

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CIVIL REVISION APPLICATION NO. 577 of 2018**

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AMULBHAI NARSHIBHAI PATEL

Versus

JAYESHBHAI VITHALBHAI JOGI

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Appearance:

MR. VIMAL M. PATEL for MR SUREN B PATEL(8420) for the  
PETITIONER(s) No. 1

for the RESPONDENT(s) No. 1

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CORAM: **HONOURABLE MR.JUSTICE B.N. KARIA****Date : 22/10/2018****ORAL ORDER**

Heard learned advocate Mr. Vimal M. Patel for Mr. Suren B. Patel , learned advocate for the applicant.

Present Civil Revision Application has been filed by applicant under Section 29(2) of the Bombay Rents, Hotel & Lodging House Rates Control Act, 1947 (hereinafter referred to as the “Rent Act”) seeking to challenge the judgment and order dated 31.08.2018 passed by the learned 4<sup>th</sup> Additional District Judge, Rajkot dismissing Regular Civil Application No. 9 of 2016 filed by the respondent and the judgment and decree dated 31.12.2013 passed by the learned Additional Judge, Small Causes Court, Rajkot. It is submitted by learned advocate

for the applicant that the applicant was liable to pay property tax and Education cess, which were payable at the end of the year as the rent was ceased to be payable by the month, and therefore, Section 12(3)(a) of the Rent Act would not be applicable. It is further submitted that the applicant has deposited the rent before the trial court. It is further submitted that the notice issued by the landlord under Section 12(2) of the Rent Act is challenged by the applicant, as there is no specific time period shown by the respondent-landlord to pay the rent. Hence, it was requested that the impugned judgment and order dated 31<sup>st</sup> August 2018 passed by the learned 4<sup>th</sup> Additional District Judge, Rajkot in Regular Civil Appeal No. 9 of 2016 is clearly against the provisions of the Rent Act. In his support, learned counsel placed reliance on the judgment of this High Court reported in **2001(2) GLR 1615**. In the said judgment, question was whether notice could be said to be valid when mesne profit rent was decided by this Court.

Notice to the respondents, returnable on **26<sup>th</sup> November 2018**. In the meantime, judgment and order dated 31.08.2018 passed by the learned 4<sup>th</sup> Additional District

Judge, Rajkot in Regular Civil Appeal No. 9 of 2016 is hereby stayed and the applicant shall continue to pay mesne profit regularly per month, till final disposal of the appeal before this Court.

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**(B.N. KARIA, J)**