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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

(378)

CR-2378-2020(O&M)

Date of Decision: 09.12.2025

Vinod Kumar & another

--Petitioners

Versus

Elizabeth & another

--Respondents

CORAM:- HON'BLE MR. JUSTICE VIKAS BAHL.

Present:- Mr. G.S. Sirphikhi, Advocate for the petitioners.

Mr. Harminder Singh, Advocate and
Mr. Damanjit Singh, Advocate for the respondents.

VIKAS BAHL.J (Oral)

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 18.01.2018 (Annexure P-11) passed by learned Civil Judge (Jr. Divn.), Batala in Execution Case No.234 of 2014 vide which the objections filed by the petitioners under Section 47 CPC read with Order 22 Rules 4 and 5 CPC, had been dismissed.

2. The present case is a classic case, where the petitioners/Judgement Debtor/widow of Judgement Debtor have after the passing of the eviction order dated 05.02.2013, which order had attained finality, made every endeavour to delay the proceedings and hold on to illegal possession of the property in question without paying rent/mesne profit. The same would be apparent from the facts and reasons given in the latter part of the present order.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR

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3. Learned counsel for the petitioners has submitted that respondent no.1 Elizabeth is either no more or is a non-existent lady and the petitioners had raised a specific objection regarding the same in the objections dated 13.10.2016 (Annexure P-9) filed by them to the execution proceedings. It is submitted that in the objection petition filed by the petitioners, it was averred that the said respondent no.1 has not been known to be dead or alive for the last about 40-45 years and even respondent no.2 Kundan Lal Gill had fabricated her signatures upon an unregistered Power of Attorney dated 05.05.1986. It is submitted that the said fact is prima facie apparent from the report dated 07.03.2018 (Annexure P-15) which was given in an appeal filed by the petitioner against the order dated 18.01.2018 vide which the objections of the petitioners were dismissed. It is further submitted that since respondent no.1 had died, thus, the execution could not have proceeded on behalf of respondent no.1 by her Attorney, as the Attorney has no right to pursue the case as per Section 201 of the Indian Contract Act, 1872. It is submitted that thus, in the said circumstances, the objections filed by the petitioners should have been allowed and the impugned order, vide which the said objections have been dismissed, deserves to be set aside and the execution application filed by the respondents and pursued by respondent no.2, also deserves to be dismissed. It is further submitted that in the appeal filed by the petitioners against the order vide which the objections of the petitioners were dismissed, an interim order was passed by the Appellate Authority on 06.09.2018 taking into

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consideration the fact that a duly sworn in affidavit on behalf of respondent no.1 had been filed and thus it was not necessary to summon the said person as she was stated to be an old lady in a feeble condition. It is submitted that the said order dated 06.09.2018 was challenged by the petitioners by filing CR-250-2019 which was withdrawn with liberty to the petitioners to file an application before the First Appellate Court on the aspect of the said lady being a non-existent person or being no more. It is submitted that in pursuance of the said liberty, the petitioner did file an application, but the said application was never adjudicated upon. Learned counsel for the petitioners has further submitted that respondent no.1 should be directed to appear through video conferencing to show as to whether she is alive or not. It is submitted that thus the revision petition deserves to be allowed.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR THE RESPONDENTS

4. Learned counsel for the respondents, on the other hand, has submitted that in the present case, the eviction petition was filed both by respondents no.1 and 2 and in the said eviction petition, it was specifically stated that it is respondent no.2 Kundan Lal Gill, who had let out the said property to the petitioners and that respondent no.1 Elizabeth had appointed respondent no.2 Kundan Lal Gill as her Attorney and also authorized him to rent out the same, receive the rent and take appropriate legal action. It is submitted that in the said petition, the present petitioner no.1 was impleaded as respondent no.1, whereas the husband of present petitioner no.2 Anil Kumar, who was a sub tenant, was impleaded as respondent no.2. It is submitted that the eviction was sought on several grounds including the



ground of sub letting and that the Rent Controller vide order dated 05.02.2013 allowed the said application and ordered the eviction of the petitioner no.1 and the husband of petitioner no.2 from the premises in question. It is argued that in para 5 of the said judgement dated 05.02.2013, the stand on behalf of the present petitioners to the effect that it was respondent no.2, who had been receiving rent as Attorney of respondent no.1, was noted and thus the fact that the respondent no.2 was an Attorney of the respondent no.1 was admitted by the petitioners themselves. It is submitted that in the proceedings before the Rent Controller, no objection was raised on behalf of the petitioner no.1 or the husband of petitioner no.2 to the effect that the said Elizabeth was a non-existent person or was dead or that the Attorney in favour of respondent no.2 was fabricated.

5. It is argued that the appeal filed by the petitioner was dismissed by the First Appellate Authority and even the revision petition filed by the petitioner no.1 was dismissed by the High Court vide order dated 04.07.2016 and that neither before the Appellate Authority nor before the High Court any such plea, which is now sought to be taken, was taken. It is argued that only to delay the execution proceedings, a completely frivolous plea was taken in the objections dated 13.10.2016, which was filed within a period of three months from the date of judgement in CR-39-2016, to the effect that respondent no.1 was a non-existent person or was not living. It is argued that no Death Certificate of respondent no.1 was either referred to or produced and even the averments made in the objections would show that even the petitioners were not aware as to whether the said respondent was



alive or not. It is submitted that apart from the issue of estoppel, it is now not open to the petitioners, who are Judgement Debtor/widow of Judgement Debtor and against whom the eviction order has attained finality, to require the Executing Court to enter into a roving inquiry as to whereabouts of respondent no.1, instead of executing the judgement and decree. Learned counsel for the respondents has further highlighted the fact that in the reply filed to the said objections, several documents including an affidavit of the decree holder as well as a fresh Power of Attorney and copy of the bank statement of the decree holder was also filed in order to show that she was alive. It is submitted that it was also further stated that said Elizabeth had been residing in U.S.A with her sons and it is only to delay the execution that the said frivolous objections had been taken. Learned counsel for the respondents has further submitted that even a perusal of the impugned order would show that only one objection was pressed, to the effect that further challenge had been made by the petitioners to the order of eviction which was pending, and no other objection was pressed and hence the petitioners are raising objections which were never pressed before the Executing Court. It is submitted that in the objection petition, it has been highlighted that an S.L.P had been filed by the petitioners but the said S.L.P which was filed on 23.09.2016, had been never got listed and on 12.09.2017, the same was withdrawn without curing the defects. Learned counsel for the respondents has referred to the order dated 12.09.2017 of the Hon'ble Supreme Court in the said regard and has handed over the same to the Court which is taken on record as Mark A.



6. It is submitted that the reliance sought to be placed by the petitioners upon the proceedings in the appeal filed by the petitioners against the order dated 18.01.2018 is completely misconceived, inasmuch as, the said appeal was not maintainable and was subsequently withdrawn on 05.03.2020 by the petitioners after realizing that the said appeal was not maintainable. It is submitted that the report dated 07.03.2018 which was obtained by the petitioners in connivance with the Process Server also would not further the case of the petitioners, as it is the constant stand of the respondents that respondent no.1 has been residing abroad since several years. It is further submitted that even the perusal of the zimni orders (Annexure P-21), which the petitioners have annexed to show various orders passed in the non-maintainable appeal filed by the petitioners, would show that an application for mesne profit was filed by the respondents, as the petitioners were continuing to stay in illegal occupation of the property and several dates were taken by the petitioners to file reply to the said application and in order to avoid an order being passed in the said application, withdrew the appeal filed by the petitioners. It is submitted that the petitioners have not paid rent since November, 2019 even @ Rs.1500/- per month and are continuing to enjoy illegal possession of the property in question. It is further submitted that the market rent of the premises in question is Rs.30,000/- per month and thus the present petition should be dismissed with heavy costs.

7. Learned counsel for the respondents has also produced the affidavit dated 04.06.2018 which was produced before the First Appellate

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Court, but has not been annexed along with the present petition. The said affidavit is taken on record as Mark B and has not been disputed on behalf of the petitioners.

ANALYSIS AND FINDINGS

8. This Court has heard learned counsel for the parties at length, has perused the paper book and is of the opinion that the impugned order dated 18.01.2018 is in accordance with law and deserves to be upheld and the present petition being meritless deserves to be dismissed for the reasons detailed herein after.

9. As has been stated in the earlier part of the present order, the present petitioners, who are the tenant/Judgement Debtor and the widow of the sub tenant/Judgement Debtor, have made every endeavour to hold on to the illegal possession of the premises in question inspite of having suffered an eviction order dated 05.02.2013 which had been upheld up to the High Court and has attained finality and the S.L.P filed by the petitioners was withdrawn without curing defects. The said aspect is apparent from the following.

10. On 20.10.2001, the respondents no.1 and 2 i.e. Elizabeth and Sh. Kundan Lal Gill had filed a petition for ejectment of Vinod Kumar-petitioner no.1 and Anil Kumar, husband of petitioner no.2 from the premises in question. In para 1 of the said eviction petition, it was specifically stated that respondent no.1 herein had appointed respondent no.2 herein as her Attorney and the said respondent no.2 was authorized to let out the premises and to receive rent or to take appropriate legal action



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including that of ejectment, recovery of rent etc. It was further specifically averred that respondent no.2 herein had let out the shop to the present petitioner no.1 since 15.06.1993 vide Rent Note dated 11.06.1993. The head note as well as para 1 of the Rent Petition, which is relevant, is reproduced hereunder:-

- “1. *Ms. Elizabeth d/o Shri Sadiq Masih, r/o V.P.O Gaggal, Tehsil and District Kangra (H.P.)*
 2. *Sh. Kundan Lal Gill s/o Shri Samual, resident of Batala.*

XXX XXX XXX

1. *That, the building of which the above said shop and the rooms in dispute, as detailed in the heading of the petition are part, is owned by petitioner no.1, who has appointed petitioner no.2 as her attorney and has authorized him to rent out the same, receive its rent or take appropriate legal actions such like ejectment, recovery or rent etc. as per the exigencies of the situation. The petitioner no.2 has left out the said shop and the rooms in dispute to the respondent no.1 since 15.6.1993 vide rent note dated 11.6.1993 as executed by the respondent no.1 in their favour for business purpose.*”

11. The eviction was sought on several grounds including sub letting and arrears of rent. It was the case of respondents no.1 and 2 herein that petitioner no.1 had sublet the premises to the husband of petitioner no.2.

12. It is not in dispute that vide judgement dated 05.02.2013 (Annexure P-3), the ejectment petition filed by respondents no.1 and 2 was allowed on the ground of sub tenancy and the tenant/sub tenant were directed to vacate the premises within a period of two months from the date of order. A perusal of the said judgement dated 05.02.2013 would show



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that it was the stand of the present petitioner no.1 that respondent no.2 herein was an Attorney to respondent no.1 and respondent no.2 had received the rent as an Attorney up to 01.04.1999 and had executed the receipts up to 01.04.1999. Even the cross-examination of respondent no.2 Kundan Lal Gill was also considered by the Rent Controller, wherein on behalf of the present petitioner no.1, the respondent no.2 was confronted with a receipt dated 01.04.1999 to which the said Kundan Lal had identified his signatures and the said receipt was exhibited as Ex.R-1. The relevant portion of para 5 and para 17 of the judgement dated 05.02.2013 of the Rent Controller, wherein the above said two aspects have been mentioned, is reproduced hereunder:-

“5. On being put to the notice, respondents appeared and filed a detailed written reply to the application moved by the applicants. Factum of tenancy has been admitted by the applicants and respondents. Meaning thereby that relationship of landlord and tenant between applicants and respondents has been admitted.

Further it has been contended by the respondents that applicant no.2 had already received the rent as power of attorney of applicant no.1 upto 1.4.1999. He further executed receipts of rent upto 1.4.1999.

17. XXX XXX

During the course of cross-examination the witness Kundan Lal was confronted with the certified copy of receipt dated 1.4.1999 on which he identified his signatures and same was proved on record as Ex.R1. Now in order to decide the controversy it would be imperative to reproduce the contents of receipt dated 1.4.1999 (Ex.R1) as follows:

“Received Rs.13,500/- on account of rent from Vinod



Kumar son of Ramesh Chand for a period from 1.8.1998 to 1.4.1999.”

13. Importantly, it would be relevant to mention that in the entire proceedings, neither any plea was taken that respondent no.1 Elizabeth was a non-existent person nor it was stated that she had died nor the plea that the respondent no.2 was not the Attorney of respondent no.1 was taken. Rather, as is apparent from the stand of the present petitioner no.1, the respondent no.2 was stated to be an Attorney of respondent no.1. The said judgement was upheld by the Appellate Authority. Petitioner no.1 Vinod Kumar had filed CR-39-2016 which had been dismissed by the Coordinate Bench of this Court vide order dated 04.07.2016 (Annexure P-4). On a pointed query raised by this Court, it has been fairly stated by the learned counsel for the petitioners that the plea with respect to the said Elizabeth being a non-existent person or she having died, had not been taken up either before the Appellate Authority or before the High Court vide which the revision petition filed by the petitioners was dismissed vide order dated 04.07.2016. Thus, the petitioners have raised the said pleas for the first time in the execution proceedings.

14. The petitioners had filed objections dated 13.10.2016 in the execution proceedings and in the said objections, it had been stated that the execution proceedings be kept in abeyance till the outcome of the S.L.P filed on 23.09.2016 vide Diary No.32235 of 2016. As has been brought to the notice of this Court by the learned counsel for the respondents, the S.L.P had been filed by the petitioner no.1 in which certain defects were there and the said defects were never cured and a letter for withdrawal of the same



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was filed on behalf of the petitioner no.1, instead of curing the defects and vide order dated 12.09.2017, the said S.L.P was withdrawn. The order dated 12.09.2017 passed in S.L.P filed vide Diary No.32235 of 2016 has been taken on record as Mark A and is reproduced hereunder:-

*“SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS*

BEFORE THE REGISTRAR MR. SANJAY PARIHAR

*IA 69061/2017, in Petition(s) for Special Leave to Appeal (C)D.
No. 32235/2016*

VINOD KUMAR

Petitioner(s)

VERSUS

ELIZABATH

Respondent (s)

(IA No. 69061/2017-WITHDRAWAL OF CASE)

Date: 12-09-2017 These matters were called on for hearing today.

For Petitioner (s)

*Mr.B.P.Singh Dhakray, Adv.
Mr.Kailash Chand, AOR*

For Respondent(s)

UPON hearing the counsel the Court made the following
ORDER

Ld. Counsel for the petitioner has filed a letter for the withdrawal of the instant petition instead of curing the defects. Since, the petition has not been registered as yet, therefore, the same is permitted to be withdrawn.

Sd/-

***SANJAY PARIHAR
REGISTRAR”***

15. It is, thus, apparent that the order of eviction passed in the year 2013 had attained finality and the petitioners did not even choose to pursue their S.L.P. The objection taken by the petitioners to adjourn the execution



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proceedings on the ground of filing of the S.L.P, thus, apparently were only to gain time and to delay the proceedings, as the defects in the said S.L.P were never cured. Once the pleas with respect to the respondent no.1 Elizabeth being a non-existent person/not alive or the respondent no.2 not being the authorized Attorney were never taken up before the Rent Controller, Appellate Authority, or before the High Court while laying a challenge to the eviction order, then it was not open to the petitioners, who are Judgement Debtor/widow of Judgement Debtor, to raise the said issues for the first time in the execution proceedings, so as to start another trial and thus endlessly delay the execution proceedings, which is in the teeth of the direction given by the Hon'ble Supreme Court in the case of **Periyammal (Dead) and others Vs. Rajamani and another reported as 2025 SCC Online SC 507**, in which the Executing Courts have been directed to dispose of the execution proceedings within six months.

16. Further, a perusal of the impugned order dated 18.01.2018, vide which the objections filed by the petitioners were dismissed, would show that in para 4, it was specifically noticed that only objection which was raised by the Judgement Debtors during the course of arguments, was, that the decree under execution was under challenge and the same cannot be enforced. It is argued by learned counsel for the respondents that the petitioners are seeking to raise those objections which were never pressed before the Executing Court. The observations made in the said order recording the fact that the only objection raised by the Judgement Debtor was the one which has been noticed in para 4, is to be taken as correct, more



so when the present petitioners have not filed any review application before the Executing Court stating that the other objections were also pressed before the Executing Court. The sole objection pressed by the petitioners was rightly rejected by the Executing Court by observing that the judgement and decree dated 05.03.2013 has been upheld up to the High Court. Moreover, the S.L.P filed by the petitioner no.1 was never got listed and the petition was withdrawn on 12.09.2017 without curing defects. Thus, on the said ground also, the petitioners are estopped from raising the objections, as raised before this Court.

17. Even in case the objections raised by the petitioners before this Court to the effect that the respondent no.1 is a non-existent person or is dead is considered on merits, it is relevant to note that the said objections are meritless and frivolous. A perusal of para 17 of the objection petition dated 13.10.2016 (Annexure P-9), wherein the said objections have been raised, would clearly show that the petitioners themselves are not sure as to whether the respondent no.1 is alive or not. No Death Certificate of the respondent no.1 has been produced on record. It is apparent that the petitioners are wanting a roving inquiry to be conducted so as to delay the execution proceedings. In the civil revision which was dismissed by the High Court in the year 2016, the said arguments were never raised but in the objections filed in the same year i.e. in the year 2016 to the execution proceedings, the said objections have been raised for the first time, which clearly show the malafide intent on the part of the petitioners. A perusal of the reply dated 17.07.2017 filed by the respondents to the said objection



petition clearly shows that it had been specifically stated that the said Elizabeth had been residing in U.S.A since long, along with her sons and she had given a Power of Attorney in favour of respondent no.2 which was registered as per law and further the said Elizabeth had sent a fresh Power of Attorney and an affidavit in favour of decree holder i.e. respondent no.2 and also sent a bank statement, which also clearly shows that she was alive. The relevant portion of the said reply is reproduced herein under:-

*“5. That the issuance of notice by the counsel for the respondent to Mrs. Elizabeth at the address in District Kangra is a result of collusion with the local post man and the fact is well known to the respondents that she has been residing in USA since long along with her sons. In this direction, the **applicant no.1 Mrs. Elizabeth has given a Power of attorney in favour of the applicant no.2 which was registered with the registrar as per law.** The contention raised by the J.D. that the POA is an unregistered document is totally wrong and denied with vehemence. Moreover no such plea was ever raised by the J.Ds earlier. It is further submitted that the D.H. Elizabeth has further sent a fresh POA and an affidavit in favour of the D.H. no.2 which has been attested by the proper authority. She has also sent a copy of her passport. Copies of all the documents are attached herewith.*

*6. **The D.H. attaches herewith a copy of the bank statement of D.H. no. 1 which clearly states that the a/c is live.** The respondents J.D. have not placed any document where from it can be presumed that Elizabeth has died.”*

18. In the said reply, it has also been specifically stated in para 14 of the preliminary objections that the earlier objection filed by the Judgement Debtor had been dismissed on 16.08.2016. All the zimni orders



of the Executing Court have not been produced before this Court to rebut the said objection raised on behalf of the respondents. In para 17 of the reply on merits, it was specifically mentioned that the Power of Attorney executed in the year 1986 was a registered document and that the certified copy of the bank statement showing that the respondent no.1 was alive and was residing in U.S.A along with her sons and also fresh affidavit duly attested by the competent authority in favour of respondent no.2, was also attached.

19. The petitioners in order to further delay the proceedings, had filed an appeal against the order dated 18.01.2018 vide which the objections filed by the petitioners had been dismissed, which was not maintainable but was initially entertained by the First Appellate Court. Even in the said proceedings, the respondents had produced an affidavit of Elizabeth, which has been handed over to the Court by the learned counsel for the respondents during the course of arguments and has not been disputed by the counsel for the petitioners and has been taken on record as Mark B. The relevant portion of the same is reproduced hereunder:-

“AFFIDAVIT

I, Elizabeth d/o late Sh. Sadiq Masih r/o village Gaggal, Tehsil and Distt. Kangra (H.P.) India-presently residing at 3582 Sentinel Court Hayward, California, 94542 U.S.A- do hereby solemnly affirm and declare under Oath the following:-

I am a Senior Citizen of U.S.A, aged under 77 years old and I am very much alive. There is NO doubt whether I am alive or not; this Affidavit is a PROOF of that I am alive. I had already furnished an Affidavit on 13/04/2017 duly attested which is already in the court



records.

2. I am the owner of property bearing No.B-12/2, Cinema Road, Batala, Distt. Gurdaspur, Punjab, India. As mentioned above, I am a permanent resident of U.S.A (US Citizen); and therefore, I am unable to look after my above mentioned property; hence I have given the General Power of Attorney Wasika No.53, dated 5/5/1986, duly registered by Registrar Dharamshala (H.P) to Mr. Kundan Lal Gill, s/o late Sh. Samuel Gill r/o Kahnuwan Road, Near Methodist School, Batala, Distt. Gurdaspur, Punjab, India.

3. That, said General Power of Attorney dated: 5/5/1986 is still in force and will remain in force FOREVER. I have NOT cancelled said General Power of Attorney, and confirm that the said General Power of Attorney is Genuine, Legal, and Binding one, and the terms and conditions of the said General Power of Attorney are still in force and intact and will remain in force Forever.

4. That, I have a Bank Account with Punjab National Bank, branch Gaggal (H.P), account number: 0678000100063207. I operate this account from U.S.A and whereby I am helping Ranjeet Masih (my nephew) through this account each month, who also has an account with the same Punjab National Bank, branch Gaggal (H.P). I do visit my parental home in Gaggal sometimes; my last visit was in the year 2010.

I am furnishing this Affidavit today on 4th day of June-2018.”

20. A perusal of the above affidavit would show that it has been stated by the said respondent no.1 that she is a senior citizen of U.S.A and is aged 77 years and is alive and that she had earlier furnished an affidavit on 13.04.2017 duly attested which is already on the court record. The fact that she had executed a registered Power of Attorney was also reiterated and the details of her bank account, which was being operated by her from U.S.A, was also given. The other pages of the said affidavit show that the same has



been duly notarized by Jehanzeb Khan, Notary Public, California (U.S.A). It is, thus, apparent that the petitioners have raised completely frivolous objections.

21. Reliance sought to be placed upon the filing of the appeal against the impugned order dated 18.01.2018 and certain orders passed in the said appeal, by the counsel for the petitioner, in fact, also goes against the petitioners. Apart from the fact that the said appeal was not maintainable, it would be relevant to note that a perusal of the zimni orders (Annexures P-21) passed in the said appeal would show that an application for mesne profit was filed by the respondents on 04.07.2019 in the said proceedings and the present petitioners had taken time for filing reply to the said application on 01.08.2019, 22.08.2019, 26.09.2019, 07.11.2019 and ultimately it was only on 17.12.2019 that the reply to the application for mesne profit was filed. Thereafter, before any order could be passed on the said application for mesne profit, the petitioners withdrew the said appeal vide order dated 05.03.2020 by making a statement that it was not within their knowledge at the time of filing the appeal that the same was not maintainable. The said fact is apparent from the statement made on 05.03.2022 by the petitioner no.1 along with his counsel. It is surprising that still an argument is sought to be raised on the basis of the proceedings in the said appeal, although, even as per their own understanding, the said appeal was not maintainable and was withdrawn.

22. Further reliance sought to be placed upon the order passed by the Coordinate Bench of this Court on 17.01.2019 vide which the



petitioners had filed a civil revision challenging an interim order dated 06.09.2018 passed in the abovesaid non-maintainable appeal, also does not further the case of the petitioners as the said revision petition was withdrawn with liberty to file an application before the First Appellate Court and although, an application was filed before the First Appellate Court by the petitioners, but no benefit could be taken of the fact that the said application was not decided, as it was the petitioners who had withdrawn the said appeal as being not maintainable. Judgement of the Andhra Pradesh High Court in case of **A.B. Ramulu Vs. B. Yadigir Reddy, 1993 CivCC 487** relied upon by the learned counsel for petitioners, is based on completely different facts. In the said case, the revision petition filed had not arisen from execution proceedings and there was no final judgement passed, whereas in the present revision petition, challenge has been made to the order passed in the execution proceedings, after the judgement passed in the eviction petition has attained finality. Further, the factum of the death of the principal in the said case was not in dispute, whereas in the present case, as has been observed hereinabove, the factum of death is not even remotely proved nor is there any Death Certificate on record and rather the averments made by the petitioners even in the objection petition filed in the execution proceedings, as has been detailed herein above, would show that the petitioners, who are Judgement Debtor/widow of Judgement Debtor, are themselves not sure of the respondent no.1 being alive or not or being a non-existent person. Thus, the very premise on which the judgement in case of **A.B. Ramulu** (supra) has been passed, is completely different from the



case in hand.

23. The falsity of the argument raised on behalf of the petitioners to the effect that the respondent no.1 is a non-existent person is also apparent from the fact that it was the case of the petitioner no.1 as well as the husband of petitioner no.2, as has been noticed in paragraph 5 of the judgement dated 05.02.2013 (Annexure P-3) that the respondent no.2 herein had already received the rent as Attorney of respondent no.1 herein (Elizabeth) upto 01.04.1999. The said stand of the present petitioners recorded in paragraph 5 of the order of the Rent Controller has not been shown to be incorrect or perverse. From the above said, it is apparent that it was admitted by the petitioner no.1 and the husband of petitioner no.2 that respondent no.2 herein was an Attorney of respondent no.1 (Elizabeth) and thus the plea of the petitioners taken for the first time in the execution proceedings to the effect that the said Elizabeth is a non-existent person, is apparently false.

24. By raising frivolous objections, the petitioners have been able to hold on to the possession of the premises in question, inspite of the eviction order having been passed in the year 2013, which had attained finality, without even paying rent since November, 2019. It is the case of the respondents that the present market rent of the premises in question is Rs.30,000/- per month. On account of the conduct of the petitioners, this Court was inclined to direct the petitioners to pay rent/mesne profit since November, 2019, but has thought it appropriate to dismiss the present revision petition while granting liberty to the respondents to institute

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appropriate proceedings for claiming rent/mesne profit/compensation, in accordance with law.

25. Keeping in view the above said facts and circumstances, the impugned order dated 18.01.2018 (Annexure P-11), is upheld and the present revision petition is dismissed.

(VIKAS BAHL)
JUDGE

09.12.2025

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No