

KABC020219382020



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

Dated this the 3rd Day of April , 2025

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

H.R.C.No.30/2020

Petitioner: Sri Vyshak G.Sappe,
Son of Sri S.P.Gavi Rangappa,
Aged about 19 years,
R/at No.325/19, 24th cross,
Jayanagar 6th block,
Bengaluru- 560 070.
Represented by
Smt.S.G.Hemalatha,
GPA Holder.

(By Sri. Pattabi Raman , Advocate)

-Vs-

Respondent: Smt. T.S.Sashikala,
W/o. Sri T.V.Bhaskar,
Aged about 53 years,
No.83, Ground Floor,
G.P.S. Complex, Jumma Masjid road,
Bengaluru- 560 002.

(By Sri K.Suresh, Advocate)

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

Provision under which I.A.No.V is filed	Section 43 of Karnataka Rent Act, 1999
Relief sought for	To direct the parties to approach competent Court of Civil Jurisdiction for declaration of their rights.
The date on which application at IA No.V is filed by the respondent No.1	07.10.2023
Number of the application	IA. No.V
The Date on which Objections to the IA.No.V filed by the respondent	16.03.2024
Date on which Orders were passed on I.A.No.V	23.11.2023

On 07.10.2023 respondent get filed I.A.NO.V under Section 43 of Karnataka Rent Act, 1999 seeking to stop all further proceedings and direct the parties to approach a competent Court of Civil Jurisdiction for declaration of their rights.

2. On 23.11.2023 petitioner get filed objection to I.A.No.V .

3. On 02.03.2024 learned Advocate for petitioner filed notes of arguments on I.A.No.V.

4. I heard the arguments submitted on behalf of both parties on I.A.No.V and perused the records.

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

1. Whether the respondent made out sufficient ground to allow I.A.No.V?

2. What order?

6. On the basis of the material on record, my findings on the above points are :

Point No.1 ... In the Negative

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

REASONS

7. **Point No.1:** In the affidavit filed in support of I.A.No.V respondent asserted that there is no relationship of landlord and tenant with respect to schedule premises between herself and the petitioner . Schedule property do not belong to petitioner, there is no cause of action to the petition. As there are no relationship of landlord and tenant between herself and the petitioner, all further proceedings of the case is to be stopped and a direction is to be made to the parties to

approach the competent Court of civil jurisdiction for declaration of their rights.

8. The respondent asserted that by mistake filed application under Order VII Rule read with Section 151 of C.P.C. seeking for rejection of the plaint , however, while passing the order on that application, this authority observed that there is a special provision for seeking prayer of rejection of the petition on the ground of denial of jural relationship.

9. The respondent asserted that if the application is allowed, no prejudice will be caused to the petitioner , on the other hand, if the application is not allowed she will be put to irreparable loss and injury and multiplicity of proceedings will arise.

10. In the lengthy objection dated 23.11.2023 in several words petitioner denied the allegation made by the respondent in the affidavit dated 07.10.2023 filed in support of I.A.No.V.

11. The petitioner further asserted that when case is posted for the evidence of the respondent, instead of leading evidence with an intention to drag on the case filed

application after application with the knowledge that the petitioner is the absolute owner of the schedule property acquired through family partition. The petitioner asserted that his father was the previous owner and landlord of the petition schedule premises who duly attorned the same to the respondent, thereafter respondent paid monthly rent but the rent has not been received by the petitioner and called the respondent for registration of the lease deed, therefore, till date of filing of objection the respondent is not paying the monthly rent.

12. Petitioner asserted that at no point of time petitioner denied the status of the respondent as a tenant. Petitioner further asserted that the respondent came with similar application under Order VII Rule 11 of C.P.C. which came to be dismissed by this authority.

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

(a) On 19.12.2020 petitioner filed petition under Section 27(2)(a) and (r) of Karnataka Rent Act, 1999 seeking for a judgment and decree against the respondent for eviction and delivery of the vacant possession of the petition schedule

property , arrears of monthly rent from April 2019 to 31.12.2019 for 9 months worth of Rs.12,870/- i.e, Rs.1430/per month, damages for use and occupation of the schedule premises and mesne profits at Rs.200/- per day from 01.01.2020 till the date of filing of this petition on 11.12.2020 for 345 days a sum of Rs.69,000/- , for damages for use and occupation of the schedule premises from 12.12.2020 till the date of vacating and handing over the vacant possession of the schedule property to the petitioner at the rate of Rs.200/per day.

14. In response to the notice , respondent appeared through her Advocate then on 26.03.2021 filed objection.

15. In several installments petitioner amended the petition. On 18.04.2022 respondent filed additional objections.

16. On 25.05.2022, 10.08.2022 petitioner produced the evidence of his mother S.G. Hemalatha , P.A. holder as PW1 and produced 9 documents at Exs.P.1 to P.9. On 18.07.2024, 12.12.2024 respondent produced the evidence of her husband T.V.Bhaskara as RW1 and produced Special Power of Attorney at Ex.R.1 on I.A.No.V.

17. Through a speaking order dated 02.09.2023 , this authority dismissed I.A.No.IV filed by respondent under Order VII Rule 11 of C.P.C.

18. On 16.01.2025 petitioner submitted through his Advocate , he is not having oral evidence on I.A.No.V.

19. In the petition, petitioner and in the evidence, PW1 asserted that acquisition of the ownership over the schedule premises by the petitioner through a registered partition deed dated 08.03.2019, then through attornment letter dated 15.03.2019 earlier landlord Gavi Rangappa , father of the petitioner attroned tenancy relationship with the respondent to the petitioner. Petitioner and his P.A. holder further asserted that under lease agreement dated 30.09.1999 Gavirangappa let out the schedule premises to the respondent for monthly rent.

20. Petitioner and PW1 asserted that even though respondent agreed to co-operate for entering into a agreement of lease for further period registering the same as suggested by the petitioner, the respondent avoided to get enter into registered lease agreement, however, sent cheque drawn for Rs.3,999/- towards rent for the month of April 2019 to June

2019 with covering letter dated 16.05.2-19 to the petitioner which has been returned to the respondent.

21. In para No.2 and 3 of the objection respondent admitted that she was a tenant through the lease agreement dated 30.09.1999 under S.P. Gavirangappa , however, denied her status as tenant under the petitioner and further asserted that the petitioner declined to treat her as his tenant. The respondent denied the allegations that she is aware of the acquisition of a major portion including the schedule property by the petitioner from his share under the registered Family Partition dated 08.03.2019, thereafter the same has been informed by the petitioner orally and also through attornment letter dated 15.03.2019 .

22. In the argument learned Advocate appearing for the respondent called the attention of this authority about the points elicited during cross-examination of PW1 who admitted the absence of relationship of landlord and tenant between the petitioner and the respondent and explanation given by PW1 that respondent is a tenant under her husband.

23. In the same way in the argument , learned Advocate appearing for the petitioner, called the attention of this authority about the points elicited during cross-examination of PW1, sending notice dated 28.11.2019 marked at Ex.P.7 and respondent got issued reply dated 04.12.2019 marked at Ex.P.8, contents of 3 documents marked at Ex.P.11 .

24. Ex.P.1 is the letter of attornment dated 15.03.2019 sent by S.P.Gavirangappa to the petitioner, respondent intimating partition taken place in the family in which schedule property fallen to the share of the petitioner and intimating the respondent to pay rent to the hands of the petitioner.

25. Ex.P.2 is the postal acknowledgement card bearing address of the respondent and signature of the respondent. Exs.P.3 and 4 are the letters dated 16.05.2019 and 01.07.2019 sent by the respondent to the petitioner along with cheque No.555788, No.555790 dated 05.04.2019 , 05.07.2019 respectively drawn for Rs.3,999/- each towards rent for the period from April 2019 to June 2019, July 2019 to September 2019. Ex.P.5 is the letter dated 10.07.2019 sent by petitioner to the respondent returning the cheques noted

in the letter marked at Exs.P.4 and 5. Ex.P.6 postal acknowledgment card bearing address and signature of the respondent.

26. Above referred materials shows that respondent admitted her status as tenant with respect to the schedule premises under father of the petitioner.

27. As referred above, under partition deed dated 08.03.2019 petitioner asserting acquisition of ownership over the schedule premises .

28. In this case, there is no explanation on behalf of the respondent under which provision of law she is denying her status of tenancy with respect to schedule premises under petitioner who asserting acquisition of ownership over the schedule premises from his father Gavirangappa under a partition deed dated 08.03.2019. Hence, it is clear that allegation made in the affidavit filed with I.A.No.V regarding denial of the jural relationship of landlord and tenant with respect to schedule premises between petitioner and the respondent are not supported by any type of legal and valid evidence. Hence, I have inferred that the respondent failed to

make out sufficient ground to allow I.A.No.V. Hence, I answer point No.1 in the negative and pass the following:

ORDER

I.A.No.V filed by the respondent under Section 43 of Karnataka Rent Act, 1999 is hereby dismissed.

Call on 02.05.2025

For evidence of the respondent on the merits of the case.

(Dictated to the Stenographer, transcribed by her, corrected, signed and then pronounced by me in the Open Court on this the 3rd day of April , 2025)

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