

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**CIVIL REVISION APPLICATION NO. 36 of 2016**

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LATABEN JASWANTRAI JANI & 2....Applicant(s)

Versus

HASITBHIA MANHARLAL JOSHI & 1....Opponent(s)

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Appearance:

MR SP MAJMUDAR, ADVOCATE for the Applicant(s) No. 1 - 3

ULLASH N GOHIL, ADVOCATE for the Applicant(s) No. 1 - 3

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CORAM: HONOURABLE MR.JUSTICE R.D.KOTHARI**Date : 08/02/2016****ORAL ORDER**

1. Heard learned advocate, Mr.S.P.Majmudar for the applicants.

2. The applicants are the tenants. Landlord has instituted the suit, *inter-alia*, on the ground of non-user and bonafide requirement etc. The trial court has decreed the suit on the ground of non-user of the premises. The decree on the said ground was affirmed by the appellate Court.

3. Learned advocate, Mr.Majmudar has submitted that as per the commissioner's report, the premises was in dilapidated condition and it was not in a habitable condition. Therefore, even if assuming for the sake of argument that there was a non-user of premises, there was sufficient cause for the applicants to not to reside in the suit premises. The

suit premises is a residential building. The trial court has not at all considered the aspect of 'sufficient cause'. Further, it was submitted that sole evidence weighed with the Court is electricity consumption wherein as per the electricity bill, there was non-consumption of electricity for five months. However, for the 6th month, there is an electricity consumption. Going with this evidence of electricity bill also, as per the submission of learned advocate, it cannot be said that there is non-user of the premises for continuous period of six months. In this regard, attention was drawn to Para.21 of the order of the trial court.

4. The matter requires consideration. Notice and notice as to interim relief, returnable on 8.3.2016.

5. Meanwhile, ad-interim relief in terms of Para.13(B) till next date of hearing. Direct service is permitted.

(R.D.KOTHARI, J.)

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