

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

FRIDAY, THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE



PRESENT

HONOURABLE DR JUSTICE K MANMADHA RAO

CIVIL REVISION PETITION NOS: 3260, 3261, 3275, 3276, 3277 AND
3278 OF 2024

CIVIL REVISION PETITION NO: 3260 OF 2024

Petition under Article 227 of the Constitution of India, is filed being aggrieved by the Order dt.08-11-2024 in I.A.No.07 of 2024 in O.S.No. 09 of 2024 before the Andhra Pradesh State Waqf Tribunal at Kurnool, Kurnool District.

Between:

1. N.Mallikarjuna Rao, S/o.N.Mala Kondaiah, aged about 50 years, Lessee in Waqf Property bearing Shop No.31-B, Admeasuring about 510 Sq. feet, attached to Jumma Masjid Waqf building, NTS No.262, Block No.7, Canal Road, Vijayawada, Krishna District.
2. Mohammed Asif, S/o.K.Nizamuddin Imam, aged about 50 years, R/o.F-1, No.39-03-38, Labbipet, Vijayawada, Krishna District.

...Petitioners/Respondents/Defendants

AND

Jumma Masjid Waqf, Rep.by its Hereditary Mutawalli Meer Shah Noor, aged major, S/o.Late Mir Shah Zahoor Sahib, Having its registered office in Jumma Masjid, Vijayawada-1, through its Naib Mutawalli-cum-

GPA Holder Mohammed Khaleel-Ur-Rahaman, S/o. Anwarul Haq, aged about 53 years, Occ: Jumma Masjid, Vijayawada -1, Krishna District.

...Respondent/Petitioner/Plaintiff

IA NO: 1 OF 2024

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of all further proceedings in O.S.No. 09 of 2024 before the Andhra Pradesh State Waqf Tribunal at Kurnool, pending disposal of the above Revision Petition.

Counsel for the Petitioners: SRI SAI GANGADHAR CHAMARTY

Counsel for the Respondent: SRI VAJJHALA SATYANARAYANA PRASAD

CIVIL REVISION PETITION NO: 3261 OF 2024

Petition under Article 227 of the Constitution of India, is filed aggrieved by the Order dt.08-11-2024 in I.A.No.11 of 2024 in O.S.No.13 of 2024 before the Andhra Pradesh State Waqf Tribunal at Kurnool, Kurnool District.

Between:

1. N. Mallikarjuna Rao, S/o.N.Mala Kondaiah, aged about 50 years, Lessee in Waqf Property bearing Shop No.40, Admeasuring about 220 Sq. feet, attached to Jumma Masjid Waqf building, NTS No.262, Block No.7, Canal Road, Vijayawada, Krishna District.
2. Mohammed Asif, S/o.K.Nizamuddin Imam, aged about 50 years R/o.F-1, No.39-03-38, Labbipet, Vijayawada, Krishna District.

...Petitioner/Respondent/Plaintiff

AND

Jumma Masjid Waqf, Rep.by its Hereditary Mutawalli Meer Shah Noor, aged major, S/o.Late Mir Shah Zahoor Sahib, Having its registered office in Jumma Masjid, Vijayawada-1, through its Naib Mutawalli-cum-GPA Holder Mohammed Khaleel-Ur-Rahaman, S/o. Anwarul Haq, aged about 53 years, Occ. Jumma Masjid, Vijayawada -1, Krishna District.

...Respondent/Petitioner/Plaintiff

IA NO: 1 OF 2024

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of all further proceedings in O.S.No. 13 of 2024 before the Andhra Pradesh State Waqf Tribunal at Kurnool.

Counsel for the Petitioners: Sri Sai Gangadhar Chamarty

Counsel for the Respondent: Sri Vajjhala Satyanarayana Prasad

CIVIL REVISION PETITION NO: 3275 OF 2024

Petition under Article 227 of the Constitution of India, is filed being aggrieved by the Order dt.08-11-2024 in I.A.No.06 of 2024 in O.S.No. 08 of 2024 before the Andhra Pradesh State Waqf Tribunal at Kurnool, Kurnool District.

Between:

1. N. Mallikarjuna Rao, S/o.N.Mala Kondaiah, aged about 50 years, Lessee in Waqf Property bearing Shop No.40, Admeasuring about 220 Sq. feet, attached to Jumma Masjid Waqf building, NTS No.262, Block No.7, Canal Road, Vijayawada, Krishna District.

2. Mohammed Asif, S/o.K.Nizamuddin Imam, aged about 50 years R/o.F-1, No.39-03-38, Labbipet, Vijayawada, Krishna District.

...Petitioners/Respondents/Defendants

AND

Jumma Masjid Waqf, Rep.by its Hereditary Mutawalli Meer Shah Noor, aged major, S/o.Late Mir Shah Zahoor Sahib, Having its registered office in Jumma Masjid, Vijayawada-1, through its Naib Mutawalli-cum-GPA Holder Mohammed Khaleel-Ur-Rahaman, S/o. Anwarul Haq, aged about 53 years, Occ. Jumma Masjid, Vijayawada -1, Krishna District.

...Respondent/Petitioner/Plaintiff

IA NO: 1 OF 2024

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of all further proceedings in O.S.No. 08 of 2024 before the Andhra Pradesh State Waqf Tribunal at Kurnool, pending disposal of the above Revision Petition.

Counsel for the Petitioners: Sri Sai Gangadhar Chamarty

Counsel for the Respondent: Sri Vajjhala Satyanarayana Prasad

CIVIL REVISION PETITION NO: 3276 OF 2024

Petition under Article 227 of the Constitution of India, is filed being aggrieved by the Order dt-08- 11-2024 in I.A.No.09 of 2024 in O.S.No. 11 of 2024 before the Andhra Pradesh State Waqf Tribunal at Kurnool, Kurnool District.

Between:

1. N. Mallikarjuna Rao, S/o.N.Mala Kondaiah, aged about 50 years, Lessee in Waqf Property bearing Shop No.40, Admeasuring about 220 Sq. feet, attached to Jumma Masjid Waqf building, NTS No.262, Block No.7, Canal Road, Vijayawada, Krishna District.
2. Mohammed Asif, S/o.K.Nizamuddin Imam, aged about 50 years R/o.F-1, No.39-03-38, Labbipet, Vijayawada, Krishna District.

...Petitioners/Respondents/Defendants**AND**

Jumma Masjid Waqf, Rep.by its Hereditary Mutawalli Meer Shah Noor, aged major, S/o.Late Mir Shah Zahoor Sahib, Having its registered office in Jumma Masjid, Vijayawada-1, through its Naib Mutawalli-cum-GPA Holder Mohammed Khaleel-Ur-Rahaman, S/o. Anwarul Haq, aged about 53 years, Occ. Jumma Masjid, Vijayawada -1, Krishna District.

...Respondent/Petitioner/Plaintiff**IA NO: 1 OF 2024**

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of all further proceedings in O.S.No. 11 of 2024 before the Andhra Pradesh State Waqf Tribunal at Kurnool, pending disposal of the above Revision Petition.

Counsel for the Petitioners: Sri Sai Gangadhar Chamarty**Counsel for the Respondent: Sri Vajjhala Satyanarayana Prasad**

CIVIL REVISION PETITION NO: 3277 OF 2024

Petition under Article 227 of the Constitution of India, is filed being aggrieved by the Order dt 08- 11-2024 in I.A.No.08 of 2024 in O.S.No. 10 of 2024 before the Andhra Pradesh State Waqf Tribunal at Kurnool, Kurnool District.

Between:

1. N. Mallikarjuna Rao, S/o.N.Mala Kondaiah, aged about 50 years, Lessee in Waqf Property bearing Shop No.40, Admeasuring about 220 Sq. feet, attached to Jumma Masjid Waqf building, NTS No.262, Block No.7, Canal Road, Vijayawada, Krishna District.
2. Mohammed Asif, S/o.K.Nizamuddin Imam, aged about 50 years R/o.F-1, No.39-03-38, Labbipet, Vijayawada, Krishna District.

...Petitioners/Respondents/Defendants

AND

Jumma Masjid Waqf, Rep.by its Hereditary Mutawalli Meer Shah Noor, aged major, S/o.Late Mir Shah Zahoor Sahib, Having its registered office in Jumma Masjid, Vijayawada-1, through its Naib Mutawalli-cum-GPA Holder Mohammed Khaleel-Ur-Rahaman, S/o. Anwarul Haq, aged about 53 years, Occ. Jumma Masjid, Vijayawada -1, Krishna District.

...Respondent/Petitioner/Plaintiff

IA NO: 1 OF 2024

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of all further proceedings in O.S.No. 10

of 2024 before the Andhra Pradesh State Waqf Tribunal at Kurnool pending disposal of the above Revision Petition.

Counsel for the Petitioners: Sri Sai Gangadhar Chamarty

Counsel for the Respondent: Sri Vajjhala Satyanarayana Prasad

CIVIL REVISION PETITION NO: 3278 OF 2024

Petition under Article 227 of the Constitution of India, is filed aggrieved by the Order dt.08-11-2024 in I.A.No.10 of 2024 in O.S.No. 12 of 2024 before the Andhra Pradesh State Waqf Tribunal at Kurnool, Kurnool District.

Between:

N. Mallikarjuna rao, S/o.N.Mala Kondaiah, aged about 50 years, Lessee in Waqf Property bearing Shop No 39 Admeasuring about 92 Sq. feet, attached to Jumma Masjid Waqf building, NTS No.262, Block No.7, Canal Road, Vijayawada Krishna District.

...Petitioner/Respondent/Defendant

AND

Jumma Masjid Waqf, Rep.by its Hereditary Mutawalli Meer Shah Noor aged major. S/o.Late Mir Shah Zahoor Sahib, Having its registered office in Jumma Masjid Vijayawada-1, through its Naib Mutawalli-cum-GPA Holder Mohammed Khaleel-Ur-Rahaman, S/o. Anwarul Haq aged about 53 years, Occ. Jumma Masjid, Vijayawada -1, Krishna District.

...Respondent/Petitioner/Plaintiff

IA NO: 1 OF 2024

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of all further proceedings in O.S.No. 12 of 2024 before the Andhra Pradesh State Waqf Tribunal at Kurnool, pending disposal of the above Revision Petition.

Counsel for the Petitioner: Sri Sai Gangadhar Chamarty

Counsel for the Respondent: Sri Vajjhala Satyanarayana Prasad

The Court made the following Common Order:

APHC010574742024



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3310]

FRIDAY, THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE K MANMADHA RAO

CIVIL REVISION PETITION NO: 3260, 3261, 3275, 3276, 3277 & 3278/2024

CRP No.3260/2024

Between:

N.mallikarjuna Rao and Others

...PETITIONER(S)

AND

Jumma Masjid Waqf

...RESPONDENT

Counsel for the Petitioner(S):

1.SAI GANGADHAR CHAMARTY

Counsel for the Respondent:

1.VAJJHALA SATYANARAYANA PRASAD

The Court made the following:

COMMON ORDER :

As the issue involved in all the civil revision petitions is one and the same, these matters are taken up together for disposal by this Common Order.

2. The petitioners herein are the defendants and the respondents herein are the plaintiffs in O.S.No.09 of 2024, which was filed by the plaintiffs before the Andhra Pradesh State Waqf Tribunal, Kurnool (for short "the

tribunal") against the defendants for their ejectment from the suit schedule shop and recovery of arrears of rent and mesne profits.

3. Since the facts in all the civil revision petitions are similar and identical, therefore CRP No.3260 of 2024 is taken as lead case, and the facts therein hereinafter will be referred to for convenience.

4. The facts of the case are that the respondent herein is a notified Waqf Institution. The petitioners No.1 & 2 have approached the respondent requesting to lease out petition schedule property located in Canal Road, Vijayawada to run Hotel business. The respondent accepted for the same and leased out the petition schedule shop to the petitioners No.1 & 2. The lease agreement was executed on 25-11-2020 for (11) months commencing from the month of November, 2020 to September, 2021 and monthly rent was fixed @ Rs.14,798/- exclusive of electricity and water charges. After expiry of first (11) months, the petitioners have been continuing in the possession of the petition schedule shop and the rent is on month-to-month basis, terminable by 15 days advanced notice. Right from the beginning, the petitioners have been irregular in paying monthly rents and they became defaults for the period from November, 2020 March, 2020. The petitioners paid only Rs. 13,449/- per month as against the agreed rent @ Rs.14,798/- per month. Thus, the petitioners have to pay balance rent amount of Rs.1,349/- which become Rs.22,933/- for (17) months. The petitioners paid only Rs.12,540/- for the two months i.e. April 2022 to May 2022, thus there is balance of Rs.2,258/- for (2) months i.e. Rs.4,516/-. The petitioners failed to pay monthly rents from June

2022 to November 2023 i.e. (18) months which would become Rs.2,66,364/- (14,798 x 18), thus in total as on November 2023 the petitioners are in due of Rs.2,93,813/-.

5. Despite several demands made by the respondent, the petitioners failed to pay the said due amount. The petition schedule shop is located in the heart of Vijayawada in a commercial hub and the petitioners are running "Hotel Sai Sarovar". In fact, the petition schedule shop fetches much more rent, if it is leased out today. Further, the petitioners have also obtained (5) adjacent shops from the respondent under separate lease deeds and running hotel business. The petitioners are getting copious income and that the petitioners have no authority to continue in possession and enjoyment of the petition schedule shop without paying arrears of rent. It is stated that the 1st petitioner filed OS.No.391 of 2023 against the respondent on the file of the Additional Junior Civil Judge Court, Vijayawada with false allegations. Thereafter, the respondent issued a quit notice dated 27-11-2023 by Registered post demanding the petitioners to vacate the premises from 31-12-2023. Despite receipt of the said notice, the petitioners failed to vacate the premises and even failed to pay the arrears of rent. Instead, the 1st petitioner issued a reply notice with false allegations stating that they paid rent up to 04-12-2023. As on January 2024 the petitioners are liable to pay arrears of Rs.3,23,409/-. Hence, the impugned I.A No.7 of 2024 in O.S No.9 of 2024 has been filed under Order 15-A of CPC r/w Section 151 CPC with a prayer to direct the respondents therein to pay the arrears of rent of Rs.3,23,409/- and

continue to pay monthly rent of Rs.14,798/- directly to the petitioner therein till the date of delivery of possession of the suit schedule property. After considering the material on record and on hearing the submissions of both parties, the Tribunal has allowed the said application and directed the petitioners herein to pay the arrears of rent. Aggrieved by the same, the petitioners herein filed the civil revision petition.

6. The pleadings which are cited by the petitioners in CRP No.3260 of 2024 the same are adopted by the petitioners herein in other civil revision petitions viz., CRP Nos.3261, 3275, 3276, 3277 and 3278 of 2024. The Interlocutory Applications which were impugned in the above civil revision petitions are also allowed with the same lines.

7. Heard Mr. V.S.R. Anjaneyulu, learned Senior counsel representing Mr. V. Satyanarayana Prasad, learned counsel appearing for the petitioners and Mr. Sai Gangadhar Chamarthy, learned counsel appearing for the respondent.

8. On hearing learned Senior counsel argued that the order of the Tribunal is erroneous, unsound and resulted in miscarriage of justice to the Petitioners and is contrary to the provisions under Order 15 (A) of CPC and liable to be set-aside. He submits that the Tribunal ought to have seen that the tenant cannot be directed to pay arrears for which the plaintiff sought a decree in the main suit under Order 15-A of CPC. He further submits that the Tribunal ought to have seen that the amount which was admitted by the tenant

only can be directed to deposit and not the disputed amounts as sought for by the plaintiff. He further submits that the Tribunal ought to have seen that in the light of pleadings in the plaint and written statement regarding arrears till the date of institution of application. Without conducting enquiry, the tenant cannot be directed to pay the arrears as claimed by the plaintiff. He further submits that the Tribunal ought to have seen that the GST is not form and part of rent and GST has to be paid to the concerned to the department not to the landlord. He further submits that the Tribunal without adjudicating the fact that as per the lease deed whether the rent includes GST or not and that the reasoning of the Tribunal is erroneous and unsustainable and its order is wholly vitiated thereby.

9. To support his contentions, learned Senior counsel has placed reliance on a decision reported in (i) **M/s. Tanmai Jewels Pvt. Ltd. And another v. Ch.Sreesaila Kumari and another**¹, wherein the Andhra Pradesh High Court held that :

13. In **K.Zakria Shaik v. K.Saleem Basha**², this Court explained the scope of Order XV-A C.P.C. and its application, if there exist, any dispute as to existence of arrears of rent. It was held: "...The purpose of underlying the provision is to ensure that the owner of the premises leased to the defendant in a suit pays the rents regularly, together with arrears, if any. The word "undisputed" occurring before the word "arrears", assumes significance. If there is a dispute as to the quantum, the Court has to decide the same, duly taking into account, the versions put forward by the parties. In this regard, slightly different approach is needed in respect of a suit in which recovery of arrears is prayed for, as one of the reliefs on the one hand and a suit for eviction simpliciter on the other hand.

If the defendant opposes the claim in the suit, as to arrears, the adjudication thereof must take place after trial. An application under Order 15-A of C.P.C. is not the proper mechanism to recover the suit amount, if seriously disputed by the defendant. Under the garb of seeking relief under that provision, plaintiff in a suit cannot pray for recovery of the entire

¹AIROnline 2013 AP 149

²2011 (4) ALD 757

amount, which incidentally is claimed in the suit itself. In such an event, the suit comes to be virtually decreed to that extent without trial, but through an order under Order 15-A of C.P.C.

If the arrears existed from the date of filing of the suit, a direction can certainly be issued for deposit thereof in an application filed under Rule-15-A of C.P.C. Any direction for deposit of arrears prior to the date of filing of the suit can be issued, only when there is no dispute. If there is divergence of opinion between the parties as to the quantum or liability, the determination thereof has to be relegated to a subsequent stage and a finding has to be given after trial. An exercise contemplated under Order 15-A of CPC is totally inadequate and unsuited for final determination of the arrears of rent for the period of anterior to the date of filing of the suit.

(ii) In another case reported in **K.Zakria Shaik v. K.Saleem Basha**³, wherein the Andhra Pradesh High Court held that:

10. This provision came into force with effect from 2005. The purpose underlying the provision is to ensure that the owner of the premises leased to the defendant in a suit pays the rents regularly, together with arrears, if any.

11. The word "undisputed" occurring before the word "arrears", assumes significance. If there is a dispute as to the quantum, the Court has to decide the same, duly taking into account, the versions put forward by the parties. In this regard, slightly different approach is needed in respect of a suit in which recovery of arrears is prayed for, as one of the reliefs on the one hand and a suit for eviction simpliciter on the other hand. If the defendant opposes the claim in the suit, as to arrears, the adjudication thereof must take place after trial.

12. An application under Order 15-A of C.P.C. is not the proper mechanism to recover the suit amount, if seriously disputed by the defendant. Under the garb of seeking relief under that provision, plaintiff in a suit cannot pray for recovery of the entire amount, which incidentally is claimed in the suit itself.

10. Learned Senior counsel while relying upon the above citations, submits that, the plaintiff in a suit cannot pray for recovery of the entire amount which incidentally claimed in the suit itself. Therefore, prayed to allow the civil revision petitions by setting aside the impugned orders.

11. Per contra, learned counsel appearing for the respondent opposed for allowing petitions and prayed to dismiss the same as the tribunal has rightly concluded and allowed all the interlocutory applications.

³ AIROnline 2011 AP 66

12. Learned counsel for the respondents has also placed reliance on a case reported in **M.B Chander and others v. Balakrishna Rao Charitable Trust, Hyderabad**⁴, wherein the High Court of Judicature, Telangana and Andhra Pradesh at Hyderabad, held that:

Taking advantage of the word undisputed arrears, the learned counsel for the revision petitioners contended that when the quantum of rent is not disputed, the Trial Court is incompetent to decide arrear of admitted rent by undertaking summary enquiry to arrive at the rent due or payable on the date of filing the written statement or continue to deposit and issue direction to deposit arrear of amount due to deposit the rent.

If Rule (1) is read in isolation, there is no ambiguity that the Court can direct the undisputed arrears to be paid, but a co-joint reading of Rules 1 & 2 of Order XV-A indicates that when the defendant pleads in the written statement that no arrear of rent is payable, the Court is competent to pass an order in this regard after affording an opportunity of hearing to both the parties and in case any amount is found due, the defendant shall be under an obligation to deposit the same within the time stipulated by the Court and continue to deposit the amount which becomes payable thereafter, as provided under Rule 1. Thus, it means that Rule 2 of Order XV-A of A.P. Amendment Act, enabled the Court to decide the amount due when the defendant pleaded no arrears, after affording opportunity

If both Rule 1 & 2 are read in isolation, Rule 1 is applicable only to a situation where rent arrear is admitted, Rule 2 is applicable when defendant pleads no arrears or disputes quantum of rent, and mandates summary enquiry. In any view, summary enquiry is required to be made to determine the rent arrears to issue direction to deposit arrears of rent and continue to deposit rent.

If no summary enquiry is undertaken to decide arrears of rent payable by tenant, it would frustrate the intention of legislation, and it is boon to unscrupulous tenants to avoid payment of rent, continuing in possession of demised premises for decades together. It is not the intention of any legislation to confer such benefit on any unscrupulous tenants.

As discussed in earlier paragraphs, while interpreting Order XV-A Rule 2, basing on the principle of *ejusdem generis*, a summary enquiry under Rule 2 of Order XV-A is mandatory and without making such an enquiry, if any order is passed, it is illegal and liable to be set-aside in view of the judgment in *Yeshodas* case (referred supra). For instance, the unscrupulous tenants in occupation of the building may set up a frivolous or vexatious pleas, sometimes totally denying the rent payable for the premises and sometimes low rent for a palacious building, admitting liability to pay meagre amount of rent which leads to depriving the genuine landlord to enjoy the fruits of tenancy and due to continuation of litigation for decades together to avoid such undue hardship to the landlord, Order XV-A is incorporated by A.P. Amendment to C.P.C., which is similar to Section 11 of A.P. Rent Control Act.

13. There is no dispute regarding relationship of tenant and landlord between the parties to the suit and filing of a suit for eviction on various grounds, including default in payment of rent by the first revision petitioner/first

⁴ 2017(3) ALD 68

respondent. When suit is filed for ejectment or eviction with or without recovery of arrears of rent, the tenant, if found the rent admitted to be due, can be directed to deposit admitted arrears of rent and continue to deposit monthly rent, as per Order 15-A of C.P.C. i.e., A.P. Amendment Act.

14. To invoke Order 15-A of C.P.C., the following conditions have to be fulfilled:

- 1) a suit must be for recovery of possession of property i.e. for eviction;
- 2) There must be a prayer for recovery of rent or compensation for use and occupation;
- 3) The defendant/petitioner must plead no arrears or low arrears to be paid to landlord/plaintiff, which needs examination by Court to decide what is admitted arrears of rent.

15. Therefore, the above the requirements have to be satisfied to claim relief under Order 15-A of C.P.C., as amended by the Andhra Pradesh High Court. The real test to be applied before exercising power under Order 15-A for striking off defence is to find out whether the default or deposit of amount was bonafide or not. If, it was bonafide, the Court cannot exercise power to strike off the defence. The power under Order XV-A is purely discretionary.

16. This court further observed that, while interpreting the provision like Order 15-A, the Court should interpret those provisions to achieve the real object of the legislature in incorporating Order 15-A of C.P.C. Order 15-A consists of two parts. The first part casts an obligation upon a tenant to make payment of entire amount of arrears of rent admitted by him to be due and

should be deposited along with a written statement. If, failed to comply such obligation, the Court may strike off, direct after affording reasonable opportunity to tenant and on setting aside that the tenant failed to deposit, admitted arrear of rent, and shall pass an order. The second part i.e. Rule 2 deals with the cases where the defendant does not admit any amount to be due, nonetheless, it casts an obligation upon him to pay throughout continuation of the suit, such monthly rent which is due as directed by the Court. The word may in Order 15-A (2) is significant. It may vest power on the Court to strike off without application or compelling the Court to do so in other case of possession.

17. This Court while exercising power under Article 227 can exercise its discretion to interfere in the following circumstances:

- a) When the inferior court assumes jurisdiction erroneously in excess of power.
- b) When refused to exercise jurisdiction.
- c) When found an error of law apparent on the face of record.
- d) Violated principles of natural justice.
- e) Arbitrary or capricious exercise of authority or discretion.
- f) Arriving at a finding which is perverse or based on no material.
- g) A patent or flagrant error in procedure
- h) Order resulting in manifest injustice.
- i) Error both on facts and law or even otherwise.

18. But, in the present facts of the case, there is absolutely no error warranting interference of the Court to interfere with the order by exercising power of supervision over the Subordinate Courts in the following situations:

19. Similarly, the Court cannot exercise its discretion under Article 227 of the Constitution of India:

- a) Where the only question involved is one of interpretation of deed;
- b) On question of admission or rejection of particular piece of evidence, even though the question may be of everyday recurrence;
- c) To correct erroneous exercise of jurisdiction, as a Court of revision;
- d) To set aside an intra vires finding of the fact, except where it is founded on no material or is perverse;
- e) to correct an error of law, not being an error apparent on the face of the record;
- f) to interfere with the intravires exercise of discretionary power, unless it is violative of principles of natural justice;
- g) The Court shall not interfere on a merely technical ground which would not advance substantial justice.

20. In a case of *Waryam Singh & another v. Amarnath & another*⁵, wherein the Apex Court held in para-9 as follows:

Even if it be possible to take a view different from the one which has appealed to the labour appellate Tribunal on the interpretation of sale deed, we do not think in exercising jurisdiction under Article 227 of the Constitution we have any power to interfere with the conclusions of that Tribunal. Thus, in view of the limited powers of this Court under Article 227 and all the more when the Trial Court rightly exercised its power, under Order XV-A Rule 2, this Court cannot interfere with the findings recorded by the Trial Court in the order under challenge. Hence, I find no error in the order passed by the II Additional Chief Judge, City Civil Courts, Hyderabad in I.A.No. 2590 of 2014 in O.S.No. 1005 of 2014.

21. On perusing the material on record and on considering the submissions of both the learned counsels, this Court is of the view that, the Court is competent to make summary enquiry under Order 15-A Rule 2 when the tenant pleaded no errors or disputed quantum of rent, decided the error of rent payable and rent payable, issue directions, postponing the same to final decision by the Court and direct to decide the arrears, as required under Rule

⁵ AIR 1954 SUPREME COURT 215

2 and continue to deposit at the same rate during pendency of the suit or proceedings before competent Court. Otherwise, it amounts to encouraging unscrupulous tenants who intent to avoid payment of rent for the premises in their occupation for decades together which would certainly result in substantial loss to the landlord during pendency of the eviction suit or proceedings based on account of abortive pleas raised by the unscrupulous tenants. Therefore,

22. In view of the foregoing discussion, this Court found no illegality or perversity in the orders passed by the Tribunal warrants no interference. Finding no merit in all the instant Civil Revision Petitions and as devoid of merits, the same are liable to be dismissed.

23. Accordingly, all the Civil Revision Petitions are dismissed. No costs. As a sequel, all the pending miscellaneous applications shall stand closed.

//TRUE COPY//

Sd/- B CHITTI JOSEPH
ASSISTANT REGISTRAR

SECTION OFFICER

One Fair Copy to the Hon'ble DR JUSTICE K MANMADHA RAO
(For his Lordships Kind Perusal)

To,

1. The Andhra Pradesh State Waqf Tribunal at Kurnool. Kurnool District
2. One CC to Sri Sai Gangadhar Chamarty Advocate [OPUC]
3. One CC to Sri Vajjhala Satyanarayana Prasad Advocate [OPUC]
4. Nine(09) L.R. Copies.
5. The Under Secretary, Union of India, Ministry of Law, Justice and Company Affairs, New Delhi.
6. The Secretary, Andhra Pradesh High Court Advocates' Association Library, High Court Buildings, Amaravathi.
7. Three CD Copies

SAM

vna

HIGH COURT

DATED:28/02/2025

COMMON ORDER

**CRP.Nos.3260, 3261, 3275, 3276, 3277 and 3278 of
2024**



**DISMISSING THESE CIVIL REVISION PETITIONS
WITHOUT COSTS**