

14.11.2025
Ct. No. 30
S.L. No. 52
SM

CO 4522 of 2023
Sri Chandan Mallick
Versus
Smt. Arati Mallick & Ors.

Mr. Ankara Sarkar
.....for the petitioner

1. The revisional application has been preferred challenging Order No. 16 dated 12.09.2023 passed by the Learned Civil Judge (Junior Division), 2nd Additional Court, Contai, Purba Medinipur in J. Misc. Case No. 55 of 2022.

2. Vide the said order under challenge the learned Trial Court has been placed to reject the prayer for order on admission made by the parties.

3. The learned Trial Court was of following view:- *“Thus, mere admission by the O.P. in this case does not relieve the petitioner from substantiating his claim individually with proper documents. In the light of the above discussion, the petitioner has failed to adduce any document to show that either he or his predecessors-in-interest were co-sharers of the case plot no. 485. Accordingly, this court cannot blindly act upon the admissions of the O.P.”*

4. The opposite parties have not appeared in the present case in spite of due service.

5. Learned counsel for the petitioner has relied upon the following judgments:-

(a) (2000) 7 Supreme Court Cases 120 Uttam

Singh Duggal & Co. Ltd. Versus United

Bank of India & Ors., where in the Court

held:-

“12. As to the object of Order 12 Rule 6, we need not say anything more than what the legislature itself has said when the said provision came to be amended. In the Objects and Reasons set out while amending the said Rule, it is stated that "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". We should not unduly narrow down the meaning of this Rule as the object is to enable a party to obtain speedy judgment. Where the other party has made a plain admission entitling the former to succeed, it should apply and also wherever there is a clear admission of facts in the face of which it is impossible for the party making such admission to succeed.

17. Learned counsel for the petitioner contended that admissions referred to in Order 12 Rule 6 CPC should be of the same nature as other admissions referred to in other rule preceding this Rule. Admissions generally arise when a statement is made by a party in any of the modes provided under Sections 18 to 23 of the Evidence Act, 1872. Admissions are of many kinds; they may be considered as being on the record as actual if they are either in the pleadings or in answer to interrogatories or implied from the pleadings by non-traversal. Secondly, as between parties by agreement or notice. Since we have considered that admission for passing the judgment is based on pleadings itself it is unnecessary to examine as to what kinds of admissions are covered by Order 12 Rule 6 CPC.”

6. Judgment/order dated 12.11.2024 in FAT 191 of 2020 of a Division Bench of this Court. **Para 24, 25 being relevant** is quoted herein:-

*“24. In the present case, it is evident from the written statement of the defendant that **it admitted in no uncertain terms the jural relationship of lessor-lessee between the parties, which is governed by the Transfer of Property Act, 1882 and not by the Rent Control Act, as well as the admitted service of the notice to quit dated January 17, 2019.** Thus, both the ingredients as laid down by the Supreme Court in Payal Vision Limited (supra) are fully satisfied. Hence, the learned Trial Judge was perfectly justified in granting a judgment on admission, thereby directing eviction of the defendant from the suit property.*

*25. In so far as the rider to the judgment on admission to the effect that the eviction decree would be postponed till determination and final adjudication of arrear rent, this Court is of the opinion that the said interlinking of the two facets of the judgment are unwarranted and not supported by law. The plaintiff/lessor's money claim regarding arrear rents is totally independent of the component of entitlement of the plaintiff to get a decree for eviction. **As such, the plaintiff need not wait till the final adjudication of arrear rents for having the defendant vacate the premises.**”*

7. On perusal of the judgments relied upon this Court finds, that the case before the Hon'ble Division Bench was in connection to an **eviction suit**. The judgment of the Supreme Court in **Uttam Singh Duggal & Co. Ltd. Versus United Bank of India & Ors. (Supra)**, is a judgment, on a general view and application of the provision under order 12 Rule 6 CPC.

8. In *Hari Steel and General Industries Ltd. & Anr. Vs. Daljit Singh & Ors.*, in CIVIL APPEAL NO. 4265 OF 2019 [Arising out of S.L.P.(C)No.31176 of 2018], decided on April 24, 2019, the Supreme Court held:-

*“35. In the judgment in the case of **Karam Kapahi & Ors. vs. Lal Chand Public Charitable Trust & Anr. (supra)**, this Court has interpreted the expression “otherwise” as used in Order XII Rule 6 of CPC and has held that the scope of the said provision of the Order XII Rule 6 is wider in comparison to provision of Order XII Rule 1 of CPC. It is true that after amendment, scope of the Rule under Order XII Rule 6 is expanded but at the same time the expression “otherwise” inserted in Order XII Rule 6 is also to be considered within the framework of the Rule but not beyond. In any event, even in a given case, the admissions are categorical and unconditional, whether any inference can be drawn on admissions having regard to documents placed on record, is a matter to be considered having regard to facts of each case. There cannot be any straight jacket formula to extend the benefit of Order XII Rule 6 of CPC.*

*36. In the judgment in the case of **Usha Rectifier Corporation (India) Limited vs. Commissioner of Central Excise, New Delhi (supra)** relied on by learned senior counsel Sri Shyam Divan, this Court has held that entries made in the balance sheets filed on behalf of the company are to be treated as admissions and the appellant cannot turn around and take stand, contrary to such admissions but in this case from the beginning it is the case of the appellants that the third respondent is in connivance with the respondents-plaintiffs.”*

9. In the present case which is a suit for preemption, the right has to be adjudicated by the

Trial Court on the basis of evidence on record and not admission of a party, whose right to “admission” also needs to be adjudicated, the facts, circumstances and **consideration by the Court, in a case for preemption being very different from a case of eviction.**

10. The Trial Court has also to ensure as to whether the opposite party who has agreed for an order on admission, at all has a right to give such consent. These are all matters for the Court to consider by way of evidence.

11. Accordingly, this Court finds that the learned Trial Court rightly rejected the said prayer for “an order on admission”.

12. As such the order under challenge herein being in accordance with law requires no interference.

13. Civil Revision stands dismissed.

14. Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul). J]