**Writ of Certiorari**

In the Court of Judicature of Allahabad………….

Civil Misc. Writ Petition No……….of 20………

(Under Article 226 of the Constitution of India)

(District :………..)

……………..Son of………………..r/o…………………………District :…………..

….Defendant/Petitioner

*Versus*

1. …………………………..

2. Smt. …………………widow of Sri………………… r/o ……………District :……

...Plaintiff/Respondents

To,

The Hon'ble Chief Justice and his other companion Judges of the aforesaid Court.

The humble petitioner most humbly showeth as under :

1. That the Respondent No.2 filed a suit for arrears of Rent and ejectment against the petitioner in the Court of Judge Small Causes, ……….

2. That the aforesaid Suit was filed on the ground that defendant has committed default in payment of Rent and is liable to be ejected from the premises in dispute.

True copy of the plaint is being filed herewith are marked as Annexure I to this Writ Petition.

3. That the Petitioner filed written statement denying plaint allegation.

True copy of written statement is being filed herewith and marked as Annexure II to this Writ Petition.

4. That during the pendency of the aforesaid suit the Plaintiff Respondent sold a part of the disputed house to a third person through a Registered Sale Deed. As a result of the said sale-deed the vendee (Not impleaded as a party in the suit) became the part owner and landlord of the disputed house.

5. That the sale-deed of the part of disputed house necessitated amendment in the written statement and consequently dependent moved an amendment application.

6. That the plaintiff filed objections against the amendment application.

7. That the trial Court, vide it's Order dated………… rejected the amendment application of the petitioner.

True copy of the Order dated ……….is being filed herewith and marked as Annexure IV to this Writ Petition.

8. That aggrieved by the Order of the trial Court the petitioner preferred Revision before the Distt. Judge. The first Addl. Distt. Judge,…….vide its Order dated……… partly allowed and partly dismissed the aforesaid revision.

9. That the opinion of the Court below that relationship of tenant and landlord, once admitted, cannot be withdrawn or explained away, is erroneous in law.

10. That it is settled law that the admissions of the party can be withdrawn or explained away by way of amendment of pleadings.

11. That the Court below erroneously refuse the third amendment sought by the petitioner. In the 3rd Amendment again the relationship of landlord and tenant was denied and it was also stated that since the plaintiff has splited tenancy and she cannot get possession over remaining of the disputed property. Court Below acted illegally in allowing the later part of the amendment while refusing the former.

12. That allowing the amendment relating to jurisdiction of the court while refusing the amendment regarding denial of the relationship of tenant and landlord is erroneous inasmuch as it does not give an opportunity to the petitioner to prove that the court has no jurisdiction to try the suit.

13. That the Petitioner is lapse with no other alternative remedy except to approach the Hon'ble Court under Article 226 of the Constitution of India.

14. That there is no deliberate delay in filing the present writ petition. Since ……., 20…… Petitioner son was suffering from a chronic diseased and was being treated at ……… The petitioner being only other male member in the family had to lookafter his son and had to spend much of this time at ……. in connection with the treatment of his son. It was only when the Petitioner's son could recover in the first week of …………, 20..….. that the petitioner could apply for the certified copy of the order and could proceed to Allahabad for filing the present writ petition. In the present circumstances the delay in filing the present writ petition is liable to be condone.

15. That the present writ petition is being filed *inter alia* on the following

GROUNDS

1. Because the Court below acted illegally in refusing the amendment regarding denial of relationship of the tenant and landlord which was, though initially admitted, later was sought to be withdrawn.

2. Because the Court below failed to appreciate that admissions made in the pleading can be withdrawn or explained away through amendment.

3. Because the court below failed to appreciate that the merits of the amendment sought to be made, are not to be looked into at the time of disposal of the amendment application.

4. Because the court below failed to consider that the present amendment was *bona fide* and was necessitated on account of subsequent events during the proceedings of the case.

5. Because the order of the court below is otherwise erroneous in law and on facts.

PRAYER

It is, therefore, most respectfully prayed that it is just and expedient in the interest of justice the Hon'ble Court may be pleased to -

1. Issue a Writ, order or direction in the nature of certiorari quashing the order dated ……… and ………. (Annexures IV and V) to the Writ Petition).

2. Allow the amendment application (Annexure III to the Writ Petition).

3. Pass such other and further orders as it deems fit in the circumstances of the case.

Advoate for the petitioner.