IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HON'BLE SRI JUSTICE VAKITI RAMAKRISHNA REDDY

CIVIL REVISION PETITION No.4001 of 2017
(CNR No.HBHC010365462017)

Date: 03.11.2026

Reserved on: 05.08.2026 **Pronounced on: 03.11.2026**
Uploaded on: 03.11.2026

Between:

S. Shashi Rekha .... Petitioner

AND

Kothapalli Madhusudhan Rao .... Respondent

ORDER:

Heard Sri G. Chandrashekar Reddy, learned counsel for the petitioner, and Sri Manav Gecil Thomas, learned counsel representing Sri Thomas George, learned counsel for the respondent. Perused the record.

2. This Civil Revision Petition is filed under Section 22 of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 ("the Act") against the judgment and decree dated 13.06.2017 (the "impugned judgment") passed by the learned Chief Judge, City Small Causes Court, Hyderabad ("the Appellate Court"), in R.A.No.212 of 2011. By the impugned judgment, the Appellate Court allowed the appeal filed by the respondent, set aside the order dated 14.07.2011 passed by the learned Additional Rent

Controller-cum-XVIII Junior Civil Judge, Secunderabad ("the Rent Controller"), in R.C.No.151 of 2007, and directed the petitioner to vacate and hand over vacant possession of the petition schedule premises to the respondent within two months.

3. The parties are referred to as they are arrayed in this Revision. Before the Rent Controller, the petitioner was the respondent and the respondent was the petitioner. Before the Appellate Court, the respondent was the appellant.

BRIEF FACTS

4. The respondent filed R.C.No.151 of 2007 against the petitioner under Section 10(2)(i) of the Act, seeking her eviction from the western portion of the second floor of the premises bearing Municipal No.6/8, Sai Ramnagar Colony, West Marredpally, Secunderabad ("the petition schedule premises"), on the ground of wilful default in payment of rent. He stated that he is the owner and landlord of the premises bearing Municipal Nos.6/7 and 6/8. According to him, the petitioner approached him through her brother-in-law, Mr.Purushotham, who was already his tenant, as she needed a portion urgently because her earlier landlord had evicted her. Considering her need and the recommendation of Mr.Purushotham, he let out the petition schedule premises to the petitioner under a Rental Agreement written on a stamp paper of

Rs.10/- for a period of eleven months, at a monthly rent of Rs.2,400/-. He stated that he issues rent receipts after receiving the rent.

5. The respondent alleged that the petitioner failed to pay the rent for twenty months, from January 2006 to August 2007, amounting to Rs.48,000/-, in spite of demands. He further alleged that she failed to pay the electricity charges and the bore-well maintenance charges at Rs.400/- per month, amounting to Rs.8,000/-, and that the total dues are Rs.56,000/-. As the petitioner is a wilful defaulter, he sought her eviction.

6. The petitioner filed a counter denying all the averments. Her case is that her mother, Smt. Venkatamma, is the tenant of the premises, at a monthly rent of Rs.600/- and Rs.300/- towards maintenance charges. She denied the relationship of landlord and tenant between herself and the respondent, and denied the execution of the Rental Agreement filed by the respondent. She further stated that her mother entered into an agreement of sale with the respondent in respect of the petition schedule property and paid the sale consideration of Rs.3,00,000/-, but the respondent failed to execute the sale deed. Her mother therefore filed O.S.No.547 of 2007 on the file of the III Senior Civil Judge, City Civil Court, Secunderabad, for specific performance of the

agreement of sale. The petitioner alleged that the respondent fabricated the Rental Agreement, as there is no relationship of landlord and tenant between the parties.

PROCEEDINGS BEFORE THE RENT CONTROLLER

7. Both parties went to trial. The respondent examined himself as PW1 and marked Exs.P1 to P3, namely, the rough sketch of the petition schedule property (Ex.P1), the Rental Agreement dated 27.10.2004 (Ex.P2) and the certified copies of the orders in I.A.Nos.1619 and 1922 of 2007 in O.S.No.547 of 2007 (Ex.P3). One of the attesting witnesses to Ex.P2, P. Dayanand, was examined as PW2, but his evidence was eschewed on 25.08.2010. The petitioner examined herself as RW1 and marked the ration card (Ex.R1) and a marriage invitation (Ex.R2). After the evidence, both sides filed written arguments along with authorities. The Rent Controller framed three points, namely, (i) whether there is a jural relationship of landlord and tenant between the parties, (ii) whether the petitioner committed wilful default in payment of rent, and (iii) to what relief.

8. On Point No.1, the Rent Controller noted that Ex.P2 was marked as per the direction of this Court in C.R.P.No.3890 of 2010 dated 06.12.2010, wherein it was observed that the document be marked only for proving the nature of possession of the person in

possession of the property, and that it is not admissible for proving the terms and conditions of the Rental Agreement. The Rent Controller found that Ex.P2 is attested by three witnesses, but the evidence of the one witness examined as PW2 was eschewed, and nothing other than the evidence of PW1 was on record to prove the execution of the Rental Agreement by the petitioner. Though the petitioner denied the execution, the respondent did not take any step to send the document to a handwriting expert or to examine any other attestor. The Rent Controller therefore held that the execution of the Rental Agreement was not proved. The rough sketch (Ex.P1) was held to be of no help in proving the relationship.

9. The respondent relied on Ex.P3 to argue that the civil court had found that the petitioner's mother is not the tenant, and that the petitioner is in occupation as the tenant. The Rent Controller held that no point regarding the relationship of landlord and tenant was framed and decided by the civil court, that the said orders are not final, and that they do not help the respondent. The Rent Controller also noted that none of the persons of the locality, who could speak about the relationship, was examined. As to Ex.R1 and Ex.R2, the Rent Controller observed that Ex.R1 shows Smt. Venkatamma as the head of the family, who would generally

take the premises on rent, and that Ex.R2 is not a criterion to show that the mother is not residing in the premises. The respondent's reliance on *Gopal Krishnaji Ketkar v. Mohamed Haji Latif*[1], on drawing an adverse inference for withholding the best evidence, was held to be misplaced, as the said decision arose under the Bombay Public Trusts Act.

10. The Rent Controller then noted the respondent's admissions in cross-examination that he had entered into an agreement of sale with Smt. Venkatamma in respect of the petition schedule property, that she filed a suit for specific performance on his failure, and that the suit was decreed. Relying on *R. Kanthimathi and another v. Beatrice Xavier*[2], cited by the petitioner, the Rent Controller held that, when the respondent entered into the agreement of sale with the petitioner's mother, the relationship of landlord and tenant ceased, and his ownership over the property also ceased. The Rent Controller concluded that the respondent failed to prove his ownership and the jural relationship of landlord and tenant, and answered Point No.1 against him. Point No.2 was held not to arise. By order dated 14.07.2011, the Rent Controller dismissed R.C.No.151 of 2007 without costs.

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[1] AIR 1968 SC 1413
[2] AIR 2003 SC 4149

PROCEEDINGS BEFORE THE APPELLATE COURT

11. Aggrieved by the said orders dated 14.07.2011, the respondent filed R.A.No.212 of 2011 under Section 20 of the Act. He contended that, in spite of sufficient evidence of non-payment of rent, the Rent Controller failed to appreciate the evidence and wrongly dismissed the petition. The petitioner contended that there is no jural relationship between the parties, that the question of payment of rent and default therefore does not arise, and that the Rent Controller rightly dismissed the petition. The Appellate Court framed two points, namely, (i) whether the order of the Rent Controller in R.C.No.151 of 2007 is to be set aside, and (ii) to what relief.

12. On Point No.1, the Appellate Court noted that the respondent claimed that the petitioner was inducted as the tenant, while the petitioner claimed that her mother was the tenant. The Appellate Court observed that, on a perusal of Ex.P2, the signatures alleged to be of the petitioner tallied without any deviation with her signatures on the Vakalat and other documents filed in the Court. It further observed that the petitioner failed to explain as to how her signature appears on a document alleged to have been fabricated by the respondent. As to Ex.P3, the Appellate Court noted that the applications filed by the petitioner's mother

for restoration of water and electricity supply were dismissed by the civil court on a *prima facie* view, as nothing was on record to show that she was a tenant or was residing in the premises. The Appellate Court held that this contradicts the case of the petitioner. It was held that Ex.R1 and Ex.R2 do not help the petitioner.

13. The Appellate Court noted the respondent's admission that the suit filed by the petitioner's mother was decreed against him and that he had preferred an appeal. It held that, as the decree is under challenge, it cannot be said that the property is decreed absolutely in favour of the mother. It further held that, even if the decree for specific performance is in favour of the mother, the petitioner, who is shown as a tenant in the Rental Agreement, cannot take advantage of the decree to continue in the property, which originally belonged to the respondent, and cannot claim that she need not pay rent. The Appellate Court did not accept the view of the Rent Controller that the respondent's title ceased, as the decree is under challenge and, even if it is upheld, it is the mother and not the petitioner who would have a right over the property, and till the mother takes possession in her own right, the petitioner's stay would be only as a tenant. The Appellate Court concluded that the petitioner, in spite of being a tenant, denied the

tenancy and failed to pay the rent, and that her denial of the respondent's title showed wilful default. Point No.1 was decided in favour of the respondent.

14. On Point No.2, by judgment dated 13.06.2017, the Appellate Court allowed the appeal, set aside the order of the Rent Controller in R.C.No.151 of 2007, and directed the petitioner to vacate and hand over vacant possession of the petition schedule premises to the respondent within two months from the date of the judgment, failing which the respondent was at liberty to evict her by due process of law. Both parties were directed to bear their own costs.

THE CIVIL REVISION PETITION

15. Aggrieved by the impugned judgment, the petitioner filed this Revision. Pursuant to the interim order dated 11.08.2017 passed in this Revision, the petitioner deposited a sum of Rs.1,00,000/- vide Treasury Challan No.13207 dated 15.09.2017, to the credit of R.C.No.151 of 2007 on the file of the Rent Controller.

SUBMISSIONS ON BEHALF OF THE PETITIONER

16. Learned counsel for the petitioner submitted that the Rent Controller, after considering the oral and documentary evidence and having had the advantage of appreciating the testimony of the witnesses, rightly held that the respondent had failed to prove the

execution of the Rental Agreement by the petitioner, and had also failed to prove the relationship of landlord and tenant between the parties. The findings of the Rent Controller were based on a proper appreciation of the evidence and did not warrant interference. The Appellate Court, however, reversed the said findings without giving cogent or legally sustainable reasons, and on conclusions contrary to the evidence on record and the settled principles governing rent control proceedings.

17. It is further submitted that the Appellate Court committed a serious error of law in comparing the disputed signature with the signatures on the Vakalat and other documents filed before the Court, merely with the naked eye, though the respondent had failed to discharge the initial burden of proving the due execution and genuineness of the Rental Agreement. The burden of proving the execution of a disputed document lies on the party who relies on it and could not have been shifted to the petitioner. The approach of the Appellate Court is contrary to Sections 101 and 102 of the Indian Evidence Act, 1872. The observation that the signature on the Rental Agreement tallied with the petitioner's signature on the Vakalat and other documents is wholly insufficient, particularly as the said documents were not

contemporaneous with the Rental Agreement said to have been executed in 2004.

18. Learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in *Thiruvengadam Pillai v. Navaneethammal and Another*[3], wherein it was held that the burden of proving the execution of a disputed document rests on the party relying on it, and that a Court should be cautious in comparing disputed signatures by itself. He also relied upon the judgment of the Hon'ble Madras High Court in *Kuppathal v. M. Sivaji*[4], on the need for appropriate and contemporaneous material for comparison.

19. The petitioner further submitted that the respondent's contention that this Civil Revision Petition should be dismissed, or kept in abeyance, because of the pendency of the First Appeal in A.S.No.9 of 2023 before the learned I Additional Chief Judge, arising out of the judgment and decree in O.S.No.547 of 2007, is misconceived and untenable. The said suit was for specific performance of an Agreement of Sale of the very same schedule flat, and the decree passed in it continues to operate unless it is stayed or set aside by a competent appellate court.

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[3] (2008) 4 SCC 530
[4] Madras High Court: S.A.No.1065 of 2010, decided on 29.09.2020

20. The mere pendency of an appeal, without an order of stay, does not make the decree inoperative or bar the adjudication of an independent proceeding. In pursuance of the decree in O.S.No.547 of 2007, a Sale Deed bearing Document No.1569 of 2024 has also been executed by the Court in favour of the petitioner's mother in respect of the subject property. Learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in *Atma Ram Properties (P) Ltd. v. Federal Motors (P) Ltd.*[5] in support of the said proposition, and submitted that the judgment of the Hon'ble Delhi High Court in *Naseem Ahmed v. Deepak Singh*[6], relied upon by the respondent, is distinguishable on facts and has no application to the present case. The petitioner therefore prays that the impugned judgment of the Appellate Court be set aside and the order of the Rent Controller dismissing the eviction petition be restored.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

21. *Per contra*, learned counsel for the respondent submitted that the Rent Controller erred in dismissing R.C.No.151 of 2007 on the ground that the burden of proving the genuineness of the Rental Agreement rested entirely on the respondent. The Appellate Court rightly reversed the said finding on a proper appreciation of

[5] (2005) 1 SCC 705
[6] Delhi High Court: RFA (COMM) No.503 of 2025 & CMA Appl. No.52643 of 2025, decided on 09.10.2025

the evidence. On comparing the signature on the disputed Rental Agreement with the admitted signatures of the petitioner on the Vakalat and other documents filed before the Court, the Appellate Court found them to tally. The said finding is based on the material on record and does not warrant interference.

22. It is further submitted that, though the initial burden of proof lies on the party asserting a fact, the onus is not static and shifts according to the evidence on record. By producing the Rental Agreement, the respondent discharged the initial burden, and the onus shifted to the petitioner to substantiate her allegation that the document was forged or fabricated. The petitioner, however, failed to produce any cogent or satisfactory evidence in support of the said allegation. A mere denial, unsupported by evidence, cannot displace the evidentiary value of the document, particularly when the disputed signature was found to tally with the admitted signatures of the petitioner.

23. Learned counsel for the respondent further submitted that the petitioner, having entered into possession under the respondent, is estopped from disputing the title of the person from whom she obtained possession, in terms of Section 116 of the Indian Evidence Act, 1872. He relied upon the judgment of the Hon'ble High Court of Delhi in *Naseem Ahmed's case* (supra),

wherein the principle of tenant estoppel was reiterated. The contention that the Sale Deed registered in favour of the petitioner's mother extinguishes the respondent's title or *locus standi* is also untenable, as the judgment and decree, pursuant to which the said Sale Deed was registered, is under challenge in A.S.No.9 of 2023 and has not attained finality. The respondent therefore submitted that this Civil Revision Petition is liable to be dismissed and the judgment and decree of the Appellate Court deserves to be upheld.

POINTS FOR CONSIDERATION

24. Having regard to the pleadings, the evidence on record, the impugned judgment and the submissions on either side, and confining the enquiry to the scope of Section 22 of the Act, the following points arise for consideration:

> *(i) Whether the Appellate Court was legally justified in reversing the finding of the Rent Controller that the execution of the Rental Agreement (Ex.P2) was not proved, by comparing the disputed signature with the admitted signatures of the petitioner with the naked eye, without any other evidence?*
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> *(ii) Whether the finding of the Appellate Court that the petitioner is the tenant of the respondent is supported by legal evidence, having regard to the*

denial of the tenancy by the petitioner, her case that her mother is the tenant, the respondent's admitted agreement of sale with the petitioner's mother and the decree in O.S.No.547 of 2007?

(iii) Whether the finding of the Appellate Court that the petitioner committed wilful default in payment of rent under Section 10(2)(i) of the Act is sustainable in law?

(iv) Whether the impugned judgment calls for interference by this Court under Section 22 of the Act, and, if so, to what relief the parties are entitled?

ANALYSIS AND FINDINGS

25. Before examining the points, the scope of this Revision is to be noted. Section 22 of the Act enables the High Court to call for and examine the records of the Appellate Authority, to satisfy itself as to the legality, regularity or propriety of its order. The power is supervisory. It is not an appellate power, though it is wider than the power of revision under Section 115 of the Code of Civil Procedure, 1908. This Court therefore does not re-weigh the evidence merely because another view is possible. But where the Appellate Authority reverses a finding of fact by a wrong approach in law, misplaces the burden of proof, or gives no reasons for its conclusion, the order suffers from illegality or impropriety, and this Court is bound to interfere. The Hon'ble Supreme Court in

Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh[7] considered the scope of the revisional jurisdiction of the High Court under the Rent Control Acts and held as follows:

> *"We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the First Appellate Court/First Appellate Authority because on re-appreciation of the evidence, its view is different from the Court/Authority below. The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to re-appreciate or re-assess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity."*

26. The eviction petition was filed only on the ground of wilful default in payment of rent under Section 10(2)(i) of the Act. The petitioner denies the tenancy itself and says that her mother is the tenant. The first question is therefore whether the respondent

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[7] (2014) 9 SCC 78

proved that the petitioner is his tenant. The question of default in payment of rent arises only after the tenancy is proved. The Rent Controller held that the tenancy was not proved, and the Appellate Court held otherwise. The points are examined in this background.

Point (i): Reversal of the finding on the execution of Ex.P2

27. The respondent relies on the Rental Agreement (Ex.P2) to show the tenancy of the petitioner. The petitioner has denied its execution from the beginning and alleged that it is fabricated. The burden of proving the due execution of a disputed document lies on the party relying on it. In terms of Sections 101 and 102 of the Indian Evidence Act, 1872, the burden lies on the party who would fail if no evidence were given on either side. The burden is not discharged merely by producing the document. The execution must be proved by cogent and admissible evidence, namely, the evidence of an attesting witness, an expert opinion under Section 45 of the said Act, or a proper comparison of signatures under Section 73 of the said Act.

28. The respondent contends that, by producing Ex.P2, he discharged the initial burden and the onus shifted to the petitioner to prove forgery. The said contention cannot be accepted. The onus shifts only after the party on whom the initial burden lies proves the facts on which his claim rests. Where the very execution of a

document is denied, the party relying on it must first prove its execution. The petitioner was not bound to prove forgery or fabrication until the respondent proved the execution.

29. It is also noted that Ex.P2 was marked as per the direction of this Court in C.R.P.No.3890 of 2010 dated 06.12.2010, for the limited purpose of showing the nature of possession of the person in possession of the property, and not for proving the terms and conditions of the Rental Agreement. The marking of the document under the said direction does not mean that its execution stands proved. The proof of execution remained to be done by the respondent.

30. On the evidence, the respondent examined only himself as PW1. Ex.P2 is attested by three witnesses. One of them, P. Dayanand, was examined as PW2, but his evidence was eschewed on 25.08.2010. The other two attesting witnesses were not examined. Though the petitioner denied the execution, the respondent did not send the document to a handwriting expert, and the persons of the locality who could speak about the alleged tenancy were also not examined. Apart from the interested testimony of the respondent himself, there was nothing to prove the execution of Ex.P2. The Rent Controller was therefore right in holding that the execution of the Rental Agreement was not proved.

31. The Appellate Court reversed the said finding. The only reason is that, on its own perusal of Ex.P2, the signatures alleged to be of the petitioner tallied without any deviation with her signatures on the Vakalat and other documents filed in the Court. The Appellate Court did not refer to the eschewing of the evidence of the attesting witness, to the non-examination of the other attestors, or to the absence of expert evidence, which were the reasons given by the Rent Controller. It also did not record why the said reasons were wrong. Section 73 of the Evidence Act permits a Court to compare a disputed signature with an admitted signature, but a comparison made by the Court itself, without the help of an expert, has always been considered hazardous. The Hon'ble Supreme Court in *Thiruvengadam Pillai's case* (supra) held as follows:

> *"16. While there is no doubt that court can compare the disputed handwriting/signature/finger impression with the admitted handwriting/ signature/finger impression, such comparison by court without the assistance of any expert, has always been considered to be hazardous and risky. When it is said that there is no bar to a court to compare the disputed finger impression with the admitted finger impression, it goes without saying that it can record an opinion or finding on such comparison, only after an analysis of the characteristics of the admitted finger impression and after verifying whether the same characteristics are found in the disputed finger impression. The comparison of the two thumb impressions cannot be casual or by a mere glance. Further, a finding in the judgment that there appeared to be no marked differences between the admitted thumb impression and disputed thumb impression, without anything more, cannot be accepted as a valid finding that the disputed signature is of the person who has put the admitted thumb impression. Where the Court finds that the disputed finger impression and admitted thumb*

> *impression are clear and where the court is in a position to identify the characteristics of finger prints, the court may record a finding on comparison, even in the absence of an expert's opinion. But where the disputed thumb impression is smudgy, vague or very light, the court should not hazard a guess by a casual perusal."*

32. The Hon'ble Madras High Court in *Kuppathal's case* (supra), on which the petitioner relies for the need for appropriate and contemporaneous material for comparison, held as follows:

> *"12. Therefore, there is no bar for comparing the signature under Section 73 of the Indian Evidence Act, at the same time, the comparison must be with contemporaneous document and not with document of different period or age. In this case, the comparison is made with the document executed in the year 2003 with that of the disputed document of the year 2000. As pointed by the Lower Appellate Court, the trial Court ought to have got the opinion of the expert rather than taking up the task by himself. Hence, the Appellant herein who failed to send the disputed signature with any admitted contemporaneous document for comparison by expert for his opinion had to suffer the consequence. Hence, the Second Appeal is dismissed."*

33. In the present case, the Appellate Court did not make any analysis of the characteristics of the signatures. It only recorded that the signatures tallied without deviation, which, as held in *Thiruvengadam Pillai's case* (supra), cannot be accepted as a valid finding without anything more. The Rental Agreement is dated 27.10.2004, whereas the Vakalat and the other documents used for comparison were filed in the proceedings which began in 2007. A person's signature may change with the passage of time, and the said documents are not safe material for comparison. A comparison with the naked eye, in the absence of any other

evidence of execution, is hazardous and cannot support a finding that Ex.P2 was executed by the petitioner.

34. The Appellate Court also reasoned that, even if the contents of Ex.P2 were fabricated, there was no answer from the petitioner as to how her signature appears on it. The said reasoning is not correct in law. The petitioner denied her signature on Ex.P2. The genuineness of the signature was the very fact to be proved by the respondent. By holding that the petitioner failed to explain, the Appellate Court placed on her the burden of disproving a signature which the respondent had not proved to be hers.

35. Accordingly, Point (i) is answered holding that the Appellate Court was not justified in reversing the finding of the Rent Controller on the execution of Ex.P2 by a comparison of signatures with the naked eye, and that the said approach is contrary to law.

Point (ii): Tenancy of the petitioner

36. As Ex.P2 is not proved, the next question is whether any other material on record proves that the petitioner was inducted as a tenant by the respondent. The respondent's own case is that he issues rent receipts after receiving the rent, but no rent receipt was produced. The documents marked for the respondent are only the rough sketch (Ex.P1), Ex.P2 and the certified copies of the orders

in the interim applications (Ex.P3). The rough sketch does not show any tenancy, and Ex.P3 is considered below.

37. The Appellate Court relied on Ex.P3, the orders on the interim applications filed by the petitioner's mother in O.S.No.547 of 2007. The said applications were dismissed on a *prima facie* view, as nothing was on record to show that she was a tenant or was residing in the premises at the time. These are interim findings of the civil court, made in a different proceeding on a different question. The Rent Controller rightly noted that no point on the relationship of landlord and tenant was decided in the said orders and that they are not final. Weakness in the case of the petitioner or her mother does not relieve the respondent of the burden of proving his own case. The respondent has to succeed on the strength of his own evidence.

38. The Appellate Court further reasoned that, even if the decree in favour of the petitioner's mother is upheld, the petitioner, being shown as a tenant in the Rental Agreement, cannot take advantage of the decree to stay in the property, and that, till the mother takes possession in her own right, the petitioner's stay would only be as a tenant. The said reasoning assumes that the petitioner is the tenant of the respondent, which was the very question to be

decided. Without proof of Ex.P2 or of any other material showing the tenancy, the said assumption has no basis.

39. The respondent relies on tenant estoppel under Section 116 of the Evidence Act. The Hon'ble Delhi High Court in *Naseem Ahmed's case* (supra), relied on by the respondent, reiterated the said principle and held at paragraph Nos.48, 49 and 52 as follows:

> *"48. In the present case, the Appellant/Defendant has attempted to resist eviction by disputing the Respondent/Plaintiff's ownership. The Appellant/Defendant's contention that the Respondent/Plaintiff's ownership is under a cloud, due to a disputed or allegedly forged Will, is legally untenable. It is a settled principle that a tenant, while continuing in possession, cannot challenge the title of the landlord.*
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> *49. The Commercial Court rightly concluded that the landlord-tenant relationship stands established and that the Appellant/Defendant's plea challenging ownership based on the alleged forged Will is legally not sustainable. In this regard, the impugned judgment records as under:*
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> > *"12. The defendant has admitted that he was inducted as a tenant by the mother of the plaintiff in respect of the suit shop for commercial purposes but denied the plaintiff as owner/landlord of the suit shop while taking a plea that the Will of Smt. Gayatri Devi is forged and fabricated and that the mother of plaintiff had also other legal heirs. The defendant being a tenant cannot challenge the validity of the Will executed by the mother of plaintiff. It is a settled law that a tenant cannot challenge the title of the landlord." Reliance is placed upon Atyam Veerraju v. Pechetti Venkanna, AIR 1966 SC 629 : (1966) 1 SCR 831, wherein the Hon'ble Supreme Court quoted with approval the judgment of the Privy Council in Bilas Kunwar v. Desraj Ranjit Singh, observing that:*
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> > *"A tenant who has been let into possession cannot deny his landlord's title, however defective it may be, so long as he has not openly restored possession by surrender to his landlord." …"*

> *52. Additionally, Section 116 of the Indian Evidence Act, 1872 (now Section 122 of the Bharatiya Sakshya Adhiniyam, 2023) embodies the principle of Tenant Estoppel. A tenant, once inducted into possession, is precluded from denying the landlord's title during the continuance of tenancy. Even where allegations of forgery are raised, the absence of credible evidence or challenge from other legal heirs negates the existence of a triable issue. This principle rests on both statutory authority and equitable considerations to ensure that tenants do not misuse tenancy to prolong occupation and frustrate lawful eviction."*

40. The said decision is distinguishable on facts. The principle of tenant estoppel under Section 116 presupposes a relationship of landlord and tenant between the parties, either admitted or established by evidence. It prevents a tenant, during the continuance of the tenancy, from denying the title of the landlord at the commencement of the tenancy. It cannot be used as a substitute for proof of the tenancy on which the estoppel is founded. Where the alleged tenant disputes the very existence of the tenancy, the party asserting the tenancy must first establish the foundational facts. In the present case, the petitioner has denied from the beginning that she was inducted by the respondent as his tenant, and has asserted that her mother is the tenant. This is not a case where the petitioner admits the tenancy and then questions the title of the respondent. The agreement of sale and the decree in O.S.No.547 of 2007 relied on by the petitioner are events which are put forward to show that she is not the respondent's tenant, and not to deny his title at the

commencement of a tenancy. Section 116 therefore cannot relieve the respondent of his primary burden of proving the tenancy.

41. The respondent admitted in cross-examination that he entered into an agreement of sale with Smt. Venkatamma in respect of the petition schedule property, that she filed a suit for specific performance on his failure to execute the sale deed, and that the suit was decreed. The Appellate Court noted the said admission, but held that the decree is not final as the respondent has preferred an appeal. The respondent also contends that this Revision should be dismissed, or kept in abeyance, as A.S.No.9 of 2023 is pending. The Hon'ble Supreme Court in *Atma Ram Properties' case* (supra) held as follows:

> *"8. It is well settled that mere preferring of an appeal does not operate as stay on the decree or order appealed against nor on the proceedings in the court below. A prayer for the grant of stay of proceedings or on the execution of decree or order appealed against has to be specifically made to the appellate court and the appellate court has discretion to grant an order of stay or to refuse the same. The only guiding factor, indicated in Rule 5 aforesaid, is the existence of sufficient cause in favour of the appellant on the availability of which the appellate court would be inclined to pass an order of stay. Experience shows that the principal consideration which prevails with the appellate court is that in spite of the appeal having been entertained for hearing by the appellate court, the appellant may not be deprived of the fruits of his success in the event of the appeal being allowed. This consideration is pitted and weighed against the other paramount consideration: why should a party having succeeded from the court below be deprived of the fruits of the decree or order in his hands merely*

> *because the defeated party has chosen to invoke the jurisdiction of a superior forum. Still the question which the court dealing with a prayer for the grant of stay asks itself is: why the status quo prevailing on the date of the decree and/or the date of making of the application for stay be not allowed to continue by granting stay, and not the question why the stay should be granted."*

42. The mere pendency of an appeal does not operate as a stay of the decree. No order staying the operation of the decree in O.S.No.547 of 2007 is brought to the notice of this Court, and the decree therefore continues to operate. The Appellate Court is right in observing that the decree has not attained finality, but the said observation does not take away the weight of the respondent's own admissions. The respondent's admitted agreement to sell the very same property to the petitioner's mother, the decree passed against him on the said agreement, and the subsequent execution of the registered Sale Deed bearing Document No.1569 of 2024 in her favour pursuant to the decree, lend considerable support to the petitioner's case that it is her mother, and not she, who was the tenant of the respondent. The respondent has not produced any material to counter the said case.

43. The pendency of A.S.No.9 of 2023 is no ground to dismiss this Revision or to keep it in abeyance. The question in this Revision is whether the respondent proved the tenancy of the petitioner and her wilful default, and the answer does not depend

on the result of the appeal. This Court has not examined the merits of A.S.No.9 of 2023. It is also not necessary to decide whether the relationship of landlord and tenant, if any, came to an end on the respondent entering into the agreement of sale, as held by the Rent Controller. The finding of the Rent Controller that the execution of Ex.P2 was not proved is, by itself, sufficient to support the dismissal of the eviction petition, and no ground is made out to hold the said finding to be wrong.

44. Accordingly, Point (ii) is answered holding that the finding of the Appellate Court that the petitioner is the tenant of the respondent is not supported by legal evidence and rests on assumption, and that the respondent cannot invoke Section 116 of the Evidence Act to fill the gap in his proof.

Point (iii): Wilful default in payment of rent

45. Even if a tenancy is assumed, an order of eviction under Section 10(2)(i) of the Act can be made only if it is proved that rent was due and was not paid. The respondent pleaded a monthly rent of Rs.2,400/-, while the petitioner's case is that her mother pays Rs.600/- towards rent and Rs.300/- towards maintenance. The Appellate Court did not record any finding on the rate of rent, the period of default, the amount due, or the evidence of non-payment. It held only that the petitioner, in spite of being a tenant, denied

the tenancy and failed to pay the rent, and that her denial of the respondent's title showed wilful default. No rent receipt, account or other document of the respondent on the payment or non-payment of rent is on record.

46. Denial of the tenancy or of the title of the landlord is not the same as wilful default in payment of rent. The eviction petition was based only on Section 10(2)(i) of the Act. A person who disputes the tenancy, in a proceeding where the landlord must first prove it, does not commit wilful default by raising the said dispute. An order of eviction can be made only on a ground which is pleaded and proved. The Appellate Court inferred wilful default from the denial of title, which is not the ground pleaded, and without any finding on the rent due. The finding is therefore without evidence and without reasons.

47. Accordingly, Point (iii) is answered holding that the finding of the Appellate Court on wilful default is not sustainable in law.

Point (iv): Interference under Section 22 and relief

48. In the light of the findings on Points (i) to (iii), the Appellate Court reversed the reasoned finding of the Rent Controller on the basis of a comparison of signatures with the naked eye, placed the burden on the petitioner to explain her signature, treated the *prima*

facie observations in the interim orders (Ex.P3) as proof against the petitioner's mother, assumed the tenancy of the petitioner while deciding whether the tenancy existed, and found wilful default from the denial of title without any finding on the rent due. Each of the said errors is an error of law or of approach, which goes to the legality and propriety of the impugned judgment. They are not a mere difference of opinion on the appreciation of evidence.

49. The finding of the Rent Controller that the execution of the Rental Agreement was not proved was based on the record, and did not warrant interference in appeal. As the respondent failed to prove Ex.P2 and the tenancy, the eviction petition fails at the threshold, and the question of wilful default does not arise. Accordingly, Point (iv) is answered holding that the impugned judgment calls for interference by this Court under Section 22 of the Act.

CONCLUSIONS

50. For the reasons recorded above, this Court holds that:

(i) the Appellate Court was not justified in reversing the finding of the Rent Controller on the execution of Ex.P2 by a comparison of signatures with the naked eye;

(ii) the finding of the Appellate Court that the petitioner is the tenant of the respondent is not supported by legal evidence,

and the respondent cannot invoke Section 116 of the Evidence Act;

(iii) the finding of wilful default is not sustainable in law; and

(iv) the impugned judgment suffers from errors of law and approach, and calls for interference under Section 22 of the Act.

RESULT

51. In view of the foregoing discussion, the Civil Revision Petition is allowed. The judgment and decree dated 13.06.2017 passed by the learned Chief Judge, City Small Causes Court, Hyderabad, in R.A.No.212 of 2011 is set aside, and the order dated 14.07.2011 passed by the learned Additional Rent Controller-cum-XVIII Junior Civil Judge, Secunderabad, in R.C.No.151 of 2007, dismissing the eviction petition, stands restored.

52. The petitioner is entitled to withdraw the sum of Rs.1,00,000/- (Rupees One Lakh only) deposited pursuant to the interim order dated 11.08.2017 passed in this Civil Revision Petition, vide Treasury Challan No.13207 dated 15.09.2017, to the credit of R.C.No.151 of 2007 on the file of the learned Additional Rent Controller-cum-XVIII Junior Civil Judge, Secunderabad, together with interest accrued thereon, if any, subject to compliance with the applicable procedural formalities.

53. There shall be no order as to costs. Pending miscellaneous applications, if any, shall stand closed.

VAKITI RAMAKRISHNA REDDY, J.

Date: 03.11.2026
AS