

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Writ Petition No. 480 of 2009 (M/S)**

Abdul Salaam.

..... Petitioner

Versus

Rao Badar & another.

..... Respondents

Mr. Sharad Sharma, Advocate for the petitioner.

**Hon'ble V.K. Gupta, C.J.**

Both the courts below have concurrently held against the petitioner on the issue of petitioner having committed defaults in the payment of rent. The Suit filed by the plaintiffs/respondents against the petitioner/defendant was based upon the termination of tenancy in terms of Section 106 of the Transfer of Property Act relatable to the ground of the petitioner/defendant having committed defaults.

Mr. Sharad Sharma's contention, that the Trial Court as well as the Revisional Court wrongly rejected the petitioner's Application for amendment of the Written Statement, does not find favour with me because I hold that the rejection of the amendment prayer, in the facts and circumstances, was justified.

There is no merit in this writ petition, which is dismissed in limine.

As this stage, Mr. Sharad Sharma makes an oral prayer that the petitioner be given some time to vacate the demised premises. Mr. Sharad Sharma's oral prayer is allowed. It is directed that the impugned Decree shall not be executed till 31<sup>st</sup> August, 2009 subject to the following conditions.

- i. The petitioners clear all the outstanding dues towards the respondents before 30<sup>th</sup> April, 2009.

- ii. He pays use and occupation charges at the rate of Rs. 500/- per month till the he remains in occupation of the property in question.
- iii. He files a written Undertaking to the aforesaid effects in the Trial Court before 10<sup>th</sup> April, 2009.

**(V.K. Gupta, C.J.)**  
31.03.2009

G