

**IN THE HIGH COURT FOR THE STATE OF TELANGANA:
HYDERABAD**

*** * ***

CIVIL REVISION PETITION Nos.2644, 2657 & 2674 of 2025

Between:
Devendra Kumar.

Petitioner

VERSUS

Santosh Kumar Agarwal and Others.

Respondents

COMMON ORDER PRONOUNCED ON: 14.08.2025

THE HON'BLE SRI JUSTICE P.SAM KOSHY

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? : Yes
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : Yes
3. Whether His Lordship wishes to
see the fair copy of the Judgment? : Yes

P.SAM KOSHY, J

*** THE HON'BLE SRI JUSTICE P.SAM KOSHY**

+ CIVIL REVISION PETITION Nos.2644, 2657 & 2674 of 2025

% 14.08.2025

Between:
Devendra Kumar.

Petitioner

VERSUS

Santosh Kumar Agarwal and Others.

Respondents

! Counsel for Petitioner(s) : Mr. R.A. Achuthanand.

^Counsel for the respondent(s) :

<GIST:

> HEAD NOTE:

? Cases referred

1)2009 SCC OnLine AP 556

THE HONOURABLE SRI JUSTICE P.SAM KOSHY

CIVIL REVISION PETITION Nos.2644, 2657 & 2674 of 2025

COMMON ORDER:

Heard Mr. R.A. Achuthanand, learned counsel for the petitioner in all the Civil Revision Petitions.

2. These are three Civil Revision Petitions in respect of the same cause of action. Hence, these three Civil Revision Petitions are being decided by this common order.

3. The challenge in these three Civil Revision Petitions is to the order dated 28.07.2025, passed by the Principal Rent Controller, Hyderabad. In Civil Revision Petition No.2644 of 2025 the challenge is to the order passed in I.A.No.99 of 2025 in R.C.No.27 of 2020. Likewise, in Civil Revision Petition No.2657 of 2025, the challenge is to the order passed in I.A.No.97 of 2025 in R.C.No.25 of 2020. Similarly, in Civil Revision Petition No.2674 of 2025 the challenge is to the order passed in I.A.No.98 of 2025 in R.C.No.26 of 2020.

4. *Vide* the impugned order; the Court below dismissed the aforesaid three I.As. filed by the petitioner under Order XVIII Rule 1 read with Section 151 of the Civil Procedure Code, 1908 (for short 'CPC') to direct the respondents to

lead evidence first and only after the respondents' evidence is over, the petitioner be permitted to lead evidence.

5. The facts in nutshell leading to filing of the instant Civil Revision Petitions are that the petitioner who claims himself to be the landlord of the subject property had filed Rent Control cases seeking for eviction of the respondents from the subject property on the ground of willful default in payment of rents to the petitioner. When the matter reached the stage of evidence, the petitioner filed these three I.As. in the pending Rent Control cases mentioned in the preceding paragraphs.

6. The contention of the learned counsel for the petitioner was that since the petitioner has filed the Rent Control cases on the ground of default on the part of respondents in payment of rent, and the respondents having denied the contention of the petitioner and have said that they had discharged their liability of payment of rent, the burden to lead evidence falls upon the respondents before the petitioner is directed to lead evidence. The contention of the learned counsel for the petitioner also was that once when the respondents have denied the contention of they having defaulted in payment of rents, the burden of proof stands automatically shifted upon the respondents to prove their case of having not defaulted in payment of rents.

7. According to the learned counsel for the petitioner, the respondents are required to enter appearance before the Court and show the proof of regular payment of rent and the fact that there is no default. It was also the contention of the learned counsel for the petitioner that if the respondents are able to discharge their burden by showing regular payment of rent and there being no default, the entire case itself can be adjudicated on that basis and there may not be a need for the petitioner to lead evidence at all.

8. In support of his contentions, the learned counsel for the petitioner relied upon the judgment of the High Court of Andhra Pradesh in the case of **Pendyala Sudha Rani vs. Basava Janakiramayya and Others**¹, wherein the contents of paragraph No.9 have been stressed upon. For ready reference, paragraph No.9 is reproduced hereunder, viz.,

“9. Once the tenancy is not disputed, and the landlord alleges that the tenant committed default in payment of rent, the burden subsequently rests upon the tenant, to prove the payment thereof. The reason is that the landlord cannot be expected to prove a negative fact, stating that the rent was not paid. Proof, if, at all, would exist for payment, and not for non-payment. Assuming that the petitioner did not issue receipts, whenever rent was paid, the respondent could have adduced other relevant evidence, to establish the manner in which, the rent was paid. The oral and documentary evidence adduced by him, is absolutely of no use.....”

¹ 2009 SCC OnLine AP 556

9. Having heard the contentions put forth by the learned counsel for the petitioner and on perusal of records, this Court would like to refer to the provisions of Order XVIII Rule 1 of CPC, which again for ready reference is reproduced hereunder, viz.,

HEARING OF THE SUIT AND EXAMINATION OF WITNESSES

*1. **Right to begin.**- The plaintiff has the right to begin unless the defendant admits the facts alleged by the plaintiff and contends that either in point of law or on some additional facts alleged by the defendant the plaintiff is not entitled to any part of the relief which he seeks, in which case the defendant has the right to being.*

A plain reading of the aforesaid provision would go to show that it is always the plaintiff who has the right to begin evidence in a suit. Only in very few circumstances would there be a requirement for the defendant to lead evidence first, and that too stands envisaged in Order XVIII Rule 1. In terms of Order XVIII Rule 1, the defendant can lead evidence only if he admits the facts alleged by the plaintiff in the plaint and, in addition to the admitted facts, if the defendant contends either on point of law or on some additional facts which the defendant has alleged in his written statement alleging that the plaintiff is not entitled for any part of the relief that he has sought for. In that case, the defendant would be entitled to lead his evidence first.

10. The further facts which are reflected from reading of the aforesaid provision is that, such a request seeking for defendant to lead evidence is again to come forth from the defendant's side and not at the behest of the petitioner / plaintiff. Moreover, perusal of the pleadings would go to show that the respondents have denied the contentions of the petitioner, and in the said circumstances as is otherwise mandated under Order XVIII Rule 1, it is the responsibility of the petitioner to lead evidence first and substantiate their contention. In the instant case, the evidence required to be brought forth by the petitioner would be the petitioner being landlord of the subject property and the respondents being the tenant of the petitioner and the petitioner establishing jural relationship between him and the respondents so far as the relationship of a landlord tenant is concerned.

11. For proving the aforesaid three basic ingredients in a Rent Control case, particularly when the basic ground of eviction sought for is default in payment of rent, it would always be the petitioner / plaintiff who should lead evidence first and substantiate their contention establishing the aforesaid three basic ingredients enabling them to succeed in a Rent Control case.

12. In the instant case, the denial on the part of the respondents is strictly a defence that they have taken and since it is a defence that they have taken, to

prove the same it is not required for the respondents to lead evidence first. Rather it is other way round. It is the responsibility of the petitioner to show that they have been able to make out a strong case by leading evidence to prove the aforesaid three ingredients required in a landlord tenant dispute. This in other words also means that if the prayer of the petitioner is to be accepted, then it would amount to the respondents being made to disclose their defence first and thereafter the petitioner would get a chance to rebut the defence of the respondents more effectively. Such a system is not what is envisaged either under CPC or under any of the justice delivery system, both under civil jurisdiction, so also under the criminal law jurisdiction. Of course Order XVIII Rule 1 of CPC carves out certain exceptions, but those are substantially in respect of certain additional facts contended by the defendant in his written statement which would lead to establishing the fact that the plaintiff is not entitled for the relief he seeks for through the suit. Such is not a case that the petitioner has made out, nor is it the stand of the respondents.

13. In view of the same, this Court is of the firm view that the view taken by the Court below while dismissing the three I.As. is proper, legal and justified and does not warrant interference. The three Civil Revision Petitions thus fail, and are accordingly dismissed. No costs.

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

P.SAM KOSHY, J

Date: 14.08.2025

Note: LR Copy to be marked.
B/o(GSD)