no. 1, the statutory grounds invoked for eviction, and the consequential reliefs claimed in the suit.

26. The petitioner, on the other hand, does not merely seek to assist the court in determining that controversy. She asserts an independent and competing title to the disputed shop on the basis of the sale deed dated 19.06.2017 and disputes the very foundation of respondent no. 1's claim of ownership by alleging that the sale deed dated 05.09.2017 was procured from her by fraud and misrepresentation. The petitioner has, on that basis, already instituted Original Suit No. 485 of 2018 seeking cancellation of the latter sale deed.

27. The determination of the petitioner's claim would necessarily involve examination of the validity, execution and legal effect of the rival sale deeds, as also the allegations of fraud and misrepresentation. Those questions constitute the subject matter of the petitioner's independently instituted civil suit. An application for impleadment cannot be employed as a means of bringing such an independent title dispute before the Small Causes Court or of securing its adjudication, directly or indirectly, in proceedings of limited jurisdiction.

28. It is necessary, however, to maintain the distinction between an incidental consideration of title and a final adjudication of title. The mere fact that a question relating to title arises in a Small Causes Suit does not, by itself, render the suit incompetent. Nor does every assertion of title by a third person necessitate his or her impleadment. What is material is whether the relief claimed by the plaintiff can be adjudicated

without finally determining the independent title asserted by the person seeking impleadment.

29. This distinction assumes particular significance in the context of Section 23 of the Provincial Small Cause Courts Act, 1887. The provision is attracted where, in a suit before the Small Causes Court, the plaintiff's right to obtain the relief claimed depends upon the determination of a question of title which the court is not competent to finally adjudicate. The mere circumstance that a third person asserts an independent title to the property, however, does not by itself make such determination necessary for deciding the plaintiff's claim.

30. The principle has recently been reiterated by this Court in **Manish Bansal vs. Jagdish Prasad Mittal & 7 Others**². In that case, the revisionist had asserted an independent right in the disputed property on the basis of an unregistered Will dated 22.11.2019, whereas the plaintiff relied upon a registered Will dated 23.09.2019. The revisionist had also instituted independent proceedings seeking declaration of his rights.

31. This Court held that the genuineness, due execution and legal effect of the rival Wills raised an independent dispute concerning title, which was distinct from the limited controversy falling for determination before the Small Causes Court. The assertion of an independent title, merely because it competed with or was inconsistent with the title claimed by the plaintiff, did not make the claimant a necessary or proper party to the S.C.C. proceedings.

32. The Court further made it clear that, while considering an application for impleadment, it was not necessary to adjudicate upon the correctness of the independent claim founded upon the Will. The question was whether the presence of the claimant was necessary for adjudication of the dispute before the Small Causes Court. Order I Rule 10 CPC cannot be invoked to enlarge the scope of a proceeding by introducing a separate title dispute which is not necessary for determining the relief claimed in the suit.

33. The aforesaid principle applies with equal force to the case at hand. The petitioner's claim founded upon the sale deed dated 19.06.2017 and her challenge to the sale deed dated 05.09.2017 constitute an independent dispute concerning title. That dispute is already pending before the competent civil court in Original Suit No. 485 of 2018. Its pendency does not, by itself, make the petitioner a necessary or proper party to the S.C.C. suit.

34. The position would undoubtedly be different if it were demonstrated that the very entitlement of respondent no. 1 to the relief sought against respondent no. 2 could not be determined without finally adjudicating the petitioner's claim of title. In such a situation, the question whether the Small Causes Court could proceed in view of Section 23 of the Provincial Small Cause Courts Act would arise for consideration. But that is not the position established in the present case.

35. The petitioner has not demonstrated that respondent no. 1's claim for relief against respondent no. 2 necessarily depends upon a final adjudication of the petitioner's title under the sale deed dated 19.06.2017. Her claim is an independent claim which may ultimately succeed or fail in the civil suit instituted by her, but its determination is not a prerequisite to adjudication of the landlord-tenant dispute in the S.C.C. proceedings.

36. The principle laid down in **Murti Markandeshwar Ji Maharaj Gopal Ki Bagiya City Jhansi v. Smt. Jyoti Gangwani and another**³, as noticed and applied by this Court in **Manish Bansal (supra)**, also bears upon the controversy. A proceeding concerning the landlord-tenant relationship cannot be enlarged merely because a person claiming an independent title seeks to enter the proceedings and have that claim examined. Such a claim is required to be pursued before the competent forum in appropriately instituted proceedings.

37. The submission founded upon the alleged denial of the landlord-tenant relationship by respondent no. 2 also does not alter the position.

3 2026:AHC:142875

The revisional court examined the pleadings, including amended paragraph 15-A of the written statement, and recorded that respondent no. 2 had accepted respondent no. 1 as his landlady and had stated that rent was being deposited in her favour. The petitioner has not demonstrated that the said finding is perverse or suffers from any jurisdictional error warranting interference under Article 227 of the Constitution.

38. Even otherwise, the mere fact that a defendant may set up the title of a third person, or may dispute the plaintiff's title by referring to such third person, does not make that third person a necessary or proper party. Otherwise, the scope of an eviction proceeding could be enlarged merely by the nature of the defence raised by the tenant. The relevant consideration remains whether the presence of the proposed party is necessary for adjudication of the relief claimed in the suit and not whether the proposed party asserts a claim which may have a bearing upon his or her independent rights in the property.

39. The petitioner's apprehension that an order passed in the S.C.C. suit may prejudice her independent rights also cannot, by itself, furnish a ground for her impleadment. The remedy of impleadment is not available merely to enable a third party to protect an independent title in property when that title is not required to be adjudicated for granting the relief sought in the suit. The petitioner's independent rights remain capable of being adjudicated in the civil suit already instituted by her.

40. Impleadment of the petitioner in the present circumstances would consequently have the effect of introducing into the S.C.C. proceedings a dispute between competing claimants to title, involving the validity of the rival sale deeds and allegations of fraud and misrepresentation. Such adjudication is neither necessary for determining the landlord-tenant controversy pleaded in the suit nor appropriate to the limited jurisdiction exercised by the Small Causes Court.

41. It is, accordingly, clarified that the observations made herein are confined to the question of impleadment and to the extent necessary for

determining whether the petitioner's presence is required for adjudication of the controversy in the pending S.C.C. proceedings. This Court has not expressed any opinion upon the genuineness, validity or legal effect of the sale deed dated 19.06.2017 or the sale deed dated 05.09.2017, nor upon the allegations of fraud or misrepresentation made by the petitioner. The rights and contentions of the parties in Original Suit No. 485 of 2018 shall remain open for determination by the competent civil court in accordance with law and shall be decided uninfluenced by any observation contained in this judgment.

42. In view of the foregoing discussion, the petitioner has failed to establish that her presence is either necessary or proper for the effective and complete adjudication of the controversy pending before the Small Causes Court. Her claim is founded upon an independent assertion of title, the adjudication of which is neither necessary for determination of the S.C.C. suit nor shown to be foundational to the relief claimed by respondent no. 1 against respondent no. 2.

43. The courts below have, therefore, committed no jurisdictional error or material irregularity in declining to implead the petitioner. No perversity, manifest illegality or other ground warranting exercise of the supervisory jurisdiction of this Court under Article 227 of the Constitution of India has been made out.

44. The petition is, accordingly, dismissed.

45. There shall be no order as to costs.

(Dr. Yogendra Kumar Srivastava,J.)

August 25, 2026

Arun K. Singh