

Defendant- Respondent- Respondent is absent
and unrepresented.

WRITTEN SUBMISSIONS: By the Appellant on 10.04.2015.

ARGUED ON: 23.07.2024

DECIDED ON: 30.03.2026

K. KUMUDINI WICKREMASINGHE, J.

This is an appeal from a judgment of the High Court of Tangalle, dated 23.10.2013 which affirmed the judgment of the District Court of Tangalle, dated 12.03.2007.

This Court, by its Order dated 13.06.2014, granted Leave to Appeal on the questions of law set out in paragraph 12, sub-paragraphs 1 to 6 of the Petition. However, by the journal entry dated 23.07.2024, it was clarified that the earlier Order erroneously referred to paragraph 12 of the Petition. The Order is hereby corrected to state that the questions of law are contained in paragraph 16 of the Petition.

Accordingly, the Court granted Leave to Appeal on the questions of law set out in paragraph 16 of the Petition, as set out below,

i. Did the Civil Appellate High Court Judges misdirected themselves in law when they came into a finding the Defendants had not disputed the title notwithstanding the Defendant's statement to the police she is the owner of the Premises (මට අයිති උනා)?

ii. Did the Civil Appellate High Court Judges failed to consider the following evidence of Defendant which demonstrates the Defendant had lost any lawful rights to claim tenancy under the Plaintiff?

පර: තමා කුලී නිවැසි භාවය ඔප්පු කරන්න කිසිම ලේඛනයක් ඉදිරිපත් නොකළේ නමුත් එසේ කිසිම ලේඛනයක් තමා ගාව නොතිබෙන නිසා යැයි මම තමන්ට යෝජනා කරනවා?

පි: උත්තරයක් නැත

පර: තමන්ට ලේඛන නැහැ නේද?

පි: උත්තරයක් නැත

පර: තමන්ට යෝජනා කරනවා පැමිණිලිකාරියගේ ඉඩමේ නිති වරෝධීව බුද්ධි විදිනවයි කියලා?

පි: උත්තරයක් නැත.

iii. Did the Civil Appellate High Court Judges misdirected themselves in law by not considering the admitted evidence of the Defendant of doing new constructions without any permission from the landlady as an evidence of denying the rights of the landlady?

Factual Matrix

The Substituted- Plaintiff- Appellant- Appellant (hereinafter referred as Appellant) stated that she is the daughter of the original Plaintiff-Appellant-Appellant (hereinafter referred to as the “deceased Appellant”). While the present appeal was pending before this Court the deceased Appellant passed away on 03.11.2020. Prior to her demise, the deceased Appellant had proceeded with this appeal challenging the judgment of the Civil Appellate High Court of the Southern Province holden in Tangalle.

The deceased Appellant had originally instituted the action in the District Court seeking a declaration of title to the premises more fully described in the schedule to the plaint and the ejectment of the Defendant-Respondent (hereinafter referred to as the “Respondent”) from the said premises.

As per the deceased Appellant, the Respondent had initially entered into possession of the said premises as a tenant under the deceased Appellant. However, the deceased Appellant alleged that the Respondent had subsequently effected structural alterations to the premises. When the deceased Appellant questioned the Respondent regarding the alterations made to the premises, the Respondent refused to accept the ownership of the deceased Appellant. The deceased Appellant therefore contended that the Respondent had lost her tenancy rights and had thereby become an unlawful occupant of the premises by disputing the title of the landlady.

The Respondent filed an answer to the plaint and the matter thereafter proceeded to trial on three admissions and seven issues. Of these issues, the first and second issues had been raised by the deceased Appellant. During the course of the trial, the Respondent admitted that the deceased Appellant was the owner of the premises in question.

In support of her case, the deceased Appellant gave evidence before the District Court and produced several documents. The deceased Appellant also produced in evidence a statement made by the Respondent to the police in response to a complaint lodged by the deceased Appellant. In that statement, the Respondent had stated that she had become the owner of the premises (මම අයිති උනා). This statement was produced and marked in evidence as documents **P-2** and **P-2(a)**. The deceased Appellant thereafter closed her case after leading her oral evidence and producing the said documentary evidence, including documents **P-1** and **P-2**, which were marked without objection.

The Respondent thereafter gave evidence on her behalf and also called one Kusumalatha as a witness. During the course of the trial, the Respondent attempted to dispute the authenticity of the statement allegedly made by her to the police and asserted that she had not made such a statement denying the ownership of the deceased Appellant. However, the Respondent did not call the police officer as witness or any other person who had recorded the said statement in order to contradict the documents marked **P-2** and **P-2(a)**.

The witness Kusumalatha, who gave evidence on behalf of the Respondent, testified that she had been involved in paying rent on behalf of the Respondent only up to the year 1999. Beyond that period, no documentary evidence was produced by the Respondent to establish that she continued to occupy the premises as a lawful tenant.

Upon the conclusion of the trial, the learned District Judge delivered judgment on 12.03.2007 dismissing the action filed by the deceased Appellant. In the said judgment, the learned District Judge answered issues Nos. 1 and 2 in the negative and also answered issue No. 3 raised by the Respondent in the negative.

Being aggrieved by the said judgment of the District Court, the deceased Appellant preferred an appeal to the Civil Appellate High Court of the Southern Province holden in Tangalle. After hearing the submissions made by both parties, the Civil Appellate High Court, by its judgment dated 23.10.2013, dismissed the appeal on the basis that the evidence led at the trial did not establish that the Respondent had lost her tenancy rights.

The deceased Appellant was dissatisfied with the judgment of the Civil Appellate High Court. She therefore sought leave to appeal to this Court, raising several questions of law, including whether the Respondent had disputed the title of the deceased Appellant and, as a result, lost the protection of tenancy.

Legal Analysis

i. Did the Civil Appellate High Court Judges misdirected themselves in law when they came into a finding the Defendants had not disputed the title notwithstanding the Defendant's statement to the police she is the owner of the Premises (මට අයිති උනා)?

The first question of law raised in this appeal concerns whether the Civil Appellate High Court misdirected itself in law by concluding that the Defendant had not disputed the Plaintiff's title, despite the alleged statement made by the Defendant to the police that she "is the owner of the premises" (මට අයිති උනා).

In approaching this question, it is important to carefully distinguish **two separate legal concepts**:

1. **Ownership/title of the property** – which has already been **admitted by both parties** at the commencement of the trial. The Plaintiff's ownership is not in dispute.
2. **Tenancy rights/occupancy** – the question is whether the Defendant's conduct, including the alleged statement to the police, amounts to a **denial of the Plaintiff's rights sufficient to terminate tenancy** under common law or the Rent Act No 07 1972.

Ownership refers to the legal right of the Plaintiff to possess and control the premises in question. In this case, the Plaintiff's ownership was admitted by the Defendant at the very outset of the trial, and no evidence was led to challenge the Plaintiff's title. Therefore, the question of ownership is not in dispute and does not require further proof. The Court's task is not to re-evaluate the title, which is settled, but rather to examine whether the Defendant's conduct has recognized or repudiated that ownership in a way that affects her tenancy rights.

Tenancy rights are derived from the legal relationship between a landlord and a tenant, which confers on the tenant the lawful right to occupy the premises, usually in return for rent or other agreed consideration. The key issue under this concept is whether the Defendant's conduct, including the alleged statement to the police that she "is the owner of the premises" (මට අයිති උනා), constitutes a repudiation of the tenancy or a denial of the Plaintiff's rights sufficient to terminate her legal right to occupy. The Court must examine all relevant conduct, including payment of rent, alterations made to the premises, and other interactions with the Plaintiff, to determine whether the tenancy has been effectively terminated under common law or the **Rent Act No. 07 of 1972**. Mere statements do not automatically terminate tenancy unless they are unequivocal and accompanied by conduct inconsistent with recognition of the Plaintiff as the lawful landlord.

In assessing the significance of the Defendant's alleged statement, the Court must consider the statement in its full context. It is necessary to examine whether the statement was accurately recorded by the police, as minor discrepancies can occur during transcription.

In the case of ***Edirisinghe v. Patel (1973) 79 NLR 217*** Pathirana, J. held that "*once the tenant disclaims to hold of his landlord, he is not entitled to a notice to quit,*" and that a tenant who repudiates the tenancy is in unlawful occupation from the date of repudiation. However, where the alleged denial is not accompanied by clear conduct inconsistent with recognition of the landlord's rights, the Court held that mere statements cannot terminate a tenancy ipso facto. Similarly, in ***Cassim Hadjar v. Umamleuve (1963) 67 NLR 22***, it was observed that "*the defendants are not entitled to take up the position and refuse to acknowledge the transferee of their landlord as their own landlord; but in such an event the defendants are not entitled to claim any rights of tenancy or even the rights of a statutory tenant as against the plaintiff.*" Therefore it is clear that a mere statement by a tenant asserting ownership of the premises is insufficient,

in itself, to terminate a tenancy; there must be accompanying conduct which unequivocally demonstrates a denial of the landlord's rights.

On a careful review of the evidence, it is evident that the Defendant's subsequent conduct was consistent with recognition of the Plaintiff's ownership. The Defendant continued to deposit the house rent with the Hambantota Municipal Council in the name of the Plaintiff and did not deny the Plaintiff's title in her pleadings or formal submissions. The alleged statement to the police was not corroborated by any independent witness, such as the officer who recorded it and may have been inaccurately transcribed. Moreover, the Defendant consistently testified that any construction undertaken on the premises was limited to necessary repairs and did not amount to erecting a new structure. Viewed in context, the alleged statement alone does not constitute a denial of the Plaintiff's ownership or tenancy rights sufficient to terminate the Defendant's lawful occupation.

ii. Did the Civil Appellate High Court Judges failed to consider the following evidence of Defendant which demonstrates the Defendant had lost any lawful rights to claim tenancy under the Plaintiff?

The second question of law concerns whether the Defendant lost any lawful tenancy rights, as contended by the Plaintiff-Appellant. The evidence relied upon by the Plaintiff includes the Defendant's alleged admissions that she possessed no documents proving tenancy, and her refusal to answer certain questions on the record suggesting unlawful occupation. Specifically, the cross-examination shows the following:

- When asked whether she had produced any documents to prove lawful tenancy, the Defendant answered "No answer."
- When asked whether she did not have any documents, the Defendant again answered "No answer."

- When asked whether she intended to suggest that she was occupying the Plaintiff's premises unlawfully, the Defendant answered "No answer."

It is, however, significant that the Defendant, despite being silent to certain questions, continued to pay rent. The evidence shows that rent was paid through Kusumalatha, acting on her behalf, and subsequently through the Municipal Council in the name of the Plaintiff. This conduct demonstrates ongoing recognition of the tenancy relationship and undermines any contention that the Defendant had abandoned or repudiated her tenancy rights.

Under common law and the **Rent Act, No. 7 of 1972**, a tenant's right to occupy premises is contingent on lawful entry, payment of rent, and compliance with conditions of tenancy. As stated in ***Wijetunge v. Thangarajah [1999] 1 Sri LR***, "*in a vindicatory action, when the legal title to the premises is admitted, the burden of proof is on the defendant to show that he is in lawful occupation.*" However, this principle operates only after the Plaintiff establishes that the tenancy has been lawfully terminated, either under common law or statutory provisions.

In the present case, the Plaintiff-Appellant contends that the Defendant, by a statement made to the police and marked as P-2 and P-2(a), denied the Plaintiff's title and thereby forfeited her tenancy. Although these documents were admitted without objection at trial, their probative value must be assessed in context. The Defendant explicitly denied making any statement amounting to repudiation, and no independent witness was called to verify the circumstances under which the statement was recorded. Furthermore, even if the statement were accepted at face value, it is ambiguous and inconsistent with the Defendant's subsequent conduct of paying rent and continuing to occupy the premises.

It is also pertinent that the original tenant, Siyadoris, had passed away, and the Defendant's family continued occupation thereafter. **Section 22(1) of the Rent Act** provides that

“notwithstanding anything in any other law, no action or proceedings for the ejectment of the tenant of any premises the standard rent (determined under section 4) of which for a month does not exceed one hundred rupees shall be instituted in or entertained by any court, unless where- (a) the rent of such premises has been in arrear for three months or more after it has become due; or (b) such premises, being premises which have been let to the tenant on or after the date of commencement of this Act, are, in the opinion of the court, reasonably required for occupation as a residence for the landlord or any member of the family of the landlord, or for purposes of the trade, business, profession, vocation or employment of the landlord; or (c) such premises were let to the tenant for use as a residence by reason of his being in the service or employment of the landlord and the tenant has ceased to be in such service or employment; or (d) the tenant or any person residing or lodging with him or being his subtenant has, in the opinion of the court, been guilty of conduct which is a nuisance to adjoining occupiers or has been convicted of using the premises for an immoral or illegal purpose, or the condition of the premises has, in the opinion of the court, deteriorated owing to acts committed by or to the neglect or default of the tenant or any such person.”

Section 22(2) states that

“notwithstanding anything in any other law, no action or proceedings for the ejectment of the tenant of- (i) any residential premises the standard rent (determined under section 4) of which for a month exceeds one hundred rupees; or (ii) any business premises the standard rent (determined under section 4) of which for a month exceeds one hundred

rupees and the annual value of which does not exceed the relevant amount, shall be instituted in or entertained by any court, unless where- (a) *rent has been in arrear for one month after it has become due; or (b) the premises are, in the opinion of the court, reasonably required for occupation as a residence for the landlord or any member of the family of the landlord or for the purposes of the trade, business, profession, vocation or employment of the landlord; or (c) such premises were let to the tenant for use as a residence by reason of his being in the service or employment of the landlord and the tenant has ceased to be in such service or employment; or (d) the tenant or any person residing or lodging with him or being his subtenant has, in the opinion of the court, been guilty of conduct which is a nuisance to adjoining occupiers or has been convicted of using the premises for an immoral or illegal purpose, or the condition of the premises has, in the opinion of the court, deteriorated owing to acts committed by or to the neglect or default of the tenant or any such person.”*

Section 22(3) provides that

“the landlord of any premises referred to in subsection (1) or sub-section (2) shall not be entitled to institute, or as the case may be, to proceed with, any action or proceedings for the ejectment of the tenant of such premises on the ground that the rent of such premises has been in arrear for three months or more, or for one month, as the case may be, after it has become due,- (a) if the landlord has not given the tenant three months, notice of the termination of tenancy if it is on the first occasion on which the rent has been in arrear, two months' notice of the termination of tenancy if it is on the second occasion on which the rent has been in arrear and one month's notice of the termination of tenancy if it is on the third or any subsequent occasion on which the rent has been in arrear; or (b) if the tenant has prior to the institution of such action or proceedings

tendered to the landlord all arrears of rent; or (c) if the tenant has, on or before the date fixed, in such summons as is served on him, as the date on which he shall appear in court in respect of such action or proceedings, tendered to the landlord all arrears of rent.”

In the present case, none of these statutory requirements were complied with, and no grounds under the Act for termination were established. The Defendant’s tenancy therefore remained valid. Accordingly, the second question of law is answered in the negative, and the dismissal of the appeal by the Civil Appellate High Court is affirmed.

iii. Did the Civil Appellate High Court Judges misdirected themselves in law by not considering the admitted evidence of the Defendant of doing new constructions without any permission from the landlady as an evidence of denying the rights of the landlady?

The third question of law in this appeal is whether the Civil Appellate High Court misdirected itself by failing to treat the admitted evidence of the Defendant concerning new constructions or alterations to the premises without the Plaintiff’s permission as evidence of denial of the Plaintiff’s rights. The Plaintiff-Appellant contends that these alterations, carried out without her consent, demonstrate repudiation of her ownership and should constitute grounds for termination of tenancy and ejectment.

It is well established that **unauthorised acts by a tenant, including structural alterations, may constitute grounds for ejectment**, but such acts **do not automatically terminate a tenancy**. In the case of *Theivandran v. Ramanathan Chettiar (1986) 2 SLR 219 at 222, Sharvananda, J.*, stated that “in a vindicatory action the claimant need merely prove two facts; namely, that he is the owner of the thing and that the thing to which he is entitled to possession by virtue of his ownership is in the possession of the defendant.

Basing his claim on his ownership, which entitles him to possession, he may sue for the ejectment of any person in possession of it without his consent.” This principle confirms that the Plaintiff’s ownership, once admitted, continues to protect the premises unless statutory or common law grounds justify termination.

Under the **Rent Act, No. 7 of 1972**, the provisions relevant to this question include:

Section 22(2)(d), which provides that:

“notwithstanding anything in any other law, no action or proceedings for the ejectment of the tenant of... any residential premises... shall be instituted in or entertained by any court, unless... the tenant... has, in the opinion of the court, been guilty of conduct which is a nuisance to adjoining occupiers or has been convicted of using the premises for an immoral or illegal purpose, or the condition of the premises has, in the opinion of the court, deteriorated owing to acts committed by or to the neglect or default of the tenant or any such person.”

Section 22(5) provides that:

“where any action or proceedings for the ejectment of the tenant of any premises referred to in sub-section (1) or sub-section (2) is instituted on the ground that the rent has been in arrear... the court may, on being satisfied that the rent has been in arrear on account of the tenant's illness or unemployment or other sufficient cause, make order that a writ for the ejectment of the tenant from those premises shall not issue if the tenant pays to the court the arrears of rent...”

The evidence indicates that the Defendant undertook minor repairs, such as rebuilding a collapsed wall and repairing the roof. The Plaintiff's case suggested that these alterations constituted a "new construction" or unauthorized structural change; however, cross-examination revealed that these claims were inconsistent, uncorroborated, and unsupported by independent evidence.

Even assuming the Defendant effected structural alterations without consent, such conduct does not automatically terminate the tenancy. Relief under the Rent Act requires proper proceedings, including notice and proof that the tenant's conduct falls within statutory grounds for ejectment under **Section 22(2)(d)**. In this case, the Plaintiff did not comply with these procedural requirements.

Moreover, the Defendant continued to pay rent through Kusumalatha and subsequently via the Municipal Council in the Plaintiff's name. As held in ***Candappa nee Bastian v. Ponnambalam Pillai [1993] 1 SLR 184 at 187 (G. P. S. de Silva, CJ)***, "*since title to the premises was admittedly in the plaintiff, the burden is on the defendant to show by what right he was in occupation of the premises.*" The Defendant's continued payment demonstrates recognition of the Plaintiff's title and tenancy relationship, undermining any claim that structural alterations repudiated the Plaintiff's ownership.

The Civil Appellate High Court correctly held that the Plaintiff failed to establish that the Defendants admitted minor alterations without consent amounted to denial of ownership or lawful grounds for termination of tenancy. The Court properly applied both the **Rent Act, No. 7 of 1972**, and the principles of vindicatory actions. Therefore, the third question of law is answered in the negative, and there is no misdirection in law by the Civil Appellate High Court.

In view of the evidence and applicable law, this Court finds that the Civil Appellate High Court did not misdirect itself. The Civil Appellate High Court

correctly applied the provisions of the Rent Act, the principles of tenancy and vindicatory actions. The Appellant has failed to establish any basis for overturning the judgment of the Civil Appellate High Court.

Accordingly, all questions of law raised by the Plaintiff-Appellant are answered in the negative and the judgment of the Civil Appellate High Court dated 23.10.2013 is hereby affirmed.

Appeal Dismissed.

JUDGE OF THE SUPREME COURT

HON. A.H.M.D.NAWAZ, J.

I agree.

JUDGE OF THE SUPREME COURT

HON.K. PRIYANTHA FERNANDO, J.

I agree.

JUDGE OF THE SUPREME COURT