

KABC020579722024



**IN THE COURT OF II ADDL. SMALL CAUSES
JUDGE, ACJM AND MEMBER-MOTOR ACCIDENT
CLAIMS TRIBUNAL, BENGALURU. (SCCH-13)**

Dated this 28th day of APRIL 2026

**PRESENT: Smt.Shyla S.M., B.B.M. LL.B.,
II Addl.Judge & ACJM,
Court of Small Causes
BENGALURU**

:: S.C.No.825/2024::

Plaintiff: Sri. D.L.Vishwanath
S/o Late D.Lakshminarayana Rao
Aged 74 years
R/At No.140, 26th Cross, 6th Block,
Jayanagar, Bengaluru-560070.

(By Sri.S.Chetan Nag, Advocate)

Vs.

Defendant: Sri. B.S.Kumar
S/o B.R.Satyanarayana Setty P
Aged 60 years
R/At No.248-249, 10th Cross,
3rd Main, Padmanabhanagar,
Banashankari II Stage, Bengaluru.

(By Sri. Pradeep H.S., Advocate.)

Date of Institution of the suit : 19-09-2024

Nature of the Suit : Eviction

Date of the commencement of
Recording of the evidence : 19-03-2025

Date of which the Judgment
Was pronounced : 28-04-2026

Total Duration : Years Months Days
1 7 9

(Shyla S.M.)
II Addl.Judge & ACJM,
Court of Small Causes
BENGALURU

JUDGMENT

This suit is for eviction, recovery of arrears of rent and damages. The defendant has resisted the suit.

2. The case of the plaintiff is encapsulated as under; The plaintiff claims to be the absolute owner of the suit schedule property. The defendant was a tenant under the plaintiff on a monthly rent of Rs.2,600/- with an advance of Rs. 60,000/- under a lease deed dated 1.7.1994. The tenancy was

subsequently extended for a further period of two years under a lease deed dated 12.01.1998.

3. It is the case of the plaintiff that the defendant paid rent up to March 2024, but from April 2024 onwards, he has defaulted in payment of rent. It is further contended that the defendant has not paid the enhanced rent for the last ten years and is in arrears of rent amounting to Rs. 10,400/- up to July 2024. The plaintiff has further pleaded that he requires the suit schedule property for his bona fide personal use and occupation and had requested the defendant to vacate the premises from April 2023. However, the defendant failed to vacate the premises on one pretext or the other.

4. Accordingly, the plaintiff issued a legal notice dated 06.08.2024 terminating the tenancy and calling upon the defendant to vacate the premises and pay arrears of rent. Despite service of notice, the defendant neither complied with the demand nor vacated the premises. Hence, the present suit has been filed.

5. In response to the suit summons, the defendant appeared through counsel and filed a

written statement denying all the averments of the plaintiff. The defendant has specifically denied the ownership of the plaintiff over the suit schedule property. It is contended that he had paid Rs. 60,000/- as refundable security deposit and subsequently paid an additional sum of Rs. 1,00,000/- in cash towards deposit under an oral understanding.

6. The defendant has further contended that, in view of the long-standing friendship and mutual trust, the plaintiff had agreed to permit him to occupy the premises for his lifetime and, therefore, there was no obligation to pay rent. It is also contended that he has only been paying maintenance charges and not rent.

7. The defendant has further alleged that the plaintiff, with an intention to sell the property and make unlawful gain, has falsely instituted the present suit and does not genuinely require the premises for his own use and occupation. It is also stated that both parties have lodged complaints against each other before the jurisdictional police.

8. Further, the defendant has contended that he has already instituted a suit in O.S. No. 2020/2024

before the City Civil Court, Bengaluru (CCH-2), and has obtained an ex parte order restraining the plaintiff from dispossessing him illegally.

9. The defendant has also claimed that he has spent an amount of Rs. 5,00,000/- towards repairs and maintenance of the suit schedule property over the years. Therefore, he contends that the plaintiff is not entitled to claim arrears of rent or damages. It is further contended that he has not paid rent from 1998 onwards and, he has been paying only maintenance charges to the plaintiff for the use and occupation of the suit schedule premises and not rent and therefore, the question of arrears does not arise.

10. It is further contended that after receiving a sum of Rs. 1,00,000/- from the defendant, the plaintiff permitted the defendant to continue in occupation of the suit schedule premises for his lifetime. Therefore, according to the defendant, the present suit is not maintainable. On these grounds, the defendant has prayed for dismissal of the suit as being devoid of merits and filed with mala fide intention.

11. Heard both side and both counsel have filed their respective written arguments.

12. On the above pleadings, the court has framed the following points:-

1) Whether the plaintiff proves that the defendant is a tenant under him on a monthly rent of Rs, 2,600/- with an advance of Rs. 60,000/- under the lease deed dated 1.7.1994 and the tenancy was subsequently extended on 12-01-1998 ?

2) whether the plaintiff proves that the defendant is in arrears of rent as alleged?

3)Whether the plaintiff proves that the tenancy of the defendant has been validly terminated by issuing legal notice dated 06.8.2024?

4) whether the defendant proves that he has paid additional amounts towards refundable security deposit and that he is permitted to occupy the premises for his lifetime under an oral agreement?

5) Whether the defendant further proves that he has spent Rs. 5,00,000/- towards repairs and maintenance of the suit schedule property ?

6) *whether the plaintiff is entitled for damages as sought?*

7) *Whether the plaintiff is entitled to the relief as sought ?*

8) *What order or decree?*

13. To substantiate the case, plaintiff has examined himself as PW.1. Ex.P1 to Ex.P6 documents are marked. On the other hand, the defendant has examined himself as DW1 and has produced the documents, they were marked as Ex.D.1 and 2.

14. For the above points my answer as under;

Point No.1 to 3 :	In the Affirmative
Point No. 4 & 5:	In the Negative
Point No. 6 & 7:	Partly in the Affirmative
Point No. 8 :	As per final order, for the following;

:R E A S O N S:

15.Point No.1 and 4 : These issues are interconnected and inter dependant with each other and are therefore taken together for common discussion.

16. Before advertng to the merits of the case, let me extract the description of the suit schedule

property.

17. The description of the suit schedule property runs as follows;

SCHEDULE

All that piece and parcel of the ground floor of residential building bearing No.248-249, 10th Cross, 3rd Main, Padmanabhanagar, Banashankari II Stage, Bengaluru, built in site measuring 60 x 40 feet with Mosaic flooring, electricity and sanitary fittings, measuring 1400 sq feet of built-up area and bounded on the :

East by : House of Sri.Gupta

West by: 3rd Main road

North by: 10th Cross road

South by:House of Sri.Lakshminarasimha

18. It is the specific contention of the plaintiff that he is the absolute owner of the suit schedule property and that the defendant was inducted as a tenant under him on a monthly rent of Rs. 2,600/- with an advance of Rs. 60,000/- under a lease deed dated 01.07.1994. It is further contended that the tenancy was subsequently extended under a lease arrangement dated 12.01.1998.

19. On the other hand, the defendant has denied the ownership of the plaintiff and has contended that the plaintiff is only a caretaker of the suit schedule property. The defendant has further stated that at the time of extension of tenancy, he paid an additional sum of Rs. 1,00,000/- as security deposit and that, under an oral agreement, he was permitted to occupy the suit schedule premises for his lifetime. On this basis, the defendant has contended that he is a lifetime tenant and that the present suit is not maintainable.

20. The plaintiff, asserting his bona fide requirement for personal use and occupation, has issued a legal notice dated 06.08.2024 terminating the tenancy and calling upon the defendant to vacate the suit schedule property. The defendant, however, has not issued any reply notice denying the ownership of the plaintiff or asserting his alleged status as a lifetime tenant.

21. In order to substantiate his case, the plaintiff examined himself as PW1 and produced tax paid receipt at Ex.P.1 and E-Khatha at Ex.P.6 to establish

his ownership over the suit schedule property. He has also produced the legal notice dated 06.08.2024 at Ex.P.2, postal receipts, and acknowledgment at Ex.P.3 and P.4, evidencing service of notice upon the defendant. Further, certified copies of pleadings and order sheets in O.S. No. 2020/2024 at Ex.P.5 have also been produced.

22. On the other hand, the defendant examined himself as DW1 and produced certain receipts at Ex.D.1 and Ex.D.2. During the course of cross-examination of DW1, a photo copy of the lease agreement dated 01.07.1994 was confronted to him and marked as Ex.P7. Significantly, DW1 has admitted his signature on Ex.P7.

23. Now, let us discuss the rival contentions of the parties. The plaintiff has issued legal notice at Ex.P.2 on 06-08-2024 terminating the tenancy and calling upon the defendant to vacate the suit schedule premises. It is pertinent to note that the defendant has not replied to the legal notice issued by the plaintiff. If really the plaintiff was not the owner or if the defendant was a lifetime tenant under an oral

agreement, nothing prevented the defendant from issuing a suitable reply notice raising such contentions at the earliest point of time.

24. Though the defendant has denied the plaintiff's ownership, during the cross-examination of PW1 it was suggested that Exhibit P2 (tax paid receipts) and Exhibit P6 (E-khata) are not title documents. However, these documents prima facie establish that the plaintiff is the owner of the suit schedule property. Further, during the course of cross-examination, the defendant has admitted that he is in possession of the suit schedule property under the permission of the plaintiff.

25. More importantly, Ex.P5, being the certified copy of the plaint in O.S. No. 2020/2024 filed by the present defendant, clearly discloses that in paragraph 4 of the said plaint, the defendant has categorically stated that the present plaintiff had inducted him into possession of the suit schedule property and that he has been residing therein with the permission of the plaintiff since 1994. This admission is significant and goes to the root of the matter.

26. In view of this clear admission, the defendant cannot now be permitted to take a contradictory stand by denying the ownership of the plaintiff. It is a well-settled principle of law under Section 116 of the Indian Evidence Act that a tenant is estopped from denying the title of the landlord during the continuance of tenancy. Hence, the defendant is estopped from challenging the ownership of the plaintiff.

27. With regard to the contention of the defendant that he has paid an additional sum of Rs. 1,00,000/- and was permitted to occupy the premises for his lifetime under an oral agreement, it is to be noted that no documentary evidence whatsoever has been produced to substantiate the said plea.

28. On the contrary, Ex.P7, the lease agreement, which is admitted by the defendant, contains an endorsement clearly stating that the lease period was extended for a further period of two years on the same terms and conditions. There is absolutely no recital in Ex.P7 indicating payment of Rs. 1,00,000/- as additional advance or granting of lifetime tenancy rights.

29. Though the learned counsel for the defendant has contended that the defendant, being a senior citizen, has confusedly admitted EX P7 due to old age, the said contention cannot be accepted, as the court, while recording evidence has not observed by such confusion. If at all such confusion had existed, the same would have been recorded. Hence, the said argument holds no water.

30. Therefore, the plea of the defendant regarding lifetime tenancy based on an oral agreement appears to be an afterthought and is not supported by any acceptable evidence. Mere oral assertion without any corroboration cannot be accepted, particularly when it is contrary to the written document admitted by the defendant, cannot be accepted.

31. Further, during the course of arguments, though the learned counsel for the defendant has reiterated that the defendant is a lifetime tenant and has paid Rs. 1,00,000/- to the plaintiff, the same cannot be accepted in the absence of any cogent evidence.

32. Accordingly, this Court holds that the plaintiff has successfully proved that he is the owner of the suit schedule property and that the defendant was inducted as a tenant under him. The defendant has failed to establish his plea of lifetime tenancy. On these observations, **I answer Point No.1 in the affirmative and point no 4 in the negative.**

33. **ISSUE NO 3:** The defendant has contended that the tenancy has not been validly terminated by issuance of a legal notice. On the other hand, the plaintiff has stated that the tenancy was terminated by issuing a legal notice, marked as EX P2. In view of the rival contentions of the parties, it is necessary to consider whether the tenancy has been validly terminated or not. PW1 has specifically deposed that he requested and demanded the defendant to vacate and hand over vacant possession of the suit schedule premises, as he required the same for his bona fide personal use and occupation. Despite such demand, the defendant failed to vacate the premises. PW1 has further stated that he issued a legal notice dated 06.08.2024 (Ex.P2) terminating the tenancy and calling upon the defendant to vacate the premises. In

spite of service of the said notice, the defendant neither vacated the premises nor issued any reply. Consequently, the continued possession of the defendant has become unauthorized.

34. On the other hand, the defendant has contended that the termination notice is not valid. According to him, though the original lease agreement dated 01.07.1994 exists, the tenancy was subsequently extended under a lease dated 12.01.1998, and the plaintiff has not issued any termination notice in respect of the subsequent lease. Hence, the defendant contends that the present suit is not maintainable for want of proper termination and for lack of cause of action.

35. On the other hand, the plaintiff has contended that Ex.P7 is the lease agreement dated 01.07.1994 and that the subsequent extension was only by mutual understanding between the parties, without execution of any fresh lease deed. Therefore, issuance of termination notice under Ex.P2 dated 06.08.2024 is sufficient compliance with law.

36. It is also the contention of the defendant that the lease being for a fixed period of two years, proper termination has not been effected, and hence the suit is not maintainable. However, the plaintiff has clarified that as per the recitals in Ex.P7, the tenancy is only for 11 months and thereafter continued as a month-to-month tenancy.

37. On careful perusal of Ex.P7, it clearly discloses that the tenancy was initially created for a period of 11 months. Thereafter, though there is an endorsement extending the lease period for a further two years, the same is only on mutual understanding and subject to the same terms and conditions. No fresh lease deed has been executed between the parties.

38. In the absence of a separate lease deed for a period exceeding one year, the tenancy cannot be treated as a fixed-term lease. Hence, the tenancy is deemed to be a month-to-month tenancy as contemplated under law.

39. As per Section 106 of the Transfer of Property Act, a lease of immovable property for purposes other

than agricultural or manufacturing purposes is terminable by giving 15 days' notice expiring with the end of a month of tenancy.

40. In the present case, the plaintiff has issued Ex.P2 legal notice dated 06.08.2024 terminating the tenancy. The said notice has been duly served on the defendant. Admittedly, the suit has been filed on 19.09.2024. Therefore, there is sufficient compliance with the requirement of 15 days' notice as mandated under Section 106 of the Transfer of Property Act.

41. The contention of the defendant that a separate termination notice ought to have been issued in respect of the alleged subsequent lease dated 12.01.1998 cannot be accepted, as no such independent lease deed has been produced before the Court. The so-called extension is only an endorsement and does not create a fresh tenancy requiring separate termination.

42. Further, the argument of the defendant that longer notice (such as three months) is required is also untenable, as the tenancy in question is only a month-to-month tenancy, and not a long-term lease.

43. It is also significant to note that the defendant has not issued any reply notice disputing the termination or raising objections at the earliest point of time. This conduct further strengthens the case of the plaintiff.

44. In view of the above discussion, this Court is of the considered opinion that the defendant is in possession of the suit schedule premises as a tenant under the plaintiff, the tenancy is a month-to-month tenancy, the plaintiff has validly terminated the tenancy by issuing Ex.P2 notice dated 06.08.2024, EX P2 notice satisfies the requirement under Section 106 of the Transfer of Property Act, therefore the contention of the defendant regarding invalid termination holds no water. Accordingly, the termination of tenancy is held to be legal and valid, and the suit is maintainable. On these observations, **I answer Point 3 in the affirmative.**

45. **Point No.2, 5 and 6: since these points are interconnected and interdependent with each other and are therefore taken together for common discussion.** The plaintiff has sought recovery of arrears of rent from the defendant for the period from

April 2024 to July 2024, amounting to Rs. 10,400, and has further claimed damages at the rate of Rs. 10,400 per month for unauthorized occupation of the suit schedule property from the date of termination of tenancy till delivery of possession.

46. Per contra, the defendant has contended that he has spent a sum of Rs. 5,00,000 towards repairs and maintenance of the suit schedule property. The defendant has further denied the existence of a landlord-tenant relationship, contending that the amount of Rs. 2,600 paid by him was towards maintenance and not rent.

47. In this regard, a reference may be made to Exhibit P7, the rental agreement. It has already been held while answering Issue Nos. 1, 3, and 4 that the plaintiff has validly terminated the tenancy of the defendant by issuing a legal notice dated 06.08.2024 under Exhibit P2. Despite the lapse of the statutory period, the defendant has failed to vacate the suit schedule premises. It is a settled principle of law that once a tenant fails to vacate the premises after issuance of a quit notice, his possession becomes unauthorized. Accordingly, the possession of the

defendant became unauthorized from the date of termination of tenancy.

48. Though the defendant has disputed the payment of rent, he has not specifically denied the arrears claimed for the period from April 2024 to July 2024. Further, Exhibit P7 clearly establishes that the defendant had agreed to pay a monthly rent of Rs. 2,600/-. The contention of the defendant that the said amount was paid towards maintenance has not been accepted for want of supporting evidence. Hence, the said amount is treated as rent. Accordingly, the plaintiff is entitled to arrears of rent of Rs. 10,400 for the said period.

49. With regard to damages, though the plaintiff has claimed Rs. 10,400 per month, no documentary evidence has been produced to establish the prevailing market rent of similar properties in the locality. As per Exhibit P7, the agreed rent was Rs. 2,600 per month in the year 1994. Considering the lapse of time, inflation, and the location of the property within the limits of the Bengaluru City Corporation, a reasonable annual escalation of 5 % is taken into account. By applying a reasonable escalation, this Court deems it appropriate

to fix damages at Rs. 9,500 per month from the date of suit till delivery of possession.

50. With regard to the contention of the defendant that he has spent a sum of Rs. 5,00,000 towards repairs, the defendant has produced Exhibits D1 and D2, which at best indicate an expenditure of about Rs. 30,000. During the course of cross-examination of DW1, it was suggested that the said documents were created for the purpose of this case. Though the plaintiff has seriously disputed the said documents, the defendant has not made any effort to examine the authors of Exhibits D1 and D2 or any concerned person to prove the same. There is no cogent documentary evidence to substantiate the claim of Rs. 5,00,000, and the said documents have not been proved in accordance with law.

51. Further during the course of cross-examination of PW1, it was suggested that the defendant himself carried out repairs to the suit schedule property. In response, PW1 has stated that whenever the defendant requested for repairs, he attended and carried out the same and if no such request was made, no repairs were carried out. Thus

the evidence on record does not support the contention that the defendant independently carried out repairs. There is no reliable documentary evidence to establish that the defendant has actually incurred expenditure of Rs 5,00,000/ towards repairs and maintenance. Therefore the contention of the defendant regarding repairs expenses cannot be accepted for want of cogent and reliable evidence.

52. Accordingly, this Court holds that the plaintiff is entitled to recovery of arrears of rent of Rs. 10,400 and damages at the rate of Rs. 9,500 per month from the date of suit till delivery of possession. The plaintiff has also claimed interest at the rate of 6% per annum. However, in the absence of any contractual or statutory basis, the said claim cannot be granted. Hence, the claim for interest is rejected. With these observations, **point No.2 is answered in the affirmative and point No.5 in the negative and point No.6 partly in the affirmative.**

53. Point No.7 : I have already discussed in detail under Point Nos. 1 to 6 that the defendant is a tenant under the plaintiff. The plaintiff has validly

terminated the tenancy by issuing Ex.P.2-notice. The plaintiff has also proved that the defendant is in arrears of rent for the period from April 2024 to June 2024, amounting to Rs.10,400/–, and further that the defendant is liable to pay damages at the rate of Rs.9,500/– per month for unauthorized occupation.

54. Therefore, I hold that the plaintiff is entitled to the relief of eviction and recovery of arrears of rent of Rs. 10,400/–, and damages at the rate of Rs.9,500/– per month and not Rs.10,400/- as claimed. **Accordingly, I answer point No.7 partly in the affirmative.**

55. Point No.8: In view of the above discussion, I proceed to pass the following:

:O R D E R:

The suit is partly decreed with costs.

The defendant is directed to hand over the vacant possession of suit schedule property within two months from the date of this order.

The defendant is directed to pay arrears of rent of Rs.10,400/- from April 2024 to June

2024.

The defendant is directed to pay damages of Rs.9,500/- P.M. from the date of suit till its realization.

Draw decree accordingly.

(Dictated to the Stenographer directly on computer, typed by her, corrected and then pronounced by me in the open court on this the 28th day of April, 2026)

**(Shyla S.M.)
II Addl.Judge & ACJM,
Court of Small Causes
BENGALURU**

ANNEXURE

List of Witness Examined for the plaintiff:

PW.1: D.L.Vishwanath

List of Documents Exhibited for the plaintiff:

Ex.P1	:	Tax paid receipt
Ex.P2	:	Legal notice
Ex.P3	:	Postal receipt
Ex.P4	:	Postal acknowledgment
Ex.P5	:	C/c of plaint, order sheet, W/s, IAs in OS.2020/2024
Ex.P6	:	E-khatha

List of Witness Examined for the Defendants: -

DW.1 : B.S.Kumar

List of Documents Exhibited for the Defendants:-

Ex.D.1 & 2 : Bill and receipt.

(Shyla S.M.)
II Addl.Judge & ACJM,
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BENGALURU