



Andreza

**IN THE HIGH COURT OF BOMBAY AT GOA**  
**WRIT PETITION NO.328 OF 2024**

Shri Pandurang Damodar Kamat, S/o late  
Damodar Kamat, Aged 72 years, married,  
business, Resident of H.No.529, Novo ...Petitioner  
Palmar, Cortalim, Mormugao Goa.

***V e r s u s***

Shri George Veerampully, S/o Porinchu  
Veerampully, Aged 68 years, married,  
Business, Resident of H.No.247/5, Church  
street, Cortalim and Running his  
Carpentry and business At (Shop No.435)  
House No.963, Opposite to D. R. Kamat  
Office, Novo Palmar, Cortalim, Mormugao, ...Respondent  
Goa.

**Mr. R. G. Ramani, Senior Advocate** with Mr Pranav  
Kakodkar and Mr. Vinayak Nevrekar, Advocates for the  
Petitioner.

**Mr. Dharmanand Vernekar, Advocate** for the Respondent.

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**CORAM: DR. NEELA GOKHALE, J.**

**Reserved on: 16<sup>th</sup> APRIL 2026**  
**Pronounced on: 23<sup>rd</sup> APRIL 2026**  
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**JUDGMENT**

- 1. Rule.** Rule made returnable forthwith. With consent of both the parties, the matter is taken up for final hearing. Learned Counsel appearing for the Respondent, waives notice.

2. By way of the present petition, the Petitioner seeks quashing and setting aside of Judgment and Order dated 23<sup>rd</sup> January 2024 passed by the District Judge-2, South Goa, Margao (**‘District Judge’**) dismissing the Rent Revision Application No. 18/2022 assailing Order dated 11<sup>th</sup> October 2022 passed by the Civil Judge Junior Division, “C” Court, Vasco, Goa (**‘CJJD/ Rent Controller’**) in Rent Case No. 1/RC/2015/C. The Rent case was filed by the Respondent seeking restoration of electricity supply under Section 35 of the Goa, Daman & Diu Buildings (Lease, Rent and Eviction) Control Act, 1968 (**‘Rent Control Act’**). The Petitioner denied the existence of a Landlord-Tenant relationship between him and the Respondent, due to which the Rent Controller decided to hold an inquiry in that regard. Being aggrieved by the said Order, the Petitioner filed the Rent Revision Application before the District Judge, which application was dismissed. It is this Order that is assailed by the Petitioner in the present petition.

3. The facts of the present case, in brief, are as follows:

3.1 All that piece and parcel of suit premises bearing Shop No. 435, situate at Nova Palmerar of Village Cortalim, Mormugao-taluka was owned by the Petitioner’s father. After his death, the Petitioner became the absolute owner of the said property.

**3.2** It is alleged by the Respondent that in July 1974, Mr. Damu Kamat, late father of the Petitioner, leased the said premises to the Respondent by an oral agreement. The Respondent claims to have paid rent of Rs. 30/- per month, which was increased to Rs. 100/- per month from August 1984, directly to Mr. Damu Kamat, and after his death, to the Petitioner. No rent receipts were issued on the account of cordial relations between the parties, and the Petitioner and his son tried to forcibly evict the Respondent and have also cut off the electricity in the suit premises.

**3.3** Way back on 4<sup>th</sup> August 2010, the Respondent filed an application seeking restoration of essential services and for deposit of rent before the Rent Controller. The Petitioner filed his reply dated 3<sup>rd</sup> September 2010, raising a preliminary objection to the existence of the relationship of land lord-tenant between the parties. The Rent Controller directed the Respondent to produce on record the rent receipts etc. However, the Respondent withdrew his application itself on 9<sup>th</sup> April 2012.

**3.4.** On 5<sup>th</sup> September 2012, the Respondent instituted a suit bearing Regular Civil Suit No. 51/2012/A against the Petitioner before the Civil Judge Senior Division, Vasco ('**CJSD**'), seeking permanent injunction restraining the Petitioner from evicting the Respondent from the suit premises; mandatory

injunction directing the Petitioner to restore the electricity supply and some other alternate and incidental reliefs.

The Petitioner by way of his Written Statement denied any landlord-tenant relationship between him and the Respondent, as also between the Respondent and the Petitioner's late father.

**3.5.** During the pendency of the suit, the Respondent once again filed Rent Case No. 1/RC/2015/C on 27th February 2015 before the Rent Controller under Section 35 of the Rent Act for restoration of electricity supply against the Petitioner, claiming landlord-tenant relationship between the parties. The Petitioner, on 03<sup>rd</sup> June 2015, filed his Written Statement in the Rent Case.

**3.6.** The Respondent filed an application seeking interim reliefs pending inquiry to restore electricity supply to the premises, under Section 35(3) of the Rent Act in the Rent Case. By Order dated 15th October 2015, the Rent Controller rejected the said application on the ground that the previous proceedings initiated by the Respondent against the Petitioner in the year 2010, on the same subject matter, were unconditionally withdrawn and there was an unexplained delay thereafter in approaching the Rent Controller. However, the Rent Controller opined that an inquiry has to be conducted to determine whether there was any landlord-tenant relationship between the parties

before determining the Section 35 Application.

**3.7.** The Petitioner made an application, dated 03<sup>rd</sup> March 2021, in Regular Civil Suit No. 51/2012/A under Order XIV Rule 5 of the Code of Civil Procedure, 1908, ('CPC') for framing additional issues. By Order dated 07<sup>th</sup> April 2021, the said application was allowed and two additional issues on tenancy were framed by the CJSD.

**3.8.** Aggrieved by the same, the Respondent filed Writ Petition No. 1961/2021-F before this Court. By Order dated 23<sup>rd</sup> March 2022, this Court quashed and set aside Order dated 07<sup>th</sup> April 2021 passed in Regular Civil Suit No. 51/2012/A, holding that the Respondent had not sought any reliefs based on tenancy but on the basis of illegal dispossession by the Petitioner. Hence the Writ Petition was allowed and this Court directed the trial before the CJSD to proceed on merits, without being influenced by the observations of this Court.

**3.9.** On 23<sup>rd</sup> June 2022, Petitioner filed an application for dismissal of the Rent Case on the ground that the Rent Controller has no jurisdiction to determine whether there existed a landlord-tenant relationship between the parties. By Order dated 11<sup>th</sup> October 2022 passed by the Civil Judge Junior Division, "C" Court, Vasco, Goa, the Petitioner's application for dismissal of

Rent Case was rejected on the ground that since at the Civil Judge Junior Division was acting as an authority under the Rent Act, it had the jurisdiction to determine whether there was a landlord-tenant relationship between the parties.

**3.10.** Aggrieved by the same, the Petitioner, on 19<sup>th</sup> November 2022, filed Rent Revision No. 18/2022 before District Judge seeking quashing and setting aside of the said Order, rejecting the Petitioner's application for dismissal of Rent Case.

**3.11.** In the meanwhile, Judgment and Order dated 27<sup>th</sup> November 2023 came to be passed in Regular Civil Suit No. 51/2012/A. The suit was partly decreed in favour of the Respondent. The Petitioner was restrained from evicting or dispossessing the Respondent from the suit premises otherwise in accordance with law.

**3.12.** By Judgement and Order dated 23rd January 2024, the Rent Revision No. 18/2022 was dismissed by the District Judge.

**3.13.** It is this Judgment and Order, which is impugned herein.

**4.** Mr. R. G. Ramani, learned Senior Advocate, represented for the Petitioner and Mr. Dharmanand Vernekar, learned Counsel, represented the Respondent.

**5. SUBMISSIONS OF THE PETITIONER:**

i) Mr. Ramani submitted that the District Judge ought not to have proceeded with the matter when the Respondent was claiming landlord-tenant relationship on the basis of an oral lease, which was denied by the Petitioner.

ii) That the District Judge erroneously observed that the decision of the Bombay High Court in the matter of ***Vincente Palha v/s Jaffrey Fernandes***<sup>1</sup>, would not apply in the present case.

iii) That the scope of inquiry under Section 35 of the Rent Act is limited to finding out if essential services in respect of a premises were unjustifiably cut off by the landlord, and does not to extend to determining whether there existed a landlord-tenant relationship between the parties.

iv) That the Rent Act does not confer any jurisdiction on the Rent Controller to decide the issue of landlord-tenant relationship.

v) That the Rent Controller or the Rent Tribunal can exercise the same powers as the Mamlatdar under the Goa Mamlatdar's Court Act, 1966, as provided under Rule 9 of the Goa Buildings (Lease, Rent & Eviction) Control Rules, 1966.

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<sup>1</sup> 2006 DGLS (Bom) 22

vi) That the Civil Judge, acting as a Rent Controller, could not have exercised powers under the CPC as available to a Civil Court.

vii) That Section 9 of the CPC does not confer any jurisdiction on the Authorities under the Rent Act to decide the question of tenancy.

viii) That the Rent Controller does not have the jurisdiction to determine whether there was any landlord-tenant relationship between the parties, when the Respondent had opposed framing of issue on Tenancy in Regular Civil Suit No. 51/2012/A, filed by the him against the Petitioner.

ix) Mr. Ramani relied on the following decisions in support of his contentions:

**1) *H.S. Puttashankara v/s Yashodamma*<sup>2</sup>**

**2) *Om Prakash Gupta v/s Dr. Rattan Singh and Anr*<sup>3</sup>**

**6. SUBMISSIONS OF THE RESPONDENT:**

i) Mr. Vernekar submitted that there is no error or perversity in the impugned Judgement and Order, passed by the District Judge.

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**2** 2025 SCC OnLine SC 1940

**3** 1962 SCC OnLine SC 111

ii) That the Rent Controller has the jurisdiction to conduct an inquiry under Section 35 of the Rent Act to determine whether there was any landlord-tenant relationship between the parties, to decide if the reliefs sought by the Respondent could be granted or not.

iii) That the jurisdiction of the Rent Controller to decide landlord-tenant relationship cannot be curtailed by mere denial of the said relationship by the landlord.

iv) That the judgment of *Vincente Palha (Supra)* was rightly held to not apply to the present case.

v) That there is evidence to show that the Respondent carried out business in the suit premises.

vi) That the Regular Civil Suit No. 51/2012/A was instituted by the Respondent only because the Petitioner and his son were trying to forcibly evict him and as they removed the electricity fuse box from the premises.

vii) That the Respondent opposed framing of issue with respect to tenancy as he had not sought any reliefs based on tenancy but on the basis being dispossessed illegally by the Petitioner.

viii) That the Regular Civil Suit No. 51/2012/A was partly decreed in the favour of the Respondent, restraining the Petitioner from illegally evicting the Respondent from the suit premises.

ix) Mr. Vernekar relies on the following decisions in support of his contentions:

**1) *Om Prakash Gupta v/s Dr. Rattan Singh and Anr***<sup>4</sup>

**2) *Assa Singh (Dead) by Legal Representatives v/s Shanti Prasad (Dead) by Legal Representatives and Ors.***<sup>5</sup>

**3) *Amar Singh and Anr. v/s Dalip***<sup>6</sup>

**4) *Khadeeja and Ors. v/s Haris Haji V.***<sup>7</sup>

**5) *Kharaiti Ram Bansal Lal v/s Shmt. Radha Rani and Anr.***<sup>8</sup>

7. Heard both the learned Counsel appearing for the respective parties and perused the record with their assistance.

### **ANALYSIS**

**8.** Although, the question that arises for consideration in the present case is whether the Civil Court in the exercise of its jurisdiction as Rent Controller can proceed to determine the existence of the relationship of landlord and tenant between the

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**4**1962 SCC OnLine SC 111

**5**(2021) 19 SCC 290

**6**(1981) AIR (Punjab) 237

**7**(2019) 3 KLT 693

**8**(1969) 2 ILR (Punjab) 374

parties, the same needs to be considered on the backdrop of the previous proceedings between the parties.

**9.** Admittedly, the Respondent had contested the framing of the issue pertaining to the existence of the landlord tenant relationship between the parties in the Civil Suit No. 51/2012/A before the CJSD, and had also withdrawn an application made earlier by him before the Rent Controller, seeking restoration of essential services and deposit of rent. The said application was withdrawn by the Respondent.

**10.** Admittedly, the suit instituted by the Respondent was for permanent injunction simplicitor, seeking to restrain the Petitioner from evicting the Respondent from the premises, without following the due process of law. As mentioned above, the Petitioner had resisted the prayer in the suit and had denied any legal relationship with the Respondent in relation to the said premises. In fact, the Petitioner had sought framing of an issue to determine the existence or otherwise of a relationship of landlord and tenant between the parties. Accordingly, the Civil Court had framed the said additional issue.

**11.** The Respondent had filed a Writ Petition before this Court assailing the decision of the Civil Court to frame the said issue. The

Respondent was at pains to canvass before this Court that such an issue was neither required to be framed nor decided by the Civil Court for the reason that the Respondent was not claiming the relief of injunction on the basis of Respondent being the landlord's tenant. This Court in its Order dated 23<sup>rd</sup> March 2022 recorded the submission of the Respondent that the dispute between the parties is not one that pertains to the claim of tenancy but an injunction restraining the Petitioner from illegally evicting the Respondent. This Court, thus, held that since the issue of tenancy is not at the forefront of the Respondent's case before the Civil Court, but the relief of injunction was sought on the basis of the Respondent's possession of the property, the said issue regarding existence of tenancy was not relevant. Hence, this Court set aside the Order of the Civil Court framing the additional issues regarding existence of the landlord-tenant relationship. The trial was then directed to be proceeded.

**12.** Ultimately, the Civil Court protected the possession of the Respondent in the suit premises and restrained the Petitioner from dispossessing him, without following due process of law. After having waived an opportunity of getting the relationship between himself and the Petitioner determined in the Civil Court, in fact, also actively contesting the same, now the Respondent has sought

to exercise a right of a tenant to avail the benefits of the provisions of the Rent Control Act. It is during the pendency of this suit, that once again, the Respondent made an application before the Rent Controller, seeking restoration of essential services in respect of the premises.

**13.** In these circumstances, the existence of a relationship remains undetermined. The Respondent's application under Section 35 of the Rent Control Act is pending before the Rent Controller. The proceeding before the Rent Controller is stayed by this Court by Order dated 04<sup>th</sup> April 2024. The Petitioner has once again denied the existence of his relationship with the Respondent as a tenant. However, the Petitioner's contention is that this issue can be decided only by the Civil Court and the Rent Controller has no jurisdiction to determine the same.

**14.** Admittedly, there is no express provision in the Goa Rent Control Act empowering the Controller or the Tribunal to determine the existence of a landlord-tenant relationship. The provisions of the Rent Control Act postulate a pre-existing relationship. The Act is directed to control some of the terms and incidents of that relationship. The various provisions of the Rent Control Act indicate that the Rent Controller is vested with

jurisdiction to entertain an application for eviction made by a landlord. The jurisdiction to order eviction depends entirely on the existence of a landlord-tenant relationship. Hence, the power to decide whether the 'landlord' and the 'tenant' fall into the definition of the words as given in Section 2 of the Act, must also be vested with the Rent Controller.

**15.** Section 21 of the Act provides that if a tenant denies the title of a landlord or claims a right of permanent tenancy, the Controller is vested with the jurisdiction to decide as to whether the claim or denial is *bona fide*. Ordinarily, it is for the Civil Court to decide complex issues regarding title of a person to property. But this Act is enacted to provide for control of rents and evictions of tenants, avowedly for their benefit and protection. Ordinarily, in a situation where the tenant seeks restoration of electricity to the premises, and the landlord denies the relationship itself, the jurisdiction of the Rent Controller to inquire into this question cannot be ousted. The Rent Controller would be well within his jurisdiction to conduct a preliminary inquiry to ascertain the existence of such relationship.

**16.** The Supreme Court in the matter of ***Om Prakash Gupta (Supra)*** held that:

*“...The Act proceeds on the assumption that there is such a relationship. If the relationship is denied, the authorities under the Act have to determine that question also, because a simple denial of the relationship cannot oust the jurisdiction of the tribunals under the Act. True, they are tribunals of limited jurisdiction, the scope of their power and authority being united by the provisions of the Statute. But a simple denial of the relationship either by the alleged landlord or by the alleged tenant would not have the effect of ousting the jurisdiction of the authorities under the Act, because the simplest thing in the world would be for the party interested to block the proceedings under the Act to deny the relationship of landlord and tenant. The tribunals under the Act being creatures of the Statute have limited jurisdiction and have to function within the four-corners of the Statute creating them. But within the provisions of the Act, they are tribunals of exclusive jurisdiction and their orders are final and not liable to be questioned in collateral proceedings like a separate suit or application in execution proceedings. In our opinion, therefore, there is no substance in the contention that as soon as the appellant denied the relationship of landlord and tenant, the jurisdiction of the authorities under the Act was completely ousted...”*

**17.** In view of the aforesaid, it cannot be held that the Rent Controller has no jurisdiction at all to conduct an inquiry to prima facie establish the existence of a landlord-tenant relationship between the parties, while determining any application made to the

Rent Controller under the Rent Control Act, including the application seeking restoration of essential services. However, returning to the facts in the present case, the Civil Court, the Rent Controller has decided to proceed with a preliminary inquiry to determine the existence of a landlord-tenant relationship between the parties, before deciding the application under Section 35 of the Rent Control Act as made by the Respondent. This Court, in its Order dated 23<sup>rd</sup> March 2022, had allowed the writ petition filed by the Respondent, assailing the framing of the issue regarding his relationship with the Petitioner as tenant. The Respondent had actively thwarted all efforts made by the Petitioner regarding the determination by this Court or the CJSD, regarding existence or otherwise of their relationship. In fact, the Respondent had himself, also withdrawn a previous application made by him before the Rent Controller seeking restoration of essential services, asserting his character as 'tenant' The Petitioner has thus, raised the plea of estoppel against the Respondent repeatedly seeking a tenancy declaration, by making application for restoration of essential services. In fact, in the Civil Suit No. 51/2012/A, the Respondent sought a simplicitor injunction, restraining the Petitioner from dispossessing him from the suit premises. The Respondent, in fact, made a statement before this Court, that he does not claim tenancy rights but merely seeks protection of his possession. Having taken

contrary and independent stands before the Civil Court, the Rent Controller and this Court, in earlier proceedings, the Respondent cannot be allowed to once again, resort to the provisions of the Rent Control Act, to indirectly get a tenancy declaration, in his favour.

**18.** Having held that the Rent Controller is vested with the jurisdiction in prima facie determining the existence of the landlord-tenant relationship in certain cases, there are mixed and complex questions of facts and law, relating to the title and ownership of the premises, involved in the present case. The Petitioner has canvassed the issue of estoppel and raised an issue of application of the doctrine of res-judicata as well. It is only the Civil Court, which can adequately deal with the same and declare the legal character of the parties. The Judgment and Order impugned herein, has not considered the factual matrix in the present matter and has commenced an inquiry to establish the existence of the relationship between the parties. Considering the complex issue arising in the present matter, the jurisdiction to decide the declaration of title and ownership of the premises vests with the Civil Court. The Order dated 23<sup>rd</sup> January 2024 passed by the District Judge-2, South Goa, Margao and the Order dated 11<sup>th</sup>

October 2022 passed by the Rent Controller impugned herein, are quashed and set aside.

**19.** In view of the aforesaid discussion, the Petition is allowed. Rule is accordingly, made absolute.

**20.** All interim applications stand disposed, in view of the disposal of the present petition.

**DR. NEELA GOKHALE, J**