

Civil Procedure Code, 1908 (V of 1908) Order 6, Rule 17 – In the written statement filed, it was admitted that the defendant-petitioner is a tenant in the shop – By virtue of the amendment, a somersault is sought to be taken that the petitioner is a co-sharer and the plaintiff can only go in for partition – The admission, as such, which was made regarding the relationship was, thus, sought to be withdrawn by way of proposed amendment and a totally new and inconsistent case is sought to be set up and would cause serious prejudice to the plaintiffs and alter the character of action – Even otherwise even under Section 116 of the Indian Evidence Act, 1872 the petitioner is estopped in raising the challenge to the title of the landlord and has to surrender possession before that can be done – Evidence Act, 1872 (1 of 1872) Section 116 – East Punjab Urban Rent Restriction Act, 1949 (III of 1949) Section 13.

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