

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JULY, 2025

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

REGULAR FIRST APPEAL NO. 1340 OF 2025 (RES)

BETWEEN:

1. MR. SURESH BABU C.
S/O CHINNASWAMY
AGED ABOUT 57 YEARS
R/AT NO.484, GROUND FLOOR
8TH MAIN, SADANANDANAGAR
INDIRANAGAR POST
NGEF LAYOUT, BENGALURU-560 038.

...APPELLANT

(BY SRI. NAVEED AHMED, ADVOCATE FOR
SRI. NOORMOHAMMED, ADVOCATE)

AND:

1. MR. V. VARADARAJAN
AGED ABOUT 94 YEARS
2. SMT. VANI PRAKASH
D/O MR. V. VARADARAJAN
AGED ABOUT 60 YEARS

RESPONDENTS NO.1 AND 2
ARE RESIDING AT NO.485
8TH MAIN, SADANANDANAGAR
INDIRANAGAR POST

NGEF LAYOUT
BENGALURU-560 038.

...RESPONDENTS

(BY SRI G. KRISHNA MURTHY, SENIOR COUNSEL
FOR SRI. JAYSHAM JAYASIMHA RAO, ADVOCATE
FOR C/R1 AND 2.)

THIS APPEAL IS FILED UNDER SECTION 96 OF THE CIVIL PROCEDURE CODE, PRAYING TO SET ASIDE THE JUDGMENT AND DECREE PASSED ON COUNTER CLAIM BY THE X ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALORE IN O.S. NO.6726 OF 2024, PASSED ON 18.03.2025 AND ALLOW THE APPEAL, WITH COST THROUGHOUT, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 17.06.2025, THIS DAY ORDER WAS PRONOUNCED THEREIN, AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR
MAGADUM

C.A.V. JUDGMENT

The captioned first appeal is filed by the tenant assailing the order passed in ejectment suit.

2. The present appellant filed a suit for injunction simplicitor in O.S.6726/2024 by specifically alleging that he is a tenant under the respondents and the respondents have let out the suit schedule property under lease deed

dated 1.3.2013. Appellant further alleged that respondents despite aware of the fact that his son is studying in 9th Standard in Bishop Cotton Boys School, are high handedly demanding the appellant to vacate the premises on or before 30.9.2024.

3. On receipt of summons, respondents filed written statement and by way of counter claim sought for ejectment. Appellant as a defendant filed written statement to the counter claim admitting jural relationship and also the quit notice issued by respondent No.1 on 1.10.2024.

4. Trial Court based on rival pleadings formulated the following issues:

"1) Whether the tenancy of the plaintiff over the suit schedule premises is determined by efflux of time?

2) Whether the tenancy of the plaintiff over the suit schedule premises is terminated by defendant No.1 through the quit notice dated 01.10.2024?

3) Whether in a suit for a bare injunction filed by the plaintiff, defendant is entitled to seek the relief of ejectment of the plaintiff/tenant by filing a counter claim?

4) Whether the plaintiff is entitled for the relief of injunction sought in the suit?

5) Whether the defendant is entitled for the relief of ejectment of the plaintiff sought in the counter claim?

6) What order or decree?"

5. The trial Court answered issue No.2 in the affirmative holding that the tenancy is terminated by respondent No.1 through quit notice dated 1.10.2024. While answering issue No.3 in the affirmative, trial Court held that in a bare suit for injunction filed by appellant/tenant, respondents/landlords are entitled to seek relief of ejectment by filing a counter claim. Accordingly, appellant's suit for injunction is dismissed and respondent's counter claim for ejectment is decreed.

6. In the present appeal, appellant has challenged the decree rendered on counter claim and there is no challenge to the decree passed in injunction suit wherein the appellant's suit seeking relief of injunction is dismissed.

7. Heard the learned counsel for the appellant and learned Senior Counsel appearing for respondents.

8. The following points would arise for consideration:

(i) Whether the trial Court was justified in proceeding to pass a decree for ejectment without permitting the appellant to lead evidence, and if so, whether such procedure suffers from any legal infirmity vitiating the decree?

(ii) Whether a counter-claim seeking the relief of ejectment is maintainable at the instance of the landlord in a suit instituted by the tenant seeking a decree of permanent injunction simplicitor?

FINDING ON POINT No.(i):

9. The appellant instituted the suit seeking a decree of permanent injunction against the respondents, asserting that the respondents/landlords were making unlawful attempts to dispossess him from the suit premises without recourse to the due process of law. However, a detailed scrutiny of the pleadings and the judgment of the trial Court discloses that the appellant has categorically admitted material facts which go to the root of the dispute. Specifically, the appellant has unequivocally admitted the jural relationship of landlord and tenant between the parties, the expiry of the lease on 28.02.2014, and receipt of the statutory notice issued under Section 106 of the Transfer of Property Act terminating the tenancy. These foundational admissions made by the appellant clearly establish that the tenancy had come to an end in accordance with law.

10. In light of these admitted facts, the trial Court was fully justified in shifting the focus from the issue of alleged unlawful dispossession to the larger question of whether the appellant had any lawful right to continue in possession of the suit premises. The trial Court has rightly concluded that once the tenancy stands terminated through the issuance of a valid and admitted quit notice, the tenant's legal right to remain in possession ceases, and consequently, the protection under a suit for bare injunction is no longer tenable.

11. The grievance of the appellant that he was denied an opportunity to lead evidence deserves to be rejected in the factual context of the case. The respondents/landlords, upon entering appearance, filed a detailed counter-claim seeking the relief of possession on the basis of termination of tenancy. Once the counter-claim was entertained, the *lis* between the parties was no longer confined to the limited scope of prohibitory injunction. The

moment a landlord files a counter-claim seeking ejectment preceded by a statutory notice under Section 106 of the Transfer of Property Act, the very foundation of the tenant's suit for injunction alleging unlawful dispossession collapses. The cause of action for an injunction simplicitor becomes infructuous, as the issue shifts from apprehended dispossession to determination of lawful entitlement to possession.

12. In the backdrop of appellant's admissions which went un rebutted, and the legal effect of termination of tenancy, the trial Court rightly held that no further evidence was necessary to examine the appellant's claim. The Trial Court's approach in treating the matter as one governed by admitted facts and proceeding to adjudicate the counter-claim accordingly does not disclose any procedural illegality or irregularity. The appellant's failure to contest the termination of tenancy or assert any subsisting right to possession further weakens the claim for injunction.

Accordingly, point No.(i) is answered in the negative.

FINDING ON POINT No.(ii)

13. It is a well-established proposition of law that in a suit for permanent injunction instituted by a tenant, wherein the relationship of landlord and tenant is either admitted or otherwise established through pleadings or evidence, the landlord is not precluded from asserting his right to seek recovery of possession by way of a counter-claim. The maintainability of such a counter-claim is firmly rooted in the statutory scheme of Order VIII Rule 6A of the Code of Civil Procedure, which permits a defendant to set up any right or claim against the plaintiff, independent of whether it arises out of the same cause of action as the suit.

14. The Hon'ble Supreme Court has authoritatively affirmed this legal position in the landmark judgment ***Ramesh Chand Ardawatiya v. Anil***

***Panjwani*¹**, wherein it was held that when a tenant approaches the Court with a suit for bare injunction without disputing the title or the tenancy, the landlord is entitled to assert his claim for possession in the same proceedings, including through a counter-claim, provided the conditions under Order VIII Rule 6A CPC are fulfilled. The Apex Court further clarified that such a counter-claim is procedurally valid and legally sustainable, as it arises out of the same tenancy relationship which forms the substratum of the suit filed by the tenant.

15. The legislative intent behind incorporating the provision for counter-claims under Order VIII Rule 6A CPC is to avoid multiplicity of proceedings and to enable Courts to adjudicate all interrelated disputes between the parties in a consolidated manner. This procedural mechanism serves the larger object of judicial economy and expeditious disposal of cases. When a tenant approaches

¹ ***(2003) 7 SCC 350***

the Court invoking its equitable jurisdiction for a decree of injunction to protect possession, it would be both illogical and legally unwarranted to compel the landlord to initiate a separate suit for eviction, especially when the issue of possession and the right to occupy the premises arises from the very same tenancy arrangement that is the subject of the tenant's injunction suit.

16. Once the tenant admits the jural relationship and does not dispute the termination of tenancy, the landlord is well within his rights to utilize the platform of the tenant's suit to seek recovery of possession by filing a counter-claim. The jurisdiction of the Court to entertain and adjudicate such a counter-claim is not ousted merely because the original suit was instituted by the tenant for injunction simplicitor. Rather, the existence of the tenancy, its termination, and the continuing possession of the tenant together constitute a common thread tying both claims,

thereby satisfying the test of commonality of cause of action under Rule 6A.

Accordingly, Point No.(ii) is answered in the affirmative.

17. Though learned counsel for the appellant made an earnest attempt to persuade this Court to grant a period of one year to vacate and hand over peaceful possession of the suit premises, such a plea cannot be acceded to in the peculiar facts and circumstances of the present case. It was specifically brought to the notice of this Court by the learned Senior Counsel appearing for respondent No.1/landlord that the said respondent is aged about 94 years and is suffering from cancer, a condition which requires peace, dignity, and stability in his remaining years. In view of his critical health condition and advanced age, the respondents have categorically expressed their unwillingness to grant any further indulgence or

accommodation to the appellant by way of settlement or otherwise.

18. The counsel for the respondents, while opposing the appellant's plea for time, also brought to the attention of this Court certain pertinent facts from the record. It was submitted that the appellant is currently employed abroad and that the suit was originally filed on the premise that his minor son was studying in 9th Standard at Bishop Cotton School. However, the present request for extension of time is now premised on the son studying in 10th Standard. This shifting ground reveals an inconsistent and evasive stand on part of the appellant and appears to be a tactic intended to delay compliance with the decree of ejectment.

19. In a matter where the landlord has established lawful termination of tenancy, and especially where a counter-claim for possession has been upheld after due adjudication, this Court cannot grant discretionary relief in equity when the respondents themselves have explicitly

declined any such concession. The appellant, having failed to establish any subsisting legal right to remain in possession, cannot invoke the appellate jurisdiction of this Court to prolong his unauthorised occupation, particularly in the face of the landlord's deteriorating health and advanced age.

20. In light of the foregoing discussion and on a comprehensive appreciation of the material on record, this Court finds no justifiable ground to interfere with the well-reasoned findings recorded by the learned trial Court. The findings of the trial Court are based on clear admissions, sound appreciation of legal principles, and a correct understanding of the law governing landlord-tenant relationships, particularly in the context of termination of tenancy and maintainability of counter-claims.

21. The role of the appellate Court is not to re-appreciate evidence or to substitute its own discretion in the absence of any perversity or material irregularity in the

findings of the trial Court. In the present case, no such error or illegality is demonstrated. On the contrary, the trial Court has proceeded strictly in accordance with law and has rightly decreed the counter-claim for possession in favour of the landlords.

22. Accordingly, this Court is of the considered opinion that the appeal is devoid of any merits and is liable to be dismissed.

The appeal stands **dismissed**.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE

ALB