

*** THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

+CIVIL REVISION PETITION NO: 1624/2025

% Dated: 18.07.2025

Yenduri Srinvasa Rao ... Petitioner

and

\$ M.Srinivasa Rao Respondent

! Counsel for the Petitioner : Sri Ch.Markondaiah

^ Counsel for the Respondent : --

< GIST :

> HEAD NOTE :

? Cases referred :

¹ (1977) 2 SCC 662

² (2023) 7 SCC 307

³ 2023 SCC OnLine SC 1395

RAVI NATH TILHARI, J

APHC010339872025



FRIDAY, THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

CIVIL REVISION PETITION NO: 1624/2025

Between:

1. YENDURI SRINIVASA RAO, S/O VENKATESWARA
RAO, AGED ABOUT 55 YEARS R/O DOOR NO. 13-
78, KANKIPADU VILLAGE AND MANDAL, KRISHNA
DISTRICT.

...PETITIONER

AND

1. MEDANDRAVU SRINIVASA RAO, S/o Late Raghava
Rao, Aged about 56 years. Shop No.3, Main Road,
Kankipadu Village and Mandal, Krishna District.

...RESPONDENT

Counsel for the Petitioner:

1. CH MARKONDAIAH

Counsel for the Respondent:

1.

The Court made the following:

ORDER:

Heard Sri Ch. Markondaiah, learned counsel for the
petitioner and perused the material on record.

2. The petitioner in this petition under Article 227 of the Constitution of India is the plaintiff/decreed holder in O.S.No.423 of 2018. He filed E.P for execution of the decree passed in the suit. The learned Court raised the objection dated 17.05.2025, as follows:

“ As per the decree when the arrears of rent is granted how the DHR is entitled for damages to be explained. Calculation with details to be noted.

Hence, returned time 7 days.”

3. The petitioner represented the E.P on 16.06.2025, *inter alia* that the DHR is also entitled for the damages in terms of the decree in addition to the arrears of rent.

4. However, by the endorsement dated 28.06.2025, the Execution Petition has again been returned, which is as under:

“ Judgment copy to be enclosed for reference and the objection date 17.5.25 holds good”

5. Learned counsel for the petitioner has annexed the copy of the decree in O.S.No.428 of 2018. The decree reads as under:

“i) that the suit be and same is hereby decreed with costs;

ii) that the defendant is hereby directed to vacate the plaint schedule property and to deliver the

vacant possession of the plaint schedule property to the plaintiff three months from the date of this judgment.

*iii) that the defendant is further directed to pay an amount of Rs.22,500/-towards arrears of rent **and Rs.4500/- per month from 01.05.2018 till the defendant vacates and deliver the plaint schedule property to the plaintiff towards the damages for use and occupation of the plaint schedule property**, falling which the plaintiff is entitled to evict the defendant from the plaint schedule property and also to recover the said arrears and damages from the defendant by following due process of law.*

iv) that the defendant is also do pay to the plaintiff a sum of Rs. 9240/-towards costs of the suit and also do bear his own costs of Rs.2102/- towards costs of the suit."

6. *Prima facie*, the direction in the decree under point No.(iii) shows that the damages have also been awarded to the plaintiff/decreed holder.

7. There appears to be force in the submission of the petitioner's counsel that at the time of registration of Execution Petition, the petition could not be returned with such objections, when the decree on the face of it awarded damages. The Execution Court has no jurisdiction at the stage of registration to object as to how the decree holder is entitled for damages. The Execution Court cannot go behind the decree to question the entitlement of damages which has been allowed by the decree for a period different from the period for which arrears of rent has been allowed.

8. In ***Sunder Dass v. Ram Prakash***¹, the Hon'ble Apex Court held that the law is well settled that an executing court cannot go behind the decree nor can it question its legality or correctness. The exception has also been laid down to the general rule and that is 'the lack of inherent jurisdiction' in the court passing the decree.

9. In ***Sanwarlal Agrawal and others v. Ashok Kumar Kothari and others***², the Hon'ble Apex Court reiterated the same principle. In para-16, it was observed and held as under:

"16. This Court has time and again cautioned against the Execution Court adopting such an approach. In Topanmal Chhotamal v. Kundomal Gangaram, a three-Judge Bench held as follows:

"5.... It is a well-settled principle that a court executing a decree cannot go behind the decree: it must take the decree as it stands, for the decree is binding and conclusive between the parties to the suit".

10. Similarly, in ***Pradeep Mehra v. Harijivan J. Jethwa(since deceased thr.Lrs.) and others***³, the Hon'ble Apex Court, observed specifically at para 10 that the executing court can never go behind the decree and it cannot examine the validity of the order of the court, unless

¹ (1977) 2 SCC 662

² (2023) 7 SCC 307

³ 2023 SCC OnLine SC 1395

the court's order itself is without jurisdiction. Para 10 of the said judgment reads as under:

“10. A bare perusal of the aforesaid provision shows that all questions between the parties can be decided by the executing court. But the important aspect to remember is that these questions are limited to the “execution of the decree”. The executing court can never go behind the decree. Under Section 47, CPC the executing court cannot examine the validity of the order of the court which had allowed the execution of the decree in 2013, unless the court's order is itself without jurisdiction. More importantly this order (the order dated 12.02.2013), was never challenged by the tenants/judgment debtors before any forum.”

11. In view of the aforesaid judgments, the position in law is well settled that the executing court cannot go behind the decree nor question its legality or correctness, except, where the decree is without jurisdiction, lacking inherent jurisdiction. The return of the execution petition by the executing court cannot be sustained. This Court would further observe that even such questions if the decree is executable or not and whether the decree is by a court having no jurisdiction or such other questions which may be gone into the execution proceedings as permitted under law, they can be seen only after registration of the E.P. The registration of the execution petition cannot be refused on any such ground, on which Execution Petition has been returned in the present case.

12. There is no need to issue notice to the respondent as the E.P has been returned at the stage of registration.

13. The Civil Revision petition is allowed.

14. Let the original of the Execution Petition, as filed before the Execution Court and annexed to the Civil Revision Petition be duly returned as per the procedure for presentation before the Execution Court again.

15. The concerned Execution Court shall carefully peruse the decree and pass the orders for registering the E.P.

16. The petitioner shall however comply with the direction of the Execution Court to submit the copy of the judgment of the Trial Court passed in O.S.No.423 of 2018.

17. There shall be no order as to costs.

18. As a sequel thereto, interlocutory applications, if any pending, shall also stand closed.

RAVI NATH TILHARI, J

Date: 18.07.2025

Note:

L.R.copy to be marked.

B/o.

Pab