

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

**WEDNESDAY, THE TWENTY FIFTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SMT JUSTICE RENUKA YARA

CIVIL REVISION PETITION NO: 929 OF 2025

Petition under Article 227 of CPC, aggrieved by the order dated 11/03/2025 passed in IA No.372 of 2024 in O.S.No.8 of 2022 on the file of the Court of the Principal District Judge, Narayanpet.

Between:

Shaik Amjad, S/o Shaik Moinuddin, aged about 46 years, Occ: Business in premises No.1-6-85/17/1, Yadgir Road, Narayanpet

...Petitioner/Respondent/Defendant

AND

Shri Mohammed Abdul Rahman, S/o Mohd. Hussain, aged/ about 43 years, Occ: Service, R/o H.No.4-5-57, Dhoolpet Street, Narayanpet-509 210, TS

...Respondent/Petitioner/Plaintiff

I.A. 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 to extend the interim order in IA No 1 of 2025 in CRP No 929 of 2025 dated 21/03/2025 until further orders till the disposal of the CRP in the interest of justice

Counsel for the Petitioner : Sri R A Achuthanand

Counsel for the Respondent : Sri Syed Iliyas

The Court made the following : ORDER

**IN THE COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HONOURABLE SMT. JUSTICE RENUKA YARA

CIVIL REVISION PETITION NO.929 of 2025

THE 25th DAY OF FEBRUARY, 2026

Between:

Shaik Amjad

...Petitioner

and

Shri Mohammed Abdul Rahman

...Respondent

ORDER:

Heard Sri R.A. Achuthanand, learned counsel for the petitioner and Sri Syed Iliyas, learned counsel for the respondent. Perused the record.

2. The Civil Revision Petition is filed by the petitioner herein/respondent/defendant aggrieved by the order passed by the learned Principal District Judge, Narayanpet (for short 'the Trial Court') in I.A.No.372 of 2024 in O.S.No.8 of 2022, dated 11.03.2025, wherein, a petition filed by the respondent herein/petitioner/plaintiff under Order XV Rule 5 of CPC seeking striking off defence of the petitioner herein for failure to deposit

arrears and monthly rent has been allowed i.e. the petitioner's written statement and evidence were ordered to be struck off.

Facts of the case:

3. The respondent filed suit for eviction, recovery of arrears of rent and damages against the petitioner herein. Respondent claimed to be the absolute owner of suit schedule property and having entered into a rental agreement dated 17.10.2017 with the petitioner for a fixed period of 11 months. During the said period of Rental Agreement, there was repeated default on the part of the petitioner in payment of rents. During the years 2018 up to January 2024, the petitioner paid an amount of Rs.10,13,500/- whereas the total amounts due were Rs.37,75,997/-. After deducting the amounts paid by the petitioner, the total balance due was Rs.27,62,497/-. The petitioner claimed to have paid Rs.13,00,000/- to the GPA holder of the respondent, but the same is unrelated to the rents payable by the petitioner. The conduct of the petitioner constitutes willful default and amounts to intentional disregard for contractual obligations and therefore, the petition was filed to strike off defence.

4. The petitioner pleaded that the suit was filed in the year 2022 and there was no complaint about non-payment of rents. The rent agreed as per rental agreement was Rs.32,000/- per month. The respondent never claimed arrears of rent in the plaint as on 14.03.2022. No claim was made except for damages for use of occupation of the suit schedule property at Rs.1,00,000/- per month. In case, the respondent made any claim for arrears of rent, the petitioner would have paid the same. The petitioner claims that a petition under Order XV-A cannot be filed for a period which is not covered in the plaint. When the suit was filed, the respondent was residing in Dubai and was represented by his GPA holder. When the GPA holder approached, the petitioner with a proposal for executing a fresh lease agreement, there was a demand for payment of Rs.13,00,000/- towards advance rent. The petitioner had transferred Rs.13,00,000/- to the account of GPA holder on 31.10.2018 towards advance rent which was to be adjusted in the future. The new rental agreement was to be executed for a period of five years from December 2018 to November 2023. In spite of transferring Rs.13,00,000/- the petitioner continued to pay amounts to be adjusted in rents. The petitioner disputed payment of only Rs.10,13,500 /- out of total

dues of Rs.37,75,997/-. In case, there was any shortage in payment of rent, according to the petitioner, the respondent ought to have filed an application claiming arrears of rent along with the suit itself. There was no such arrears due and therefore, the respondent claimed damages only. There is no rejoinder filed by the respondent disputing payment of Rs.13,00,000/- towards advance rent. Further, it is pleaded that no application under Order XV-A of CPC can be filed once the suit is posted for arguments. There is documentary evidence already recorded on behalf of the parties and therefore, the petition under Order XV-A of CPC is not maintainable. Further, it is pleaded that the respondent was living in Dubai and the petition was filed with his signature which is gross forgery. On the aforementioned grounds the respondent i.e. the revision petitioner sought dismissal of I.A.

5. The learned Trial Court observed that trial has commenced wherein the respondent examined PWs 1 to 3 and got marked Exs.A1 to A4. In response, the petitioner got examined DWs 1 and 2 and got marked Exs.B1 to B17 and when the matter stood posted for arguments, the petition was filed. The learned Trial Court proceeded to examine Order XV Rule 5 of CPC coupled with the citation relied upon by the respondent in the case of **Asharani**

Gupta v. Vineet Kumar¹. Upon examining the version presented by both the parties, the learned Trial Court proceeded to hold that a suit for eviction was filed seeking eviction and payment of one year rent of Rs.3,84,000/-, arrears of rent from May, 2019 to February, 2022 at Rs.10,88,000/- and damages for unauthorised occupation of the premises from May 2019 to February 2022 at Rs.32,00,000/-. There was a totally an amount of Rs.50,72,000/- payable but the petitioner did not follow mandatory provision of Order XV Rule 5 of CPC for payment of arrears of rent at or before first hearing of the suit and did not deposit monthly rent regularly within a week of its accrual throughout the pendency of the suit. It is held that there is default in payment of monthly rents and therefore, the petition has been allowed.

Grounds of revision:

6. In grounds of revision, the petitioner pleaded that there is a false claim by the respondent about payment of Rs.10,13,500/- out of Rs.37,75,997/- and by December, 2024, there is an amount of Rs.27,62,497/- payable and said claim is without any basis. When counter was filed by the petitioner in the Interlocutory

¹ 2022 Live Law (SC) 607

Application, the respondent's claim was disputed by filing a bank account statement. However, the Trial Court had struck off the defence of the petitioner. It is pleaded that the order passed by the Trial Court is contrary to the provisos of Order XV-A of CPC and that when a matter is posted for arguments, there cannot be an application filed under Order XVA of CPC. There are many States in which amendments have been made to the Order XV of CPC. Uttar Pradesh State amendment has been applied while passing the order and the same is not applicable to the State of Telangana. As per UP State amendment, the first date of hearing is defined under the enactment, whereas in Telangana State, it is filing of the written statement which is the first date of hearing, that too, a tenant is expected to pay undisputed arrears calculated up to first date of hearing into the Court and should continue to deposit. The Court has not determined the rents due or payable after the petitioner filed bank statement showing payment of rents. The respondent had only filed unauthorized statement of arrears in the I.A under revision. The Trial Court instead of computing the rents, directly gave a finding that the petitioner has not paid rents. There is failure to consider payment of Rs.13,00,000/- towards advance rent to the GPA holder of the respondent. Subsequent to

filing of the suit, the GPA was cancelled. However, there is a presumption that the agent acted on behalf of his principal and therefore, payment of Rs.13,00,000/- as per the bank statement clearly demonstrates that Rs.13,00,000 has been transferred to the account of the agent to be payable to the principal. The affidavit filed by the respondent does not reveal how the amount of Rs.27,62,497/- is due. As per Order XV-A of CPC, whenever, there is a dispute as to arrears of rent, the Court cannot order deposit of arrears until the trial is completed and also the Court cannot exercise power to strike off defence. It is emphasized that trial has commenced and the petitioner had adduced his evidence and at that stage, defense cannot be struck off. The judgment in **Asharani Gupta** (supra) deals with the amendment made to CPC by the State of Uttar Pradesh and the same is not applicable to Telangana State. As such, it is pleaded that the impugned order passed by the learned Trial Court in I.A.No.372 of 2024 in O.S.No.8 of 2022 be liable to be set aside.

Contentions of the petitioner:

7. Learned counsel for petitioner submitted written arguments coupled with citations in the case of **K. Zakira Shaik v. K.**

Saleem Basha², wherein the High Court of Andhra Pradesh at Hyderabad, held that only undisputed rents can be directed to be deposited in addition to monthly rents from time to time. Further, reliance is placed on the judgment of High Court of Andhra Pradesh at Amaravathi, in the case of **Medikonda Venkateswara Rao v. Marapu Suresh Naidu**³, wherein it is held that a tenant who committed default is liable to deposit arrears of rent and monthly rent and when there is a defence set up with respect to tenancy i.e., when tenancy is not admitted applicability of Order XV-A of CPC does not arise.

8. The judgment in the case of **Medikonda Venkateswara Rao** (supra) is not applicable as in the present case the petitioner admitted to be a tenant, who entered into a rental agreement in the year 2018 for a period of 11 months. Thereafter, the petitioner claims to have paid Rs.13,00,000/- as advance rent for entering into a rental agreement for a period of 5 years from 2019 upto 2023. When there is admission about tenancy, there is no question of non-applicability of Order XV-A of CPC for seeking payment of monthly rents.

² MANU/AP/0391/2011

³ MANU/AP/1025/2024

9. The petitioner also relied upon judgment in the case of **Salem Advocate Bar Association v. Union of India**⁴, wherein the Hon'ble Supreme Court of India discussed about the scope of revision. A reference is made to Section 115 of CPC, which deals with the power of revision of High Court, which is to be exercised by varying or reversing any order made in the course of a suit or proceeding and it would have finally disposed of the suit or other proceedings.

10. Further reliance is placed on the case of **Shalini Shyam Shetty v. Rajendra Shankar Patil**⁵, wherein the Hon'ble Supreme Court held that supervisory jurisdiction under Article 227 of Constitution has to be exercised for keeping the subordinate Courts within the bounds of their jurisdiction. When a subordinate Court assumes jurisdiction, which it does not have or failed to exercise jurisdiction, it does have or the jurisdiction though available, is being exercised in a matter not permitted by law and there is resultant failure of justice. In addition, a High Court can interfere in the exercise of its power of superintendence

⁴ (2005) 6 SCC 344

⁵ (2010) 8 SCC 329

when there has been a patent perversity in the order of Tribunals and Courts subordinate to it.

11. Further, in the case of **Radhey Shyam v. Chhabi Nath**⁶, Hon'ble Supreme Court held that all the Courts in the jurisdiction of a High Court are subordinate to it and subject to its control and supervision under Article 227 of Constitution of India.

12. In the case of **M.B.Chander v. Balakrishnan Rao Charitable Trust**⁷, High Court of Judicature at Hyderabad held that a High Court can exercise power under Article 227 of the Constitution when the inferior Court assumes jurisdiction erroneously in exercise of power, when refused to exercise jurisdiction, when found an error of law apparent on the face of record, violated principles of natural justice, arbitrary or capricious exercise of authority or discretion, arriving at a finding which is perverse or based on no material evidence, a patent or flagrant error in procedure which result in a manifest injustice.

13. When the arguments of the learned counsel for petitioner are considered, the judgments which are cited regarding the maintainability of revision or the scope of revision are not relevant

⁶ (2015) 5 SCC 423

⁷ MANU/AP/0686/2016

as there was no challenge to maintainability of the present revision by the respondent. What needs to be examined is the maintainability of a petition under Order XV-A of CPC after the recording of evidence has been completed and when the matter stood posted for arguments, apart from the fact that there is a dispute about the arrears of rents payable.

Contentions of the respondent:

14. Learned counsel for the respondent submitted that there was default in payment of rents by the petitioner and therefore, a petition under Order XV Rule 5 of CPC has been filed. It is submitted that whenever a suit for eviction is filed and summons are received by the tenant, said tenant is under obligation to pay the arrears of rent on the date of filing of the written statement and continue to pay monthly rent. In the instant case, there is failure on the part of the petitioner to pay as per statute and therefore, a petition was filed for striking of defence on account of failure to pay the arrears of rents as well as monthly rents.

15. In the written arguments, learned counsel for the respondent submitted that the petitioner raised a false plea of payment of Rs.13,00,000/- to the GPA holder of the respondent by name

Faisal. The GPA document is not filed, but there is a claim that the GPA exists. There is attempt at convincing the Court that there is GPA on the basis of admission made by the respondent in his cross-examination. The fact is that the said Faisal is not the GPA holder of the respondent and nothing prevented the petitioner from paying amounts directly into the account of the respondent, instead of account of the GPA holder. Further, the argument with regard to payment of advance rent which is to be adjudicated is unreasonable as no one would pay monthly rent when advance rent is paid. There is a claim for enhancement of rent at 10% ever year, but the petitioner calculated the arrears at old rate of Rs.32,000/- only.

16. Respondent in the written arguments contended that there is no law which bars filing of petition under Order XV-A of CPC at the time of arguments. The respondent denied application of amendment made to the CPC by the Uttar Pradesh State for Order XV-A of CPC. Further, it is submitted that the facts of the case in **Ashrani Gupta** (supra), are similar to the facts of the present case. It is emphasized that no reference is made to the Uttar Pradesh State amendment while passing the impugned order. In fact, the amendment made by the Telangana State is more

stringent. There is an attempt by the petitioner to confuse the Court about the timing of payment of arrears which is at the time of filing of the written statement. It is the duty of the tenant to deposit the rents before they are claimed by the landlord. The petitioner is due to pay the arrears with 10% yearly hike which amounts to Rs.27,62,497/-.

17. In the written arguments, reference is made to the judgment of the High Court of Telangana and Andhra Pradesh at Hyderabad, in the case of **Ramesh Charities v. R. Ratna Sudha**⁸, wherein there is a discussion about the insertion of Order XV-A of CPC for the purpose of directing the tenant to deposit amount on account of arrears upto the date of the order, for deposit of rent for every succeeding month and for striking of defence in case of failure of payment of arrears and monthly rents.

18. There is no dispute about availability of Order XV-A of CPC for seeking deposit of arrears of rent. However, the same is subject to condition that such arrears should be undisputed failing which there has to be an enquiry and order has to be passed by the Court about the amount to be deposited towards

⁸ 2014 LawSuit(Hyd)880

arrears and amount of monthly rent. In the instant case, no petition was filed under Order XV-A seeking direction to the tenant to deposit rent, rather a petition under Order XV Rule 5 was directly filed for striking of defence. Therefore, the judgment in the case of **Ramesh Charities** (supra) is not applicable to the facts of the present case.

Findings of the Court:

19. The peculiar fact circumstances of this case show that a suit for eviction, recovery of possession, arrears and damages was filed in the year 2022 and the suit proceeded up to the stage of arguments i.e. the petitioner herein filed his written statement followed by framing of issues and recording of the plaintiff's and defendant's evidence. Thereafter, the matter was posted for arguments. At that stage, the respondent filed I.A No.372 of 2024 to strike off defence of the petitioner herein. At the outset, the petition ought not to have been registered for the simple reason that the evidence of the petitioner was already recorded. The question of striking of defence arises when the suit is at the stage of either commencement of evidence or the evidence of plaintiff alone has been recorded. In such an instance, firstly there has to

be a petition filed to determine the arrears of rent payable and an order has to be passed for deposit of arrears of rent within a stipulated time. When there is failure on the part of the tenant to pay such arrears determined then additional petition under Order XV-A Rule 5 can be filed to strike off defence.

20. In the case of **Mahboob v. Mohammed Hussain**⁹, the High Court of Allahabad held as follows:

“...True, it is that the trial court held that the defence was liable to be struck out but that finding was not reached before oral evidence was recorded and once the trial court permitted the defendant to lead oral evidence also on the point it was the duty of the trial court to decide all the issues on merits by considering not only the evidence adduced by the plaintiff put also documentary and oral evidence adduced by the defendant in the case. The impugned judgments of the courts below thus suffer from manifest error of law resulting in manifest injustice. They are, therefore, liable to be quashed.”

21. Further, in the case of **Ram Kumar v. Special Additional District Judge, Faizabad**¹⁰, the High Court of Allahabad held as follows:

“4. The S. C.C. Suit No. 288 of 1972 was filed for ejectment of the tenant and for damages. Any prayer for arrears of rent was not made in that suit. Therefore, it cannot be said that the provisions of Order XV, Rule 5, C.P.C. were strictly applicable. Then the landlord had not raised this plea at an earlier stage.

⁹ MANU/UP/0597/1983

¹⁰ MANU/UP/0999/1986

The evidence of the parties was concluded in that case and the amendment sought at the stage of revision which was pertaining to some ladder, etc. and it had nothing to do with the arrears of rent. The case was remanded and the Trial Court had to decide the case afresh on the basis of the evidence which was already on record. In view of the principle of law laid down in the case of Mahboob alias Chhalla v. Mohd. Husain and others (supra) there was no stage for the landlord to raise the plea of striking off the defence under Order XV, Rule 5, C.P.C. nor the learned lower Court was justified in striking off the defence at that stage. Moreover, if the tenant was in a position to explain for non-compliance of the provisions of Order XV, Rule 5, C.P.C. and if he complied with the provisions subsequently after explaining for the same, the discretion under Order XV, Rule 5, C.P.C. should have been exercised with caution and after giving satisfactory reasons for the same."

22. In the instant case, firstly there was no petition filed under Order XV-A for a direction to the petitioner to pay arrears of rent. There was no determination of actual rents payable. An order can be passed when the arrears of rent are undisputed. When there is a dispute about the quantum of rents due and payable, the course to be followed is to lead evidence and after a full-fledged trial, the trial Court can, along with the relief of eviction, grant relief of payment of arrears of rent. When there is no petition filed for determining the rents payable, there can be no question of non-compliance of a Court order or striking of defence. There is a total failure in appreciation of the stage of the suit for striking of defence. When the suit is still at the stage of plaintiff's evidence,

the petition for deposit of arrears of rent can be filed and when there is non-compliance the defence can be struck off and at that stage the tenant would not be allowed to record his evidence and his written statement also will be struck off. This course cannot be taken up when the evidence of both the parties is recorded.

23. Apart from the above issue, there is a dispute about the quantum of arrears of rent, on one hand the respondent is claiming arrears of rent to a tune of Rs.27,62,497/-, whereas the petitioner is claiming that he paid advance rent of Rs.13,00,000/- to the GPA holder and therefore, there is a dispute about the actual amount of arrears of rent due. Therefore, the trial Court ought not to have proceeded to direct payment of arrears as claimed by the respondent in his affidavit. Since the evidence was already recorded, the trial Court ought to have proceeded to determine the actual rents payable by giving a finding about Rs.13,00,000/- which is paid to GPA holder, as to whether said amount was to be calculated towards advance rent or not. Without giving a finding about Rs.13,00,000/- paid by the petitioner to the GPA holder of the respondent, directing the petitioner to pay arrears of Rs.27,62,497/- is clearly an error. Such an order which

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is perverse cannot be sustained. On account of the foregoing discussion, the impugned order is liable to be set aside.

24. In the result, the Civil Revision Petition is **allowed** by setting aside the impugned order dated 11.03.2025 in I.A.No.372 of 2024 in O.S.No.8 of 2022 on the file of the learned Principal District Judge at Narayanpet. There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand closed.

//TRUE COPY//

SD/- K.AMMAJI
DEPUTY REGISTRAR

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SECTION OFFICER

To,

1. The Principal District Judge, Narayanpet.
2. One CC to Sri R A Achuthanand, Advocate [OPUC]
3. One CC to Sri Syed Iliyas, Advocate [OPUC]
4. Two CD Copies

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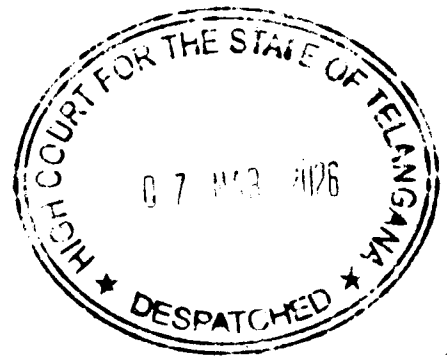
Jks.

HIGH COURT

DATED: 25/02/2026

ORDER

CRP.No.929 of 2025



ALLOWING THE CRP

⑧ JKS
7/3/26.