



IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.501 OF 2025

Dr. Ramkrishna Ananta Sinai Dhume,
Aged 79 years,
H.No.124, Kamala Niwas,
St. Inez, Panaji,
Goa – 403 001.

... PETITIONER

Versus

Mrs. Rekha Sant Kumar Ojha,
Permanent resident of B-2, Jupiter Colony,
Behind Holly Family School,
Porvorim, Goa
presently residing at
F-2, Saawani Building, St. Inez,
Panaji, Goa.

... RESPONDENT

Ms. Sailee Kenny, Advocate for the Petitioner.
Mr. Prayash Shirodkar, Advocate for Respondent.

CORAM:- VALMIKI MENEZES, J.

DATED :- 15TH DECEMBER, 2025

ORAL JUDGMENT:

1. Registry to waive office objections and register the matter.
2. Heard learned Counsel for the parties.

3. Rule. Heard the matter forthwith with the consent of the parties.
4. Mr. Prayash Shirodkar waives notice for the Respondents.
5. This Writ Petition invokes this Court's power under Article 227 of the Constitution of India seeking quashing and setting aside an order dated 24.03.2025 passed on Exhibit D-10 by the Civil Judge Junior Division, Panjim in Regular Civil Suit No.82/2023/D, which has rejected the Petitioner's/original Plaintiff's application under Order 12 Rule 6 CPC, for a decree of eviction, on admission.
6. The aforementioned suit was filed by the Plaintiff under relief clause 1 thereof for a decree, directing the Defendant / Respondent herein to vacate the suit premises and to hand over the peaceful possession thereof. Relief clause 2 of the plaint sought mesne profit @Rs.50,000/- per month with interest from the date of expiry of 30 days from the date of the legal notice dated 24.05.2023 sent by the Plaintiff, till the premises were actually vacated.
7. Subject matter of this petition is restricted to the grant of decree in terms of prayer clause 1 of the plaint and rejection by way of impugned order.

8. The following undisputed facts are part of the record of the trial Court:

a) The Plaintiff and Defendant entered into an agreement of Leave and License dated 30.07.2022, under which the Plaintiff allowed the Respondent to occupy the apartment which is described in the schedule to the said agreement, for a monthly license fee of Rs.15,000/-; the agreement was for a period of 11 months, expiring on 30.06.2023. The agreement required the Defendant licensee to deposit an amount of Rs.45,000/-, which constituted three months of license fees as a security deposit which was to be refunded at the end of the license period. It is the Plaintiff's case in the plaint that since the Defendant licensee had not paid the license fees for the month of February, March and April of 2023, a notice came to be issued by the Plaintiff on 14.04.2023, calling upon the Defendant to make good the default in payment of three months license fees.

b) Before the license period expired on 30.06.2023, the Plaintiff terminated the licence period vide notice dated 24.05.2023, on the grounds that the Defendant had defaulted the payment of the licence fees. This was in terms of clause 5 of the license agreement which

permitted the Licensor to terminate the license in case of two consecutive months of default.

c) In reply to the termination notice, by communication dated 28.06.2023, which was sent two days prior to the end of the license period (i.e. on 30.06.2023), the Defendant admitted that there was a default on his part, stating in relation to the first notice dated 14.04.2023, that the default in payment of three months' license fees be adjusted against the security deposit kept with the Plaintiff. Whilst requesting the plaintiff to adjust the security deposit of three months licence fees, the defendant claimed that he had deposited Rs.60,000/- as a security deposit and not Rs.45,000/-.

d) Having received this reply the Plaintiff filed the aforementioned suit, wherein at paragraph 3 of the plaint, the Plaintiff has averred that the initial two months of November and December, 2022, though the cheques issued for license fees were dishonoured, the same were ultimately cleared. In paragraph 4 of the plaint, the Plaintiff has averred that there was a default in favour of the licensee of three consecutive months from February to April, 2023 for which the notice dated 14.04.2023 was sent to the

Defendant and the termination notice dated 24.05.2023 was also sent to the Defendant.

e) In the written statement, the Defendant took a plea that he was paying rent regularly and punctually though at paragraph 13 of the written statement he denies that he was in default of payment of rent. In paragraph 11 of the written statement, the Defendant partly admits the contents of paragraph 2 where the license agreement and its terms are pleaded.

SUBMISSIONS:

9. The main submission advanced by the Petitioner is that the trial Court has proceeded only on the basis of denial by the Defendant of the pleadings as regard to the default in payment of license fees, instead of approaching the entire matter by examining the entire material produced by the Licensor i.e. the license agreement, the notice or the reply, which are all admitted documents between the parties. It was further submitted that the meaning assigned to the word “admission” under Rule 6 of Order 12 CPC is merely not categorically a written admission in the written statement, but the Rule empowers the Court to look at all the material before it and

exercise discretion vested in it under Order 12 to decide whether the material is enough to record admission of the Defendant. Reliance has been placed on the judgment of the Supreme Court on *Payal Vision Limited v/s. Radhika Choudhary reported in (2012) 11 SCC 405*.

10. Opposing these submissions, the learned Advocate Prayash Shirodkar for the Respondent submits that the written statement categorically denies the averment that there was any default in payment of license fees. He further argues that in written statement there is a categorical averment that the license fees were paid regularly and punctually and since there was no unequivocal and ambiguous admission in the written statement and the impugned order has been correctly passed. Reliance was placed on *Rajiv Ghosh v/s. Satya Narayan Jaiswal reported in 2025 SCC OnLine SC 751*

CONSIDERATIONS:

11. In a suit for eviction based upon a license agreement, for the Court to determine whether there was an admission as referred to in Rule 6 of

Order 12 CPC, the pleadings and material before the Court, would have to be examined in the light of two specific ingredients:

12. The first is whether the Defendant admits the relationship of landlord and tenant or as in this case licensor and licensee, and the other is whether the Defendant admits that there was non-payment of license fees at some point of time and or the license agreement is too determined.

13. In **Payal Vision Limited** (supra) the Supreme Court considers precisely this position, and has held that the term “admission” does not have to be an admission clearly in the pleadings but his admission of the relationship and the admission of the receipt of licence fees and the termination of the agreement. The relevant paragraphs of the judgment are quoted below for easy reference:

7. In a suit for recovery of possession from a tenant whose tenancy is not protected under the provisions of the Rent Control Act, all that is required to be established by the plaintiff landlord is the existence of the jural relationship of landlord and tenant between the parties and the termination of the tenancy either by lapse of time or by notice served by the landlord under Section 106 of the Transfer of Property Act. So long as these two aspects are not in dispute the court can pass a decree in terms of Order 12 Rule 6 CPC, which reads as under:

6. Judgment on admissions (1) Where admissions of fact have been made either in the pleading or otherwise whether orally or in writing, the court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

(2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced."

11. When placed in juxtaposition the averments made in the plaint and the written statement clearly spell out an admission by the defendant that the lease agreement dated 10-10-2001 was indeed executed between the parties. It is also evident that the monthly rent was settled at Rs 50,000 which fact too is clearly admitted by the defendant although according to the defendant, the said amount represented rent for commercial use of the premises and not residential purposes as alleged by the plaintiff Suffice it to say that the averments made in the written statement clearly accept the existence of the jural relationship of landlord and tenant between the parties no matter the lease agreement was not duly registered. Whether the tenancy was for residential or commercial use of the property is wholly immaterial for the grant of a decree for possession. Even if the premises were let out for commercial and not residential use, the fact remained that the respondent-defendant entered upon and is occupying the property as a tenant under the plaintiff. The nature of this use may be relevant for determination of mesne profits but not for passing of a decree for possession against the defendant.

14.A similar view has been taken by the Supreme Court in **Rajiv Ghosh**(supra), where it has considered the object of the amended

Rule 6 of Order 12 CPC and after referring to the legislative change has held thus:

12. *The trial court adjudicated the application and ultimately decreed the suit having regard to the specific admissions made by the defendant.*
13. *The defendant being dissatisfied with the decree passed by the trial court based on admissions challenged the same before the High Court by filing FAT No. 7 of 2024. The High Court dismissed the FAT holding as under:*

"12. According to the said clause, the dependent heir of the original tenant, unless she is the widow of the original tenant, is entitled to carry on as a tenant [coming within the definition of "tenant" as defined in Section 2(g)] to continue in such capacity for a period of 5 years from the demise of the original tenant.

13. Hence, although the defendant has not pleaded in the Written statement that he was a dependent of the original tenant, which should have further cut short his period of tenancy, even proceeding on the premise that the defendant was a dependent, he, being the Son of the original tenant, would be entitled to sustain his tenancy In such capacity only up to the, expiry of a period of 5 years from the demise of the original tenant.

14. From the pleadings in the written statement, it is evident that the said period was already over at the time of institution of the suit, since the original tenant, his father Ranjan Ghosh, met his demise on July 13, 2016.

15. It is further admitted in the written statement that the landlord/plaintiff, quite rightly, stopped accepting rent, from the defendant after May, 2021 ie. after the expiry of the said period of five years from the death of the original landlord.

16. Hence, the pleadings in the written statement comprise of sufficient ingredients to bring the defendant within the fold of Section 2(g) of the 1997 Act.

17. It may be clarified here that, it is well-settled that law of legal arguments need not be pleaded in the pleadings, either by way of a plaint or a written statement.

18. As such, the defendant need not have specifically pleaded, the applicability of Section 2(g) of the 1997 Act for the purpose of the pleading to acquire the Character of an admission, for the purpose of Order XII Rule 6 of the Code. It would suffice, as in the present case, if the necessary factual ingredients to satisfy Section 2(g) are pleaded in the written statement, for it to be deemed to be an admission that the defendant comes within the purview of Section. 2 (g)

19. That is precisely the case here.

20. In the event the defendant comes within Section 2(g) of the 1997 Act, nothing remains to be adjudicated further in the suit, since the defendant is automatically relegated to the status of a trespasser, and the plaintiff immediately becomes entitled to get a decree for eviction in the absence of any further of independent right having been claimed by the defendant.

21. The defendant, in the written statement, claims entirely through his father, the original tenant. The pleading as to there being a talk of a fresh tenancy being granted in favour of the defendant is neither here nor there since even the said pleading does not tantamount to establish that a new tenancy has already been created in favour of the defendant, in which case, the outcome of the litigation might have been otherwise.

22. As such, the learned Trial Judge was fully justified in resorting to Section 2(g) of the 1997 Act, read with Order XII Rule 6 of the Code of Civil Procedure, to come to the finding

that the plaintiff automatically gets entitled to a decree for eviction by way of a judgment on admission.

23. In such view of the matter, we do not find any justification to interfere with the impugned judgment and decree.

24. Accordingly, FAT 7 of 2024 is dismissed on contest, thereby affirming the judgment and decree dated December 2, 2023 passed by the learned Judge, Fifth Bench, City Civil Court at Calcutta, District Calcutta in Title Suit No. 1068 of 2021.

25. There will be no order as to costs.

26. Keeping in view the pendency of the appeal till now, the defendant/appellant is granted a further period of three months to vacate the premises in favour of the plaintiff/respondent. The pending execution n case shall remain stayed for such period.

27. In the event the defendant/appellant does not vacate the premises within the said period, of three months from this date, the plaintiff/decreed holder will be at liberty to proceed with the execution case and the same will be expedited by the executing court

28. Interim order, if any, stands vacated

29. A formal decree be drawn up accordingly I

14. In such circumstances referred to above, the defendant is here before this Court with the present petition.

15. We heard Mr. Ramnath Jha, the learned counsel appeared on behalf of Mr. Amit Kumar, the learned counsel appearing for the defendant.

16. Section 2(g) of the 1997 Act reads thus:

"2. Definitions." In this Act, unless there is anything, repugnant in the subject or context,

(g) "tenant" means any person by whom or on whose account or behalf the rent of any premises is or, but for a special contract, would be payable, and includes, any person continuing in possession after termination of his tenancy and, in the event of death of any tenant, also includes, for a period not exceeding five years from the date of death of such tenant or from the date of coming into force of this Act, whichever is later, his spouse, son, daughter, parent and the widow of his predeceased son, who were ordinarily living with the tenant up to the date of death of the tenant as the members of his family and were dependent on him and who do not own or occupy any residential premises, and in respect of premises let out for non-residential purpose his spouse, sort, daughter and parent who were ordinarily living with the tenant up to the date of his death as members of his family, and were dependent on him or a person authorised by the tenant who is in possession of such premises but shall not include any person, against whom any decree or order for eviction has been made by a Court of competent jurisdiction:

Provided that the time-limit of five years shall not apply to the spouse of the tenant who was ordinarily living with the tenant up to his death as a member of his family and was dependent on him and who does not own of occupy any residential premises:

Provided further that the son, daughter, parent or the widow of the predeceased son of the tenant who was ordinarily residing with the tenant in the said premises up to the date of death of the tenant as a member of his family and was dependent on him and who does not own or occupy any residential premises, shall have a right of preference for tenancy, in a fresh agreement in respect of such premises on condition of payment of fair rent. This proviso shall apply

mutatis mutandis to premises let out for non-residential purpose."

17. Thus, the plain reading of Section 2(g) referred to above would indicate that the dependent heir of the original tenant unless she is the widow of the original tenant would be entitled to carry on as a tenant [coming within the definition of "tenant" as defined under Section 2(g)] in such capacity for a period of 5 years from the demise of the original tenant.

18. In the case on hand, the defendant is the son of the original tenant. It is not in dispute that he claims his right to continue as a tenant in the suit premises through his father i.e. the original tenant.

19. Order XII Rule 6 of the CPC reads thus

6. Judgment on admissions.-(1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

(2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.

LEGISLATIVE CHANGES

20. By the Code of Civil Procedure (Amendment) Act, 1976, the following changes had been effected.

(1) Original Rule 6 had been substituted and redrafted into sub-rule

(1) and

(2) Sub-rule (2) had been newly inserted,

OBJECT OF AMENDMENTS

21. Rule 6, as originally enacted, enabled a court to pronounce judgment or admission "either in pleading or otherwise". It read thus:

6. Judgment on admissions- Any party may, at any stage of a suit, where admissions of facts have been made, either on pleadings or otherwise, apply to the Court for such judgment or order as upon such admissions he may be entitled to, without waiting for the determination of any other question between the parties and the Court may upon such application make such order or give such judgment, as the Court may think just"

22. The Law Commission considered the provision. With a view to clarify the position as to admission and also to empower the court to pronounce a judgment suo motu and to draw decree on such judgment, recommended to modify the rule. It stated:

"Where a claim is admitted, a court has jurisdiction under Order XII Rule & to enter a judgment for the plaintiff, and to pass a decree on the admitted claim (with liberty to the plaintiff to proceed with the suit in the ordinary way as to the remainder of the claim).

The object of the rule is to enable a party to obtain speedy judgment, at least to the extent of the relief to which, according to the admission of the defendant, the plaintiff is entitled.

The rule has been held to be wide enough to cover oral admissions. The use of the words or otherwise in Rule 6,

without the words 'in writing' which are used in Rule 1 of Order XII, shows that a judgment may be given even on an oral admission. It is desirable to codify this interpretation.

It may be noted that under the present rule, a judgment on admission can be passed only on an application. According to a local amendment the Court may, on the application of any party or of its own motion, make such order or give such judgment. This is a useful amendment, and should be adopted.

In our view, it is also desirable to provide that a decree shall follow or "judgment on admissions." (See: Law Commission's Fifty-fourth Report, p. 145)

23. In Statement of Objects and Reasons, it had been stated:

"Clause 65, sub-clause (ii)- Under Rule 6, where a claim is admitted, the Court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on the admitted claim. The object of the rule is to enable a party to obtain speedy judgment at least to the extent of relief to which, according to the admission of the defendant, the plaintiff is entitled. The rule is wide enough to cover oral admissions. The rule is being amended to clarify that oral admissions are also covered by the rule" (See: Notes on Clauses, Gazette of India, dt. 08-04-1974, Pt. II, S. 2, Extra, p. 316)

24. Rule 6(1) empowers the court to pronounce a judgment upon admissions made by parties without waiting for the determination of other questions.

25. Rule 6(2) states that a decree shall be drawn up in accordance with the judgment.

26. The primary object underlying Rule 6 is to enable a party to obtain speedy judgment at least to the extent of admission. Where a plaintiff claims a particular relief or reliefs against a defendant and the defendant makes a plain admission, the

former is entitled to the relief or reliefs admitted by the latter [See: Uttam Singh v. United Bank of India, (2000) 7 SCC 120

27. 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."

28. 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.

29. 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.

30. 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.

31. To make order or to pronounce judgment on admission is at the discretion of the court. First, the word "may" is used in Rule 6 and not the word "shall" which prima facie shows that the provision is an enabling one. Rule 6 of Order 12 must be read with Rule 5 of Order 8 which is identical to the Proviso to Section 58 of the Evidence Act. Reading all the relevant provisions together, it is manifest that the court is not bound to grant relief to the plaintiff only on the basis of admission of the

defendant. (See: Sher Bahadur v. Mohd. Amin, AIR 1929 Lah 569)

35. The words "or otherwise" are wide enough to include all cases of admissions made in the pleadings or de hors the pleadings. Under Rule 6, as originally enacted, it was held that the words or otherwise" without the words "in writing" used in Rule 1 showed that a judgment could be given upon oral or verbal admission also. [See: Beeny, re, (1894) 1 Ch D 499] The Amendment Act of 1976, however, made the position clear stating that such admissions may be "in the pleading or otherwise" and "whether orally or in writing". Thus, after the amendment in Rule 6, the admissions are not confined to Rule 1 or Rule 4 of Order 6, but are of general application. Such admissions may be express or implied (constructive); may be in writing or oral; or may be before the institution of the suit, after the suit is brought or during the pendency of proceedings.

15.Rajiv Ghosh (supra), considers that after the legislative change in Rule 6 where the word “otherwise” has been employed by the legislature, would enable the Court to consider all material, including the pleadings of the parties to determine whether there was an admission by the Defendant to the case of the plaintiff, such that the Court would safely pass the decree on such “admission”.

16.In the present case the following facts would be relevant to determine whether they constitute "admission" for the purpose of granting a decree under rule 6 Order 12:

- (i) Clause 5 of the Agreement specified that the default of two consecutive months in the payment of license fees would entitle the

Plaintiff/Licensor to terminate the license agreement. The Plaintiff issued a notice dated 14.04.2023 calling upon the Defendant to make good three consecutive months of default in payment of license fees i.e. February, March and April, 2023.

(ii) This notice was not replied to initially, prompting the Plaintiff to terminate the license agreement by notice dated 24.05.2023, roughly a month prior to the date on which the license agreement would stand determined i.e. 30.06.2023.

(iii) Two days prior to the termination of the license i.e. on 20.06.2023, the Defendant replied to both the notice on 14.04.2023 and termination notice dated 24.05.2023 admitting in paragraph No.2 thereof that there was a default of three months in payment of license fees and requested the Plaintiff to adjust the security deposit (which the Defendant claimed was Rs.60,000/-) towards the default period of license fees. From this statement alone one can see that the Defendant has not only admitted the relationship of the licensor with the licensee but has also admitted the default of the three months and requested adjustment. What is important to note at this juncture is that if the adjustment was in fact done by the Plaintiff, there would be no security deposit left in the hands of the licensor, leading to the

conclusion that it was the licensee's intent to have accepted the termination

iv) Nevertheless, despite the specific admissions to the reply in the notice, in the written statement, the licensee took a defence that he was regularly and punctually paying the license fees without a single delay of the dates when such license fees were paid, though he vaguely states that some payments were made by cash and some by cheque. There is no reliance in the written statement on any document to that effect.

v) There is no denial in any of the paragraphs of the Writ Petition to the relationship of licensor and licensee under the license agreement nor is there any denial to the fact that the licensee has received notice of termination dated 24.05.2023. Thus, the two main requirements of Order 12 Rule 6 i.e. the admission of the relationship and the admission of termination of the contract have both been complied as has been set down by the Supreme Court in **Payal Vision Limited** (supra).

17.The trial Court has totally failed to examine the admitted license agreement, the notice sent by the Plaintiff which was replied by the defendant, which had constituted material, "otherwise" than the statements made in the Written statement as was required by Rule 6

of Order 12 of CPC instead the trial Court has restricted itself to examine the written statement and hence concluded that there was no categorical admission of non-payment of rent. Thus the trial court has clearly failed to exercise jurisdiction vested in it under Rule 6 of Order 12 CPC, failing to examine the pleadings of the parties and the admitted material before it from which it would clearly determine that two admissions required in the case of Licensor and the licensee's relationship.

18.In my opinion, a clear admission which can be learnt both from the reply to the termination notice as also from the pleadings in the written statement where there is absolutely no denial to the relationship of the licensor and licensee between the parties nor there is any denial to the receipt of the termination notice, which was in fact replied to by reply dated 28.06.2023. Even the contents of the reply to the termination notice does not deny the relationship nor does it deny the default by the Defendant.

19.For all these reasons, the impugned order is clearly contrary to the provisions of Rule 6 order 12 CPC; the impugned order dated 24.03.2023 is hereby quashed and set aside and the application at Exh.D-10 before the trial Court stands granted. The Regular Civil Suit No. ~~44~~⁸² of 2023 before the Civil Judge Junior Division, Panaji

stands decreed in terms of prayer clause 1 of the plaint. The decree of eviction shall be drawn up by the trial Court in these terms within a period of 15 days from passing of this judgment. Needless to state that the trial Court, on drawing up the decree in the aforesaid manner shall proceed to decide the suit insofar as the claim of mesne profit is considered this contents in prayer clause 2 thereof. The trial court is requested to dispose of the suit insofar as the claim of the mesne profit is concerned preferably within six months from today.

20.Rule is made absolute in terms of prayer clause (a) of the petition and in terms of the directions given above.

21.No costs.

VALMIKI MENEZES, J.