

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CIVIL REVISION APPLICATION NO. 244 of 2026****With****CIVIL APPLICATION (FOR STAY) NO. 1 of 2026****In R/CIVIL REVISION APPLICATION NO. 244 of 2026**=====

ABDULKADAR ABDULGANI SHAIKH & ORS.

Versus

SONI ISTIYAK AHMED NOORMOHMMAD & ANR.
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Appearance:

MR MTM HAKIM FOR MR RIZWAN SHAIKH(7146) for the
Applicant(s) No. 1,2,2.1,2.2,2.3,2.4,2.5,2.6,2.7

MR JF MEHTA(461) for the Opponent(s) No. 1

UNSERVED EXPIRED (N) for the Opponent(s) No. 2
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CORAM:**HONOURABLE MR. JUSTICE MAULIK J.SHELAT****Date : 10/06/2026****ORAL ORDER**

1. Heard Mr. MTM Hakim, learned advocate for Mr.Rizwan Shaikh, learned advocate for the petitioners and Mr.J.F.Mehta, learned advocate for respondent No.1, who is appearing on caveat.

2. With the consent of the learned advocates for the respective parties, the matter is taken up for hearing.

3. Rule returnable forthwith. Mr.Mehta, learned advocate waives service of Rule for respondent No.1.

4. The present revision application is preferred under Section 29 (2) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (hereinafter referred to as “**the Bombay Rent Act**”) against the judgment and decree dated 23.01.2026 passed by the Appellate Bench of the Small

Causes Court, Ahmedabad (IInd Bench) in Regular Civil Appeal No.124 of 2016.

5. At the outset, Mr.Hakim, learned advocate for the petitioners has drawn the attention of this Court to the fact that the learned Appellate Court had committed a serious error by treating the original defendant - tenant as deceased and upon that premise, the impugned judgment and decree came to be passed against the petitioners.

6. Upon inquiry, Mr.Mehta, learned advocate appearing for respondent No.1 - original landlord confirmed that as on date, the original defendant - tenant is alive.

7. In view of this fact, *prima facie*, it appears that the Appellate Court has taken into account that the original defendant - tenant died during the pendency of the appeal and his legal heirs were brought on record, which is a factual error committed by the Appellate Court.

8. At this stage, upon joint request made by the learned advocates for the respective parties, under the instruction of their clients, that the impugned judgment and decree passed by the Appellate Court may be quashed and set aside and the matter may be remanded back to the Appellate Court for hearing the appeal afresh.

9. Considering the aforesaid facts and reasonable request forthcoming from the side of learned advocates for the respective parties, I am inclined to accept such request. Accordingly, without further delving into the matter, the

impugned judgment and decree dated 23.01.2026 passed by the Appellate Bench of the Small Causes Court, Ahmedabad (IInd Bench) in Regular Civil Appeal No.124 of 2016 is hereby quashed and set aside. Consequently, the matter is remanded back to the Appellate Court. Regular Civil Appeal No.124 of 2016 is ordered to be restored back on its original file.

10. After taking into account the aforesaid facts and if so required, the cause title of the appeal may be corrected either by the parties or by the Registry of the Court concerned, as the case may be and after giving an adequate opportunity of hearing to the respective parties, the Appellate Court is hereby requested to re-hear the appeal on its own merits.

11. It is needless to state that while re-adjudicating the aforesaid appeal, without being influenced by its impugned judgment and decree, the Appellate Court shall decide the *lis* between the parties afresh.

12. It is further made clear that this Court has neither gone into nor examined the merits of the matter except what has been observed hereinabove.

13. Learned advocates for the respective parties have assured this Court that they will extend their cooperation for early hearing of the appeal. In such circumstances, the Appellate Court is requested to hear and decide the appeal as expeditiously as possible, preferably on or before 30.09.2026.

14. With the aforesaid observations and directions, the present revision application is partly-allowed. Rule is made absolute, to the aforesaid extent. Consequently, the connected Civil Application also stands disposed of.

15. Direct service is permitted.

GAURAV J THAKER

(MAULIK J. SHELAT, J)