

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CIVIL REVISION APPLICATION NO. 629 of 2018**

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HANIFABANU HUSSAINBHAI SHAIKH

Versus

SAIRABANU KAMALUDDIN BAGBANTHRU POA MEHMOOD YUSSAIN
ABDULKAR BAGBAN

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Appearance:

MS VENU NANAVATY FOR MR.NANDISH H THACKAR(7008) for the
PETITIONER(s) No. 1,2,3,5,6,7,8
for the RESPONDENT(s) No. 1
=====**CORAM: HONOURABLE MR.JUSTICE B.N. KARIA****Date : 04/12/2018****ORAL ORDER**

Present applicants were original defendants before the Civil Court in Regular Civil Appeal No. 111 of 2008. They have preferred this revision application challenging judgment and decree dated 01.12.2008 passed in H.R.P. Civil Suit No. 1460 of 2011 for eviction of the suit premises, wherein, learned trial Court dismissed the suit . Thereafter, an appeal was preferred by the landlord and the first Appellate Court was pleased to quash and set aside the judgment and decree passed in Regular Civil Suit No. 1460 of 2001.

Learned advocate for the applicants submitted that the

rent in arrears was deposited by the defendants. That, the notice issued by the plaintiff was not legal and valid. That, the First appellate Court has committed grave error in holding that the notice was legal and valid. Purshish was passed by the defendants before the trial Court and arrears of rent was deposited before the Court. However, the first appellate Court has not considered the proper way.

Learned advocate for the applicants has relied upon a decision in case of **Mohammed Sabir Ibrahim Byavarwala v. Yusufbhai Noormohammed Jodhpurwala**, reported in 2013 (3) GLR 4133, wherein it is submitted that condition should be complied with by the landlord by claiming eviction under Section 12(3)(b) of the Bombay Rent Act. In the instant case, it is not complied with by the original plaintiff.

Notice returnable on 8th January 2019.

If any application for adjournment is submitted by the present applicants before the trial Court, the same shall be considered in accordance with law.

(B.N. KARIA, J)

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