

KABC020337342023



**IN THE COURT OF THE CHIEF JUDGE
COURT OF SMALL CAUSES, BENGALURU**

Dated this the 7th Day of January , 2025

PRESENT : **SRI J.N.SUBRAMANYA**, B.A., L.L.M.,
MEMBER, PRL. M.A.C.T.

H.R.C.No.27/2023

Petitioner: Sri. B.R. Narasimha Swamy,
S/o Late Sri B. Ramakrishna Shastry,
Aged about 70 years,
Residing at No.2/2,
H.B. Samaja Cross road,
DVG road, Behind Sri Shivashankara
Devalaya, Basavanagudi,
Bengaluru- 560004.

(By Sri. S.Subramanya, Advocate)

-Vs-

Respondents: 1. Sri R. Mahesh,
S/o Ramakrishna K.,
Manjunatha Old Paper mart,
No.3, DVG road, HB Samaja cross
road, Basavanagudi,
Bengaluru- 560004.

Also at:

No.420, 14th cross, K.R. Road,
BSK 2nd stage, Shastri Nagara,
Bengaluru – 560028.

(By Sri V.B. Shivakumar, Advocate)

2. Sri R. Satish,
S/o Ramakrishna K.,
No.420, 14th cross, K.R. Road,

BSK 2nd stage, Shastri Nagara,
Bengaluru – 560028.

(Absent)

**ORDER ON I.A.No.I to III UNDER SECTION 43 OF
KARNATAKA RENT ACT**

Provision under which I.A.No.I to III filed	Section 43 of Karnataka Rent Act,1999
Relief sought for	To dismiss the eviction petition as there does not exist any jural relationship of landlord and tenant.
The date on which applications at IA No.I toIII are filed by the respondent No.1	02.03.2024, 19.09.2024
Number of the application	IA. No.I
The Date on which Objections to the IA.No.I to III filed by the petitioner	16.04.2024, 21.10.2024
Date on which Orders were passed on I.A.No.I to III	07.01.2025

On 02.03.2024 respondent No.1 get filed IA No.1 under Sec.16 of the Small Causes Act r/w Sec.43 of Karnataka Rent Act seeking to dismiss the eviction petition on the following grounds:

(1) there does no exist any jural relationship of landlord and tenant.

(2) The Respondent is not a tenant of the portion of the

property in the occupation in reference to the petitioner's title'

2. On 16.04.2024 petitioner filed objection to IA No.1.

3. On 19.09.2024 respondent No.1 get filed IA No.2 under Sec.43 of Karnataka Rent Act seeking to stop all further proceedings with a direction to petitioner to establish the existence of jural relationship of landlord and tenant by approaching appropriate court.

4. On 19.09.2024 respondent No.1 get filed IA No.3 under Order 11 Rule 14 r/w Sec.151 of CPC seeking direction to the petitioner to produce following documents:

a) Lease Agreement in respect of the property or any document of Lease.

b) Any rent receipts.

c) Any document of title in respect of the property

d) Possession of respondent in respect of the property, creating genuineness of jural relationship between the landlord and tenant.

5. On 21.10.2024 petitioner filed common objection to IA No.2 and 3.

6. I heard the arguments submitted on behalf of both

contesting parties and perused the records.

7. On the basis of the material on record, the following points would arise for my consideration :

1. Whether the respondent No.1 made out sufficient grounds to allow IA No.I to III?

2. What Order?

8. On the basis of the material on record, my findings on the above points are as under:

Point No.1: In the **'Negative'**,

Point No.2: As per final order for the following:

REASONS

9. In the lengthy argument learned Advocate appearing for petitioner by analysing the material available in file, requested to dismiss the IA No.1 to 3 filed by respondent No.1 by relying on the judgment of Hon'ble Apex Court reported in (1997) 7 Supreme Court Cases 567 – D.N. Venkatarayappa and another V/s State of Karnataka and others.

10. In the lengthy argument, learned Advocate appearing for respondent No.1 by analyzing the material

available on file, requested to allow I.A.No.I to III.

11. In the light of the judgment cited above, with reference to the submission made on behalf of both the parties, I have appreciated the material available in the file.

12. Submission made on behalf of both the parties, documents available in the file reveals the following points:

a) On 30.10.2023 petitioner filed petition under Sec.27(2)(o) and (r) of the Karnataka Rent Act seeking to pass judgment and decree directing respondents to quit, vacate and handover schedule property to the petitioner, order for an enquiry into mesne profits as per Order XX Rule 12 of CPC -1908 and award the same to the petitioner.

b) In the schedule petitioner described the property in the following terms:

All that piece and parcel of the property bearing No.3, Basavanagudi, Bengaluru- 560 004, measuring East by 9.5 feet, West by 3.7 feet and North by 9.9 feet, South by 12.7 feet, in all measuring 68 feet, together with all easement and other rights appurtenance thereto and thereupon and bounded on the:

East by: DVG Road.

West by: Remaining portion of property belonging to Sri. B.R. Narasimha Swamy.

North by: Remaining portion of property belonging to Sri. B.R. Narasimha Swamy.

South by: Conservancy Road .

c) In the lengthy petition petitioner asserted that on 14.03.1908 Narasimha Bhatta purchased piece and parcel of the Sites bearing No.286 and 287 measuring East to West on Northern side 131.8 sq.ft. and East to West on Southern side 173.2 sq.ft., North to South towards Eastern side 96.4 Sq.ft and North to South towards western side 1.8 Sq.ft, totally measuring 7487.75 sq.ft. Through endorsement dated 11.08.1913 Narasimha Bhatta acquired conservancy by Bangalore City Municipal Council and after the acquisition the measurement of the property bearing No.286 and 287 was reduced to East to West on Northern side 130 sq.ft. and East to West on Southern side 160 sq.ft., North to South towards Eastern side 97 sq.ft. and North to South towards Western side 2 sq.ft., totally measuring 7177.5 sq.ft.

d) In the lengthy petition petitioner stated about filing and disposal of O.S. No.495/1997 and RFA No.896/2008

with respect to the property owned by the family of Narasimha Bhatta and his legal representatives.

e) In the lengthy petition, petitioner asserted that in O.S. No.495/1997 Ramakrishna the father of the respondent No.1 has been impleaded as defendant No.4 and his status is noted as tenant of the part of the property which are the subject matter of O.S. No.495/1997.

f) In the lengthy petition, petitioner asserted as the notice dated 04.07.2022 issued to the respondents insisting to pay balance of arrears of rent or evict premises i.e., suit schedule property within 15 days of service of notice.

13. In the affidavit filed in support of IA No.I to III and in the objection filed to main petition the respondent No.1 asserted the following important points:

1) Petition filed the petitioner seeking direction to the respondents to vacate the premises and also to adjudicate mesne profits is not within the ambit of provisions of the Karnataka Rent Act.

2) what is stated by the petitioner in the course of the petition s that Sites No.286 and 287 measuring East to

West on Northern side 131.8 sq.ft and East to West on Southern side 173.2 sq.ft. , North to South towards Eastern side 96.4 sq. ft and North to South towards Western side 1.8 sq.ft. measuring 7487.75 sq.ft. was purchased by Narasimha Bhatta. However, the property in the occupation of the respondent No.1 does not fall within the area/extent boundary, therefore petition filed cannot seek adjudication as if the portion in the occupation of the respondent No.1 falls within the extent of the property as sought by the petitioner.

3) 7177 Sq.ft. is in reference to the document No.2 after acquisition and measurement of the property does not fall within the area extent of property which is in possession of the respondent No.1.

4) Respondent No.1 is not concern with respect to the preliminary decree passed in O.S. No.495/1997 and RFA No.896/2008 there does not exists the jural relationship of landlord and tenant. The petitioner is contemplating that in an alleged proceedings (O.S. No.495/1997) K.Ramakrishna and on the basis of memo filed it is contended that the amount sought to be deposited that

statement is absolutely unjustifiably taken into consideration and those documents on a letter and spirit if agreed to be accepted such a statement is false statement.

5) O.S. No. 497/1997 came to be filed by one of the members of the Joint family B.R. Srikanta Swamy and K.Ramakrishna- father of the respondent No.1 was impleaded as party in the suit. However, respondent No.1 is not aware such proceedings. K. Ramakrishna father of the respondent No.1 depositing the rent in the court is false. Money deposited by Ramakrishna is not fully correct. The question of paying rent are non-meaningful statements that are made at the hands of this court. That apart, any amount that is deposited in protest is only to respect the orders of the court nonetheless it is protest that there absolutely no jural relationship of landlord and tenant. The petitioner has no right to invoke the statutory provisions of Karnataka Rent Act seeking direction to evict the respondent from the schedule property. The jural relationship between himself and the petitioner is to be decided by the appropriate court of law as provided under Section 43 of the Karnataka Rent Act.

14. In this case petitioner has produced certified copy of the registered sale deed dated 14.03.1908, copy of the endorsement dated 11.08.1913 alleged to have issued by Bangalore City Municipal Council, Copy of registered partition deed dated 30.12.2015, certified copy of the Judgment and decree dated 16.04.2008 passed in O.S. No.495/1997, Certified copy of the order dated 06.10.2016 passed in RFA No.896/200, certified copy of the memo dated 13.08.2013 filed in FDP No.63/2013, copies of rent paid receipts filed in O.S. No.495/1997, office copy of the legal notice issued on 04.07.2022 and original reply dated 14.07.2022.

15. In this case respondent No.1 has not produced any documents in support of the allegations or grounds pleaded or asserted in the objection/affidavits enclosed with IA No.I to III.

16. The documents available in the file as on today reveals that in O.S. No.495/1997 Ramakrishna father of the respondent No.1 has been arrayed as defendant No.4 as a tenant of part of the subject matter of the suit. The documents and materials available as on today reveals that

in O.S. No.495/1997 the present respondent No.1 himself (Mahesh) reported death of his father and filed several memo reporting the deposit of the money in the court. As referred above in the objection as well as in the affidavits enclosed with the IA No.1 to 3 respondent No.1- Mahesh indirectly admitted filing of the memo and deposit of the money in O.S. No.495/1997. Hence I have inferred that at this initial stage it is neither permissible, nor possible or feasible to form any opinion about the effect and consequence of the documents available in the file, and pleadings of both the parties. Hence, I came to the conclusion that the respondent No.1 – Mahesh applicant of IA No.1 to 3 failed to make sufficient grounds to grant relief as sought in IA No.I to III. Hence, I answer above point in the Negative and pass the following:

ORDER

I.A.No.I to III filed by the respondent No.1 under Section 16 of the Small Causes Act r/w Sec. 43 of Karnataka Rent Act, 1999 and under Order XI Rule 14 r/w Sec.151 of CPC are hereby dismissed.

There is no order as to cost.

Call on 25.02.2025 for evidence of the petitioner if interested.

(Dictated to the Stenographer, transcribed by her, corrected, signed and then pronounced by me in the Open Court on this the 7th day of January, 2025)

(J.N.SUBRAMANYA)
Chief Judge,
Court of Small Causes
Bangalore.