

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THURSDAY, THE TWENTY THIRD DAY OF OCTOBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT JUSTICE RENUKA YARA

SECOND APPEAL NO: 414 AND 415 OF 2025

SECOND APPEAL NO: 414 OF 2025 :

Appeal under section 100 of C.P.C against the Judgment and Decree Dated 02-04-2025 made in A.S.No.132 of 2023 on the file of the Court of the XIV Additional Chief Judge, City Civil Court, Hyderabad preferred against the Decree in O.S. No 1498 of 2019 dated 07/07/2023 on the file of the Court of the XVII Additional Senior Civil Judge, City Civil Court, Hyderabad.

BETWEEN :

Syed Mohiuddin Aamer Bukhari, S/o.Late Syed Jalal Bukhari, Age. about 52 Yrs., Occ. Business, R/o H-No 16-4-71, Whitehouse, Khalla, Chanchalguda, Hyderabad, Telengana.

...Appellant

AND

1. Syed Yaqoob, (DIED PER LRs)
2. SYED MAH-E-MUNEER, W/o Late Syed Yaqoob, Age. about 67 Yrs., Occ. Household, R/o H. No 16-3-616/2, Ibrahim Mension, Chanchalguda, Hyderabad.
3. SYED ZAINUL ABEDIN, S/o Late Syed Ibrahim, Age. about 85 Yrs., Occ. Retired, R/o H. No 16-3-616/2, Ibrahim Mension, Chanchalguda, Hyderabad.
4. Smt. GHOSIA PARVEEN SYED, W/o Dr. Syed Mahmood, Age. about 72 Yrs., Occ. Housewife Permanent, R/o 517 Green View DR, Algonquin, Illinois, 60102, United states of America and presently R/o Flat No 602, Premises Bearing H. No 16-3-451/A, Ibrahim Heights, Chanchalguda, Hyderabad.

...Respondents/Respondents/Defendants

IA NO: 2 OF 2025

Petition under Order 39 Rule 1 and 2 of CPC r/w 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 Interim Injunction restraining the Respondents/Respondents their associates, agents, representative or any body action on their behalves from interfering with the peaceful possession of the partnership premises with business, pending disposal of the Second appeal, in the interest of justice.

SECOND APPEAL NO: 415 OF 2025 :

Appeal under section 100 of C.P.C against the Judgment and Decree Dated 02-04-2025 made in A.S.No.136 of 2023 on the file of the Court of the XIV Additional Chief Judge, City Civil Court, Hyderabad preferred against the Decree in O.S. No.1078 of 2017 dated 07/07/2023 on the file of the Court of the XVII Additional Senior Civil Judge, City Civil Court, Hyderabad.

BETWEEN

Syed Mohiuddin Aamer Bukhari, S/o Late Syed Jalal Bukhari, Age. about 52 Yrs., Occ. Business, R/o H-No 16-4-71, Whitehouse, Khalla, Chanchalguda, Hyderabad, Telengana.

...Appellant/Appellant/Defendant

AND

1. Syed Yaqoob, (DIED PER LRs)
2. SYED MAH-E-MUNEER, W/o Late Syed Yaqoob, Age. about 67 Yrs., Occ. Household, R/o H. No 16-3-616/2, Ibrahim Mension, Chanchalguda, Hyderabad.
3. SYED ZAINUL ABEDIN, S/o Late Syed Ibrahim, Age. about 85 Yrs., Occ. Retired, R/o H. No 16-3-616/2, Ibrahim Mension, Chanchalguda, Hyderabad.
4. Smt. GHOSIA PARVEEN SYED, W/o Dr. Syed Mahmood, Age. about 72 Yrs., Occ. Housewife Permanent, R/o 517 Green View DR Algonquin, Illinois, 60102, United states of America and presently R/o Flat No 602, Premises Bearing H. No 16-3-451/A, Ibrahim Heights, Chanchalguda, Hyderabad.

...Respondents/Respondents/Defendants

IA NO: 1 OF 2025

Petition under Order XLI rule 5(1) of CPC r/w 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 stay the execution of the Judgment and Decree passed by the trial court in O.S.No.1078 of 2017 on the file of XVII Additional Senior Civil Judge, City Civil Court, Hyderabad dated 7-7-2023 confirmed by the appellant court in A.S.No.136 of 2023 dated 02nd day of April 2025, by the XIV Additional Chief Judge, City Civil Court, Hyderabad dismissing the appeal filed by the petitioner/appellant, pending disposal of the SA., in the interest of justice.

Counsel for the Appellant in both SAs : Sri Syed Ahmed Ali

Counsel for the Respondent No.2 and 3 in both the SAs : Syed Mounis Jafer Abidi

The Court made the following : COMMON JUDGMENT

The Hon'ble Smt. Justice Renuka Yara

Second Appeal Nos.414 and 415 of 2025

Common Judgment:

Heard Sri Syed Ahmed Ali, learned counsel for the appellant and Sri Syed Mounis Jafer Abidi, learned counsel for respondent Nos.2 and 3, on the question of admission. Perused the record.

2. These second appeals are directed against the common judgment and decree passed by the learned XIV Addl. Chief Judge, City Civil Court, Hyderabad. in A.S.Nos.112 and 136 of 2023, dated 02.04.2025, confirming the common judgment passed by the XVII Addl. Senior Civil Judge, City Civil Court, Hyderabad in O.S.Nos.1078 of 2017 and 1498 of 2019, dated 07.07.2023.

3. The brief facts of the case are that O.S.No.1078 of 2017 is filed by respondent Nos.1 and 2 seeking recovery of possession, recovery of arrears of rent of Rs.10,80,000/-,

perpetual injunction and mesne profits with respect to property admeasuring 1650 sq.yds., out of total extent of 1900 sq.yds. bearing H.No.16-3-616/1, Ibrahim Mansion, Chanchalguda, Hyderabad, bounded by North: Road, South: Remaining property of respondent Nos.1 and 2 herein, East: Neighbour's property and West: Neighbour's property. The deceased respondent No.1 was the absolute owner and possessor of the entire property admeasuring 1900 sq.yds., bearing H.No.16-3-616/1, Ibrahim Mansion at Chanchalguda, Hyderabad. He had given the property to an extent of 1650 sq.yds. to the father of appellant by name Syed Jallal Bukhari for carrying on business in the name and style of 'J.B.Company' for a monthly rent of Rs.30,000/- from the year 2014 onwards. For the purpose of business convenience, the father of defendant No.1 got a Partnership Deed executed though the nature of relationship was landlord and tenant. The last Partnership Deed was executed in the year 2014 and the same expired in the year 2017. Thereafter, no Partnership Deed was executed and there is failure on the

part of the appellant to pay the monthly rent from the year 2017 onwards. Therefore, suit for eviction has been filed

4. After filing of the suit for eviction, the appellant herein filed suit vide O.S.No.1498 of 2019 for perpetual injunction as there was a demand from respondent Nos.1 and 2 to vacate the suit schedule property. Out of fear of forcible dispossession, the said suit is filed upon receiving notice in the suit for eviction.

5. Since both the suits had same parties, same subject matter and the facts leading to cause of action are the same, both the suits were clubbed and evidence was led in O.S.No 1078 of 2017 as said suit is a comprehensive suit seeking relief of eviction, arrears of rent and mesne profits. On the basis of evidence lead by both the parties which is consisting of PW1, PW 2 and Exs.A1 to A4 on behalf of respondent Nos.1 and 2 and DW1, DW2 and Exs.B1 to B6 on behalf of appellant, the suit for eviction in O.S.No.1078 of 2017 has been decreed and the suit for perpetual injunction in O.S.No.1498 of 2019 has been dismissed.

Aggrieved by the same, the appellant herein preferred A.S.Nos.132 of 2023 and 136 of 2023 challenging the judgment and decree in both the suits. The learned First Appellate Court upon considering the case of both the parties dismissed the appeals confirming the judgment and decree passed by the Trial Court. Aggrieved by the same, the Second Appeals are preferred.

6. In both the Second Appeals, the appellant raised the following substantial questions of law:

1. That both the appellant and trial Court below fail to consider the fact and evidence on record i.e. Ex A1 to Ex A 4 filed by the Plaintiff and entire suit of the Respondents/Respondents/Defendants is based on partnership deed executed between the Plaintiff and Defendant dated 01-09-2014 marked subjected to the objection raised by the Defendant as Ex A1, which is an unregistered partnership deed as such suit filed by the Respondents/Respondents/Defendants is not legally maintainable as per Section 69 of Indian partnership act and the same is liable to be dismissed. As per Section 69 of Indian partnership Act: EFFECT OF NON-REGISTRATION –
 - 1) No suit to enforce a right arising from a contract or conferred by this act shall be instituted in any court by or on behalf of any person suing as partner in a firm against the firm or any person alleged to be or to have been a partner in the firm unless the firm is

registered and the person suing is or has been shown in the register of firms as a partner in the firm.

2) No suit to enforce a right arising from a contract shall be instituted in any court by or on behalf of a firm against any third party unless the firm is registered and the persons suing are or have been shown in the register of firms as partners in the firm.

As such suit filed by the Respondent/Respondent/Defendant itself is not maintainable and the same is liable to be dismissed barred by law, without considering the proposition of law, the trial Decreed the suit against the Appellant/Appellant/Plaintiff vide Judgment and Decree in O.S. No 1498 of 2019 on the file of XVI Additional Senior Civil Judge, City Civil Court, Hyderabad dated 07-07-2023, and appellant confirm the confirming the trial court judgment and Decree in O.S. No 1498 of 2019 vide Common Judgment and Decree passed in AS No 132 of 2023 Dated 02 day of April 2025 The Hon'ble XIV Additional Chief Judge, City Civil Court, Hyderabad. Dismissing the appeal filed by the Appellant/Plaintiff, as such same is liable to be set aside.

2. That both the appellant and trial Court below fail to consider the fact and evidence on record i.e. Ex A1 to Ex A4 filed by the Plaintiff and entire suit of the Respondents/Respondents/Defendants is based on series of partnership deed executed between the Plaintiff and Defendant and first partnership deed dated 08th day of December 1995, in Clause (12) it is mutually agreed that the partner no 1 and 2 shall be liable for redemption of advance amount of Rs 3,00,000/- (Rs Three Lakhs only) contributed by Partner no 3, before the expire of the agreed period of (07) years failing which partner no 3 shall remain as partner till the entire amount is redeemed, which till date Respondents/Respondents/Defendants fail to redeemed the same, as such partnership is still in existence and Appellant/Appellant/Plaintiff remained as a partner as such

having full legal right and authority to continue the partnership business and shall be legally entitle to stay and perform the business and Respondents/Respondents/Defendants are not having any legal right and authority to illegally interfere in the peaceful possession of the partnership premises and in the performance of the partnership business, as such Appellant/Appellant/Plaintiff is legally entitle for the perpetual injunction against the Respondents/Respondents/Defendants and their associates or any other person or persons action on their behalves.

3. That both the appellant and trail Court below fail to consider the fact and evidence on record i.e. Ex A1 to Ex A 4 filed by the Plaintiff and entire suit of the Respondents/Respondents/Defendants is based on series of partnership deeds executed between the Plaintiff and Defendant, there is an arbitration clause to solve the dispute before the arbitration as agreed and suggested by the partners mutual consent, as such suit is barred by Section (08) (1) of the Arbitration and conciliation Act 1996.
4. The both the appellant and trail Court below fall to consider the fact and evidence on record in Ex At to Ex A 4 filed by the Plaintiff and Ex.B1 to Ex.B6 filed by the Defendant and came to wrong conclusion and appellant court confirmed the judgment and Decreed passed by the trail court in OS No 1498 of 2018, on the file of XVII Additional Senior Civil Judge, City Civil Coult, Hyderabad dated 07-07-2023 though no Jural relationship exists between the Respondents/ Respondents/Defendants and Appellant/Appellant/Plaintiff.
5. That both the appellant and trail Court below fail to consider the fact and evidence on record i.e. Ex.A1 to Ex.A4 filed by the Plaintiff and Ex.B1 to Ex.B5 filed by the Defendant and came to wrong

conclusion and appellant court confirmed the judgment and Decree passed by the trial court in O.S No 1498 of 2008 on the file of XVII Additional Senior Civil Judge, City Civil Court, Hyderabad dated 07-07-2023, that the Respondents/Respondent/Defendants fail to file any documents on record or adduce any evidence to show that the Appellant/ Appellant/Plaintiff committed default in payment of rents or partnership profit to them with any substantial evidence on record without considering the same trial court ordered the Plaintiff to pay Rs.10,80,000/- as lease/rent amount for a period from 01-09-2014 to 31-08-2017, which the appellant confirmed the same, which the Appellant/Appellant/Plaintiff deposited the same under protest for the numbering the appeal and to obtain stay on the execution of the judgment and Decree passed by the trial court

7. The above substantial questions of law are primarily focussed on the execution of Partnership Deeds between the appellant's father and respondent Nos.1 and 2 from the year 1995 followed by the last Partnership Deed executed in the year 2014 between appellant and respondent No.2. In view of the existence of partnership Deed wherein there is a provision for sharing of profits at 50%:50% share, the appellant denied existence of jural relationship and maintainability of the suit for eviction on the basis of landlord-tenant relationship. When the plaint was filed, reference was made only to the Partnership

Deed of the year 2014 as if that was the only Partnership Deed executed between the parties, however, the Partnership Deeds have been executed between the parties since the year 1995 till the year 2014. There has been continuous demand on the part of the respondent Nos.1 and 2 to vacate the suit schedule property but the partnership and business continued even after expiry of the Lease Deed in the year 2017. There is an issue raised about the maintainability of the suit under Section 69 of the Indian Partnership Act about no suit to enforce a right arising from a contract or conferred by this Act shall be instituted in any Court by or on behalf of any person suing as a partner in a firm against the firm or any person alleged to be or to have been a partner in the firm unless the firm is registered and the person suing is or has been shown in the Register of Firms as a partner in the firm. Further, no suit to enforce a right arising from a contract shall be instituted in any Court by or on behalf of a firm against any third party unless the firm is registered and the persons suing are or have been shown in the Register of Firms as partners in the firm.

8. The main focus is on lack of evidence to show jural relationship of landlord-tenant and running the business in the suit schedule property as a partner of the Partnership Firm on the basis of Partnership Deeds. On this count, since there is expiry of unregistered partnership Deed dated 01.09.2014/ Ex.A1/B2, the suit for eviction has been filed on the basis of ownership and not payment of rents for occupation of the suit schedule property.

9. In fact, the case of the respondents is that there existed a jural relationship between the parties, however, at the request of the appellant, a Partnership Deed was executed for the sole purpose of licenses to run the business. For the purpose of running business, there was a need to have a Partnership Deed to obtain licenses from relevant authorities and in that context, the Partnership Deed is executed and there is no Partnership business between the parties.

10. The version of the appellant herein is that ever since the year 1995, business has been run under the Partnership Deeds and there is no landlord-tenant relationship. In fact, the respondent No.2 signed on the Partnership Deed having been induced into signing the same taking advantage of her old age and soft nature. There was an oral undertaking to vacate the property after expiry of the Partnership Deed on 31.08.2017. After said date, even though there was demand for vacating the suit schedule property, the appellant did not vacate the same. Thereafter, the appellant filed O.S.No.2351 of 2017 on the file of the II Junior Civil Judge, City Civil Court, Hyderabad for perpetual injunction along with I.A.No.173 of 2017 seeking interim injunction. The respondents had filed caveat and therefore, received notice in the suit filed by the appellant.

11. The consistent plea taken by the respondents is that when the last Partnership Deed was executed, the agreed rent was Rs.30,000/- per month. When there was failure to pay the

rents, a legal notice was issued on 04.10.2017 to vacate the property and to pay arrears of rent from 01.09.2014 to 31.08.2017 and for mesne profits till the date of handing over physical possession. The case of appellant is that there was payment of rents which was Rs.200/- per day when the initial Partnership Deed dated 08.12.1995/Ex.B1 was executed for a period of seven years commencing from 01.11.1995 to 31.10.2002 and in the last Partnership Deed dated 01.09.2014, the respondents were entitled to receive Rs.1,000/- per function as rent and Rs.2,000/- per function as profit, coming to Rs.3,000/- per function for utilization of premises. The respondents had to pay the water consumption charges and municipal taxes. The security deposit of Rs.2,00,000/- was deposited at the time of execution of Partnership Deed dated 01.09.2014. According to the appellant, after expiry of the last Partnership Deed of the year 2014, the deceased respondent No.1 agreed to enter a fresh Partnership Deed and permitted the appellant to continue to do business in the suit schedule

property. Suddenly, on 25.09.2017, the respondents demanded the appellant to vacate the property. Since the hall was already booked, it was reported that vacating the property immediately does not arise. At that time, there was a quarrel on 01.10.2017 and therefore, suit for perpetual injunction was filed.

12. The aforementioned factual background establishes the fact that respondent Nos.1 and 2 were the owners of the suit schedule property, there was execution of Partnership Deeds from the year 1995 up to 2014 for running catering business for functions in the suit schedule property. After the expiry of last Partnership Deed, there was dispute and demand for vacating the property and in that context, suits have been filed.

13. Respondent Nos.2 and 3 relied on their version that the actual relationship is that of a landlord-tenant and only to facilitate the business of the appellant, the Partnership Deed is executed whereas the case of the appellant is that there is no relationship of landlord-tenant and therefore, the suit in

O.S.No.1078 of 2017 filed on the basis of landlord-tenant is not maintainable. Further, the suit is not maintainable against a partner for eviction.

14. It is admitted fact that the Partnership Deed dated 01.09.2014/Ex.A1/B2 expired on 31.08.2017 and from 01.09.2017 onwards, there is no Partnership Deed in existence. Such being the case, the only relationship between the parties would be that of a landlord and an unauthorized occupant. Since there is no written Lease Deed between the parties, the existence of Landlord-Tenant cannot be proven. In any case, there is a pleading by the respondents about ownership over the property, execution of Partnership Deed and its expiry. Further, there is admission by the appellant about the non-payment of amounts after execution of the last Partnership Deed in the year 2014.

15. In view of the oral and documentary evidence adduced by both the parties, the learned Trial Court held that there is an admission about the expiry of the Partnership Deed and there is

no oral or written agreement between the parties to continue the business in the suit schedule property. Further, in view of the legal notice dated 04.10.2017/Ex.A2, it is held that the appellant has no right to continue to stay in the suit schedule property on account of failure to pay the rents from 01.09.2014 to 31.08.2017 for an amount of Rs.10,80,000/-. Since there is no extension of Partnership Deed and the ownership of the respondents over the suit schedule property is admitted, the learned Trial Court treated the suit for eviction as one between the owner and occupant and therefore, decreed the suit. The factual findings given are confirmed by the First Appellate Court.

16. In the Second Appeal, the appellant is canvassing maintainability of a suit on the basis of rights arising from a contract of Partnership Deed. This question is not applicable to the facts of the present case as the Partnership Deed dated 01.09.2014 has expired and only after its expiry, the suit for eviction was filed. After expiry of the Partnership Deed, there is

no relationship of Partners between the parties. Therefore, the issues of registration or non-registration of the Partnership Deed and maintainability of a suit only by a partner of a registered partnership firm against another partner do not arise. None of the contentions raised on the basis of partnership are applicable to the present case as there was no relationship of partners between the parties to the suit as on the date of filing of the suit.

17. The second important point raised by the appellant is that an advance amount of Rs.3,00,000/- was paid by the partner No.3 i.e. appellant herein before the expiry of agreed period of seven years and said amount has to be redeemed, failing which, the partner No.3 shall continue to remain as a partner until entire amount is redeemed. This clause is found in Partnership Deed dated 08.12.1995/Ex.B1. Said clause is not found in the Partnership Deed dated 01.11.2007. Further, the appellant did not produce the Partnership Deed of 01.09.2014 to prove existence of said clause. Therefore, there are no substantial

questions of law arising from the Partnership Act due to the fact that the un-registered Partnership Deed expired and no fresh Partnership Deed was executed between the parties. The ownership of the property by the respondents is accepted. The payment of amounts either in the form of profits or rents is accepted. Therefore, this Court is not inclined to interfere with the factual findings given by the learned Trial Court and the learned First Appellate Court. As such, the Second Appeals are not maintainable and liable to be dismissed.

18. In the result, both the Second Appeals are dismissed at the stage of admission. No costs.

Miscellaneous applications, if any, pending in these Second Appeals, shall stand closed.

**SDI- V. KAVITHA
DEPUTY REGISTRAR** /

//TRUE COPY//

SECTION OFFICER

To,

1. The XIV Additional Chief Judge, City Civil Court, Hyderabad
2. XVII Additional Senior Civil Judge, City Civil Court, Hyderabad
3. One CC to Sri Syed Ahmed Ali, Advocate [OPUC]
4. One CC to Sri Syed Mounis Jafer Abidi, Advocate [OPUC]
5. Two CD Copies

Svs/sa

kp

HIGH COURT

DATED:23/10/2025

COMMON JUDGMENT

SA.No.414 AND 415 of 2025



DISMISSING BOTH THE SECOND APPEALS

⑦
kpr
9/12/25