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APHC010029892025



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

[3331]

TUESDAY, THE 4th DAY OF AUGUST 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

CIVIL REVISION PETITION NO: 263/2025

Between:

1. CHITAMANNI MAHA RUDRA RAJU, S/O LATE KUTAM RAJU HINDU,
AGE 71 YEARS, OCC RETD. SERVICE, R/O D.NO. 38-39-66/2, FLAT
NO. C-52, LAKSHMI NIVASAM, BIRLA JUNCTION,
VISA KHAPATNAM - 530 007

...PETITIONER

AND

1. KONDURI SREE RAMA GOPAL, , S/o Sri Radha Krishna Murthy R/o
Flat No.203, Sanjana Kuteer, Street No.1, Sri Sai Nagar Colony,
Medipalli, Ghatkesar, Hyderabad - 501 301, Rangareddy District

...RESPONDENT

Petition under Article 227 of the Constitution of India, praying that in the circumstances stated in the grounds filed herein, the High Court may be pleased to begs to present this Memorandum of Civil Revision Petition to this Honble Court against the Order made in I.A.No.487 of 2024 in O.S.No.193 of 2020 on the file of the Court of the VI Additional Civil Judge (Junior Division), Kakinada, dated 10-12-2024,

IA NO: 1 OF 2025

Petition under Section 151 CPC 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.193 of 2020 on the file of the

Court of the VI Additional Civil Judge (Junior Division), Kakinada, pending disposal of the present C.R.P. and pass

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to extend the interim order granted in I.A. No. 1 of 2025 in CRP No. 263 of 2025 dated 07-03-2025 and extended from time to time and lastly on 18-07-2025, pending disposal of the CRP and pass

Counsel for the Petitioner:

1.N SIVA REDDY

Counsel for the Respondent:

1.MUNDURU ESWAR BRAHMANAND

The Court made the following order:

Heard Sri K. Srinivasa Rao, learned counsel representing Sri N. Siva Reddy, learned counsel for the petitioner, and Sri Munduru Eswar Brahmanand, learned counsel for the respondent.

2. The plaintiff in the suit filed the above revision against the order dated 10.12.2024 in I.A.No.487 of 2024 in O.S.No.193 of 2020 on the file of the VI Additional Civil Judge (Junior Division), Kakinada.

3. The plaintiff filed O.S.No.193 of 2020 seeking eviction of the defendant from the plaint schedule property, delivery of vacant possession, and other consequential reliefs.

4. The plaintiff contended that he is the absolute owner of the schedule property and that the defendant took the property on lease in July, 2015. The defendant was not paying the rent regularly and committed default. The lease was oral. At present, the rent payable is Rs.5,500/- per month. The defendant used to pay the rent by transferring the money from his bank account or from his wife's bank account. Due to lack of proper maintenance, the flat was

damaged. The defendant is not paying rent regularly and has committed default from October 2018, and hence filed suit.

5. The Defendant filed a written statement and contended *inter alia* that he took the flat on an oral lease in July, 2015 for his residential purpose. The rent agreed is Rs.1,000/- per month, and he paid an advance of Rs.2,000/-. The wife and children stay in Hyderabad, and the defendant stays at Kakinada and used to conduct tuitions. When the plaintiff needed money, the plaintiff asked the defendant to adjust the amount. Accordingly, the defendant transferred the amount. The amounts were transferred either from the defendant's bank account or from his wife's bank account to the plaintiff. While so, in August, 2016, the plaintiff approached the defendant and informed him that, due to his financial problems, he intends to alienate the property for a sale consideration of Rs.17,00,000/-. The defendant and his wife agreed to purchase the schedule property. In that regard, on 15.09.2016, the defendant paid an amount of Rs.1,00,000/- to the plaintiff towards advance sale consideration, and the plaintiff issued a separate receipt for the advance amount. On 30.08.2017, the plaintiff received an amount of Rs.2,00,000/- in two parts. On 01.09.2017, the plaintiff borrowed Rs.1,50,000/- from the defendant, agreeing to repay the same with interest at 6% per annum, and the amount was adjusted towards the total sale consideration on 13.12.2017. The plaintiff also received a total amount of Rs.12,00,000/- by way of instalments. Thus, the total amount received by the plaintiff comes to Rs.16,50,000/- against the total sale consideration of Rs.17,00,000/-. The defendant had to pay the balance amount of Rs.50,000/- towards the sale consideration.

6. The defendant further contended that the plaintiff executed a paper agreeing to adjust two months' rent advance of Rs.2,000/- at the time of registration, thereby reducing the net amount payable to Rs.48,000/-. The plaintiff also issued a receipt stating that there were no dues up to the month of September, 2018. In response to the notice dated 27.11.2019 issued by the

plaintiff, the defendant got issued a legal notice dated 25.02.2020 and filed the suit.

7. In the suit, the following issues were framed:

i) Whether the plaintiff is entitled for a decree evicting the defendant from the plaint schedule property and to deliver vacant possession to the plaintiff as prayed for?

ii) Whether the plaintiff is entitled for recovery of suit amount as prayed for?

iii) To what relief?

8. The plaintiff was examined in chief as P.W.1 and got marked Exs.A1 to A6 and was cross-examined. When the suit was posted for further evidence, the plaintiff filed I.A.No.487 of 2024 under Order XVIII Rule 3 and Section 151 CPC to close his evidence with liberty to adduce rebuttal evidence after completion of the defendant's evidence. In the affidavit filed in support of the petition, it was pleaded that the defendant made allegations regarding the receipts dated 15.09.2016, 30.08.2017, 01.09.2017 and 12.12.2018 etc., and those documents were confronted to P.W.1, who, in turn, denied the same. Those documents were not marked. In the above circumstances, the application was filed. The defendant filed a counter opposing the application.

9. The trial Court, by an order dated 10.12.2024, dismissed the application.

10. **The points for consideration are:**

i) Whether the plaintiff satisfied the conditions envisaged under Order XVIII Rule 3 CPC?

ii) Whether the order under revision suffers from any illegality warranting interference?

11. Before proceeding further, it is appropriate to extract Order XVIII Rule 3, CPC, which prescribes the procedure regarding rebuttal evidence where several issues are framed. Order XVIII Rule 3 CPC is extracted hereunder:

*“3. **Evidence where several issues**—Where there are several issues, the burden of proving some of which lies on the other party, the party beginning may, at his option, either produce his evidence on those issues or reserve it by way of answer to the evidence produced by the other party; and, in the latter case, the party beginning may produce evidence on those issues after the other party has produced all his evidence, and the other party may then reply specially on the evidence so produced by the party beginning; but the party beginning will then be entitled to reply generally on the whole case.”*

12. On a plain reading of Rule 3 of Order XVIII of CPC it is clear that when there are several issues and the burden of proving some of the issues lies on the other party, in such a scenario an option has been given to the party beginning evidence to reserve his right to adduce rebuttal evidence in respect of those issues in which the burden of proof is on the other party. Thus, one of the requirements to be satisfied for reserving the right to lead rebuttal evidence is that there shall be an issue in respect of which the burden of proof lies on the other party. Then it is open to the party beginning evidence to reserve his right to adduce rebuttal evidence.

13. A learned Single Judge of the Composite High Court in **Bode Prasad and another vs. Karlapudi Venkateswara Rao and others**¹, held that an application under Order XVIII Rule 3 CPC can be filed even at the fag end of the recording of evidence of the party intending to adduce rebuttal evidence.

14. The Hon'ble Division Bench of the Composite High Court, in **Nalajala Narasayya vs. Nalajala Sitayya And others**², while answering the reference, observed in paragraph 11 as follows:

“From the aforesaid decisions, we are of the view that the reservation of the right of adducing rebuttal evidence need not be express and

¹ (2009) 6 ALT 145

² AIR 1992 AP 97

need not always be by way of a memo filed on behalf of the party who has begun the evidence on his side. Of course, if the reservation is express, the matter would present no difficulty. But such a reservation could also be implied in a case where the counsel for such a party makes a statement that he is closing the evidence of his party in the affirmative only. In such a case, it must be held that the party had implicitly reserved the right to adduce rebuttal evidence. Kodandaramayya, J. implied such a reservation on the facts of the case before him particularly because the plaintiff in that case had not adduced any evidence whatsoever on some issues on which the burden lay on the opposite party. We are of the opinion that the view taken by Kodandaramayya, J. that reservation need not be express but could be implied and which view is supported by the judgment of the Division Bench of the Punjab and Haryana High Court, is correct and does not run counter to the provisions of O. XVIII, R. 3, CPC. In our view, the reservation could be implied from the facts and circumstances of the case or the conduct of the case. We do not, therefore, agree with the view of Pan-duranga Rao, J, that reservation should always be express or by way of a memo filed on behalf of the party who begins the evidence on his side.”

15. In the case on hand, a suit has been filed seeking eviction; the defendant pleaded that he paid different amounts under various receipts towards the sale consideration of the plaint schedule property. It is true that P.W.1, during his cross-examination, denied the signatures on those receipts. The plaintiff seeks an opportunity to adduce rebuttal evidence after the defendant adduces evidence and proves the documents filed along with the written statement.

16. However, as seen from the issues extracted *supra*, no issue was framed placing the burden on the defendant. In the absence of such an issue, filing I.A. to permit the plaintiff to lead rebuttal evidence doesn't arise. The trial court considered all these aspects and passed a reasoned order. The order under revision brooks no interference. Therefore, the revision petition is liable to be dismissed.

17. Accordingly, the civil revision petition is dismissed. There shall be no order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE SUBBA REDDY SATTI

Dated: 04.08.2026

SNI

Whether the order is:

Speaking Yes/No / Reasoned Yes/No

Reportable Yes/No / Non-Reportable Yes/No

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THE HON'BLE SRI JUSTICE SUBBA REDDY SATTI

CIVIL REVISION PETITION No.263 of 2025

Dated: 04.08.2026
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