

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CIVIL REVISION APPLICATION NO. 147 of 2024**

=====

PRADHANJI CHHANAJI THAKOR

Versus

LH OF DECD THAKORLAL KISHORILAL KNOTTY JAGDISH THAKORLAL
KOSHTI & ANR.

=====

Appearance:

DAKWALA JAY S(13856) for the Applicant(s) No. 1

VIRAL K SHAH(5210) for the Applicant(s) No. 1

for the Opponent(s) No. 1,2

=====

CORAM:HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI**Date : 16/04/2024****ORAL ORDER**

1. Heard Mr.Viral Shah, learned advocate appearing for the applicant.

2. Mr.Shah, learned advocate submits that the applicant herein is the original tenant. H.R.P. Suit No.228 of 2015 came to be rejected by judgment and decree dated 02.01.2018. Reliance is placed on issue no.4 - whether the defendant no.2 proves that he and his father was residing with the original tenant and taking care of Revaben, widow of defendant no.1 and then after, on death of the father, he became statutory tenant under Section 5(11)(c) of the Rent Act whereby, while rejecting the suit, the said issue was answered in favour of the applicant herein. Mr.Shah, learned advocate submits that the said decree was taken in appeal by the original plaintiff whereby, the learned Appellate Court allowed the appeal being Regular Civil Appeal No.21 of 2018. The learned Appellate Court framed the points for determination, duly produced at page 31. Issue no.1 - whether the appellant proves that the defendant no.1 has sublet the suit premises to the defendant no.2

and handed over the exclusive possession to him without the consent of the landlord, is answered in affirmative. Mr.Shah, learned advocate submits that while deciding the said issue, the learned Appellate Court has also accepted the fact that the applicant herein has been residing in the subject premises and has been depositing the rent, which has been duly accepted by the original plaintiff. It is submitted that the aforesaid finding itself suggests that the rent has been accepted by the original plaintiff from the applicant herein. The aforesaid contentions raised by Mr.Shah, learned advocate appearing for the applicant herein require consideration.

3. Issue notice, making it returnable on 12.06.2024.

4. In the meantime, the order dated 14.03.2024 passed below exh.17, extending the stay, is directed to be extended till the next returnable date. Direct service is permitted.

Hitesh

(VAIBHAVI D. NANAVATI,J)