



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
CIVIL REVISION APPLICATION NO. 277 OF 2025



Abdul Raqeed Abdul Hamid Ansari and  
Ors.

...Applicants

V/s.

Existing Trustees of Late Wanabai  
Mankoji Dhone Trust and Ors.

...Respondents

Mr. S. M. Gorwadkar, *Senior Advocate with Mr. Sujay H. Gangal, Mr. Swaraj M. Savant, Mr. Harshal N. Mule and Mr. Varun H. Thanawala for the Applicants.*

Mr. Drupad Patil *with Ms. Srushti Chalke for Respondent No. 1.*

CORAM: SANDEEP V. MARNE, J.

Reserved on: 21 APRIL 2026.

Pronounced on: 05 MAY 2026.

**Judgment.:**

1) The Applicants have invoked revisionary jurisdiction of this Court under Section 115 of the Code of Civil Procedure, 1908 (**the Code**) for challenging the judgment and order dated 28 January 2025 passed by District Judge, Pune dismissing Regular Civil Appeal No. 173 of 2019 and confirming the judgment and order dated 5 February 2019 passed by Small Causes Court in Civil Suit No. 340 of 1995. The Trial Court has decreed the Suit on the grounds of commission of acts contrary to provisions of Section 108 (o) of the Transfer of Property Act, 1882 (**the TP Act**) and *bonafide* requirement of the Plaintiffs. The Applicants are directed to handover possession of the suit premises to the Plaintiffs-



landlords by the Trial Court with further direction for conduct of inquiry into *mesne* profits from the date of decree. The Appellate Court has concurrently upheld the findings on the issues of permanent alterations and changes in the suit property and *bonafide* requirement.

2) Plaintiff is a registered Trust. It is the owner of land admeasuring 99 Sq. Mtrs. at City Survey No. 64, Bhamburda, old Tofkhana, Shivaji Nagar, Pune (**suit property**). According to the Plaintiffs, there was a room admeasuring two *khan* in the suit property whereas the Plaintiff's land was vacant. One Baba Miya Imam Saheb Jahangirdar (**Baba Miya**) was inducted as monthly tenant in respect of the suit property on rent of Rs. 5/-. The structure on the property got damaged in Panshet floods in 1961. Baba Miya constructed a new structure in the property and commenced Bakery business. According to Plaintiffs, the structures necessary for operation of bakery business such as furnace, etc. were constructed in the property without prior consent term. The landlord-Plaintiffs further alleged that children of Baba Miya i.e. Defendant Nos. 1 to 4 unauthorizedly transferred the property in favour of Defendant Nos. 5 and 6 without the permission of Plaintiff Trust. Plaintiffs also pleaded ground of *bonafide* requirement. Accordingly, the Plaintiff-Trust filed Regular Civil Suit No. 340 of 1995 under the provisions of Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (**Bombay Rent Act**) seeking recovery of possession of suit property from the Defendants. Defendant No. 5 appeared in the Suit and filed written statement. Defendant No. 6(e) also filed his written statement. The plaint was amended and the pleadings relating to further construction were incorporated in the Plaint. Defendant No. 6(e) filed additional written statement. Based on pleadings, the Trial Court framed issues relating to



existence of landlord-tenant relationship between Plaintiffs 2026-1101-C-AS:22360 Defendant Nos. 5 and 6, erection of permanent structure, commission of acts contrary to provisions of Section 108 (o) of the TP Act, change of user and *bonafide* requirement. The issue relating to transfer of interest in the suit premises by Defendant Nos. 1 to 4 in favour of Defendant Nos. 5 and 6 was also framed. Parties initially examined the trustee-Ramchandra Gite. However, on account of his death, another trustee Shriram Khandekar was examined. Defendant Nos. 5 and 6 examined witness-Mumtaj Ahmed. After considering the pleadings and evidence, the Trial Court proceeded to dismiss the suit by judgment and order dated 24 October 2007.

3) Plaintiffs filed Civil Appeal No. 14/2008 in District Court, Pune challenging the decree dated 24 October 2007. The Appellate Court partly allowed the Appeal and remanded the suit for fresh decision vide judgment and order dated 9 September 2015. Opportunity was granted to parties to lead oral as well as documentary evidence. Accordingly, parties led additional evidence. After considering the pleadings, documentary and oral evidence the Trial Court decreed the suit by judgment and order dated 5 February 2019 by holding that there was landlord-tenant relationship between Plaintiff-Trust and Defendant Nos. 5 and 6. The Trial Court further held that Defendant Nos. 1 to 4 transferred their interest in the suit premises in favour of Defendant Nos. 5 and 6. The Trial Court accepted the ground of commission of acts contrary to the provisions of Section 108 (o) of the TP Act. The Trial Court also accepted the ground of *bonafide* requirement by answering the issue of comparative hardship in favour of the Plaintiffs. However, the grounds relating to construction of permanent structure and change of user were



rejected. The Trial Court directed Defendant Nos. 5 and 6 to deliver possession of the suit premises to the Plaintiffs by removing machinery, *bhatti* and other material relating to the business. The Trial Court also directed inquiry into *mesne* profits from the date of decree till delivery of the possession of suit premises. The legal heirs of Defendant Nos. 5 and 6 (Defendant No. 5(a) and Defendant No. 5(e)) filed Regular Civil Appeal No. 173 of 2019 before the Court of District Judge, Pune. The Appeal is dismissed by the District Court by judgment and order dated 28 January 2025, which is the subject matter of challenge in the present Revision Application.

4) Mr. Gorwadkar, the learned Senior Advocate appearing for Applicants submit that the Trial Court and the Appellate Court have grossly erred in decreeing the suit of the Plaintiff Trust in ignorance of the position that tenancy was created in respect of open piece of land. That the description of the suit property in the plaint indicates that the same was open piece of land at the time of creation of tenancy. That the rent receipt also shows that the tenancy was created in respect of open land. That the tenant Baba Miya had constructed superstructure therein whereas the case involved the concept of dual ownership. The Plaintiff-Trust is the owner of land whereas the tenant is the owner of the superstructure. He relies on judgment of the Apex Court in **Krishna Pasuba Rao Kundpur (dead) after him his l.r. and another V/s. Dattatray Krishnaji Karani<sup>1</sup>** in support of his contention that provisions of Section 13 (1) (a), 13 (1)(b), 13(1)(e) or 13 (1)(g) of the Bombay Rent Act are inapplicable to a vacant land.

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<sup>1</sup> AIR 1966 SC 1024



5) Mr. Gorwadkar further submits that allegation of construction of permanent structure or making of changes of permanent nature cannot be entertained when the superstructure is owned by the tenant. Since superstructure does not belong to Plaintiff Trust, the grounds under Section 13(1) (a) or 13 (1)(b) of the Bombay Rent Act cannot be made out. That there is a specific finding by the Trial Court that the superstructure was constructed with prior permission of the Pune Municipal Corporation and accordingly ground under Section 13 (1) (b) of the Bombay Rent Act automatically got negated. In absence of any cross objection against the decree on the ground under Section 13 (1) (b), the Appellate Court could not have reversed the said finding for holding that structure of permanent nature is constructed by Defendant Nos. 5 and 6. He further submits that the concerned structure was erected in the year 1962 whereas the suit was filed in the year 1995 representing express waiver and acquiescence on the part of landlord. In support he relies on judgment of this Court in **Ramchandra Dattatraya Gandhi V/s Pushpabai Manohar Sheth**<sup>2</sup>. That in any case, the changes made by the tenant in the superstructure belonging to him cannot attract provisions of Section 13 (1)(a) or 13 (1)(b) of the Bombay Rent Act.

6) Mr. Gorwadkar further submits that the Trial and Appellate Courts have erroneously accepted the ground of *bonafide* requirement under Section 13 (1) (g) of the Bombay Rent Act. He relies on judgment of Division Bench of this Court in **Bharat Petroleum Corporation Ltd. and Anr. V/s Anil Noel Rodrigues and Ors.**<sup>3</sup> in support of his contention that  
2 1990 (1) Mh.L.J. 485

3 2005 (2) Bom. C. R. 672



ground under Section 13 (1) (g) Bombay Rent Act cannot be attracted by tenancy in respect of open land and that provisions of Section 13 (1) (i) alone would get attracted. He further submits that in any case, the pleadings in the case relating to *bonafide* requirement were vague and lacked material particulars and in absence of material pleadings, no amount of evidence can cure the defect. That the pleadings merely indicated *ipse dixit* of the landlord. He relies on judgment of this Court in **Rajesh s/o Jagannath Helge V/s Sau. Vimalaben w/o Mangalkumar Punjabi and Anr.**<sup>4</sup>

7) Mr. Gorwadkar further submits that since finding of transfer of interest by Defendant Nos. 1 to 4 in favour of Defendant Nos. 5 and 6 is recorded, an impression is created that the suit is also decreed on the ground of unlawful subletting. That there can never be unlawful subletting when the tenant is the owner of superstructure.

8) Mr. Gorwadkar further submits that the suit was barred by limitation. That the Appellate Court has erroneously treated notice dated 22 September 1994 as the starting point of limitation ignoring the position that no notice is required to be served before institution of the suit. He relies on the judgment of the Apex Court in **Ganpat Ram Sharma and Ors. V/s. Gayatri Devi**<sup>5</sup> in support of his contention that cause of action accrues when landlord becomes entitled to possession upon breach or forfeiture. He relies on judgment of this Court in **Shakuntala S. Tiwari v/s Hem Chand Singhania**<sup>6</sup> and of the Apex Court in **Carona Ltd. V/s Parvathy Swaminathan and Sons**<sup>7</sup> in support of his contention that

4 2010 (3) Bom. C. R. 187

5 1987 (3) SCC 576

6 1987 (2) BOM. C. R. 480

7 2007 (8) SCC 559



subletting is a completed act giving rise to cause of action, which is continuous in nature. He relies on judgment of this Court in *Bakul Nandlal Gandhi V/s Smita Pradipta Bhatia and Ors.*<sup>8</sup>

9) On above submissions, Mr. Gorwadkar would pray for setting aside the impugned orders passed by the Trial and the Appellate Courts.

10) Mr. Drupad Patil, the learned counsel appearing for Respondent No. 1 -Trust opposes the Application contending that the tenancy was not created in respect of open land. He submits that at the time of creation of tenancy, there was a constructed structure on the land. That therefore any changes made to the structure would constitute a folly under Section 13(1)(a) of the Bombay Rent Act. That Defendants neither pleaded nor proved the position that the original tenant Baba Miya actually constructed the structure on the land. That in any case, unauthorized changes effected by Defendant Nos. 5 and 6 to the suit property invited notices by Pune Municipal Corporation under Section 260(1) of the Maharashtra Municipal Corporations Act, 1949. He submits that cause of waste and damage to the suit property is thus conclusively proved constituting the ground under Section 13 (1) (a) of the Bombay Rent Act. So far as the ground of *bonafide* requirement is concerned, Mr. Patil submits that evidence was led in respect of *bonafide* requirement of the Trust stating that the beneficiaries of the Trust constantly arrived at *Alandi* (Pune) and the suit property is needed for making arrangements for their accommodation and also for education of students. That the act of subletting is admitted as Defendant Nos. 5 and 6 are not the tenants in

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<sup>8</sup> Civil Revision Application No.232 of 2017, decided on 27 January 2026



respect of the suit property. He submits that the grounds of permanent construction, subletting and *bonafide* requirement are concurrently held to be proved against the Defendant Nos. 5 & 6/Applicants. That no interference is warranted in the impugned orders. He submits that the Trust is waiting for 31 long years for recovering possession of the suit property. He prays for dismissal of the Revision Application.

11) Rival contentions urged on behalf of the parties now fall for my consideration.

12) The main dispute sought to be created by the Applicants, who are legal heirs of original Defendant Nos. 5 and 6, is with regard to the nature of tenancy created in favour of the original tenant Baba Miya. Defendant Nos. 5 and 6 are the assignees of Baba Miya and they have been occupying the suit property. It is the case of the Applicants that the tenancy was created in respect of vacant land and not in respect of any constructed premises. On the other hand, it is the contention of the Respondent-Plaintiff that the tenancy was created in respect of constructed structure as well. This controversy is sought to be created by the Applicant essentially to quell the three grounds of construction of permanent structure, *bonafide* requirement as well as unlawful transfer/subletting. If the tenancy is proved to be created in respect of vacant land and the structure thereon is constructed by the tenant, the folly under Sections 13 (1) (a) and 13 (1) (b) of the Bombay Rent Act cannot be attracted as the tenant is free to deal with his own structure. If the landlord has not constructed the structure and if the same is owned by the tenant, the landlord cannot complain of making unauthorised changes to the structure and possession of tenanted open land cannot be



sought by accusing the tenant of effecting changes to the structure by constructing any additional structure.

13) The law recognizes the concept of dual ownership where the land belongs to the landlord, in respect of which the lease can be granted, whereas structure belongs to the tenant. When tenancy is created in respect of vacant land with permission to the tenant to erect structure thereon, the land-owner does not automatically become owner and landlord of the constructed structure. The tenant becomes the owner of the structure while the lease in respect of the underlying land continues to subsist. Reliance in this regard by Mr. Gorwadkar on judgment of the Apex Court in *Krishna Pasuba Rao Kundpur* (Supra) is apposite.

14) If the tenancy is proved to be created in respect of vacant land, the ground of *bonafide* requirement under Section 13 (1) (g) cannot be raised. As held by Division Bench of this Court in *Bharat Petroleum Corporation Ltd.* (supra) once the tenancy is in respect of open land, only the ground under Section 13 (1) (i) [*requirement of land for construction of a building*] gets attracted. The Division Bench dealt with the reference for deciding conflict between judgments delivered by single judges and has held that if the tenancy is created in respect of open land, the ground under Section 13 (1)(g) of the Bombay Rent Act does not get attracted.

15) The plea of tenancies being created in respect of open land also comes to the assistance of the Applicants in defending the ground of unlawful subletting. According to the Applicants, since the superstructure belongs to the tenant, in a case involving tenancy in



respect of open land, the tenant becomes free to induct persons of his choice in the superstructure thereby not attracting the folly under Section 13 (1) (e) of the Bombay Rent Act.

16) For the above reasons, the core issue which is at the heart of controversy between the parties is whether the tenancy was created in favour of original tenant-Baba Miya in respect of open piece of land or whether the tenancy was also in respect of the constructed structure. I proceed to decide the issue.

17) In the plaint, the suit premises are described in para 1 as under:-

मिळकतीचे वर्णन -

पुणे पेठ पुणे महानगरपालिका हद्दीतील शिवाजीनगर, जुना तोफखाना भांबुर्डा सि.नं.नं.६४, क्षेत्र ९९ चौ.मी. भुई जागा यांसी चतुः सिमा -

पूर्वेस सि.नं.नं. ६६

दक्षिणेस बोल व सि.नं.नं. ८३

पश्चिमेस सि.नं.नं. ६३

उत्तरेस या मिळकतीचे प्रवेशद्वार व पुढे जाण्या येण्याचा रस्ता.

*(emphasis and underlining added)*

18) Mr. Gorwadkar has highlighted use of the word भुई जागा (*ground property*) in support of his contention that the tenancy was created in respect of a 'open land'. However, in para 3 of the Plaint, the Plaintiff-Trust pleaded as under:-

वर परिच्छेद १ मध्ये नमूद केलेली मिळकत ही वरील प्रतिवादी नं. १ ते ४ चे मूळ पुरुष (वडिल) बाबामिया इमाम साहेब जहागिरदार यांचेकडे महिने भाडे रुपये ५/- प्रमाणे दिलेली होती. सदर ठिकाणी दोन खणाची एक कौलारु खोली व बाकीची मोकळी जागा (बबळ) होती. सदर जागी सन १९६१ चे पुराच्यावेळी पडझड झालेली होती. अं. नं. १ ते ४ प्रतिवादीच वडिल बाबामिया इमाम साहेब



जहागिरदार यांनी जागेत अतिक्रमण करून पक्के बांधकाम करून राहण्याच्या नावाचे ठिकाणी बेकरी व्यवसाय सुरुवात केली. बेकरी व्यवसायासाठी लागणारी भट्टी इत्यादि कामे कोणाचीही पूर्व परवानगी न घेता केली व जागेच्या मूळ स्वरूपात आमूलाग्र बदल केला. त्यामुळे या कारणावरून भाडेकरू ठेवणे नाही.

*(emphasis and underlining added)*

19) Thus, Plaintiff specifically came out with the case that the tenancy was created in respect of a tiled (*Mangalorean*) room admeasuring two *Khan* and surrounding open space. The Plaint therefore does not contain an admission that the tenancy was created in respect of only the open land. Mr. Gorwadkar has relied on rent receipts, which uses the word ‘*भुई भाडे*’ (*ground rent*) for contending that the tenancy was in respect of open land. However, once plaint proceeds on a footing that there was a constructed room in the land, it becomes difficult to accept that the tenancy was created only in respect of the open land. More importantly, contents of para 3 of the plaint are admitted by Defendant No. 6(e) in his written statement by contending that ‘*The contents of Para 3 of the plaint are generally correct*’. Even otherwise, Defendant Nos. 5 and 6 did not come out with a specific case that there was no construction on the land or that original tenant- Baba Miya constructed the structure, which was destroyed/damaged in the floods.

20) Furthermore, perusal of the termination notice addressed by the Plaintiff-Trust on 22 September 1994 indicates that the same referred to existence of constructed structure at the time of creation of tenancy in the name of tenant- Baba Miya. This is clear from following portion of paragraph No. 2 of the notice:

२. पुणे माम्बुर्डा शिवाजीनगर येथील मिळकत वर नमुद केलेली वरील अनु. नं १ ते ४ यांचेकडे दरमहा रु. ५-०० ह्या दराने महिने महा भाड्याने



दिलेली आहे. सदरील जागा पूर्वी भाड्याने देण्याच्या वेळी दोन दोन कोठारांचे एक कौलारु घर व बाकीची मोकळी जागा बखळ होती सदर घर सन १९६१ सालच्या पुराच्या वेळी पडझड झालेली होती.

21) Defendant Nos. 5 and 6 replied to the notice contending as under:-

मात्र वनाबाई माणकोजी ढोणे ट्रस्ट या ट्रस्टचे मालकीची सदर मिळकत आहे. ही गोष्ट आमचे अशिलांना मान्य आहे. सदर मिळकतीमध्ये बाबामीया इमामसाब जहागिरदार हे भाडेकरी होते त्यांनी मिळकत राहणेसाठी व धंद्यासाठी सदर जागा भाड्याने घेतली होती. कराराप्रमाणे घरा बरोबर जमीनीतील हक्क, हितसंबंध बेचर करण्याचा अधिकार बाबामीया यांना होता.  
(emphasis and underlining added)

22) Thus, in the reply of October 1994, Defendant Nos. 5 and 6 specifically admitted that there was a 'house' on the land and that tenancy was created even in respect of the house.

23) Perusal of the evidence indicates that specific suggestions were given by advocate of Defendant Nos. 5 and 6 about existence of mangalore tiled house in the land. This is clear from following deposition of the Plaintiffs' witness Shriram Khandekar:

हे म्हणणे खरे नाही की बाबामियाला मोकळी जागा भाड्याने दिली होती. त्याला २ ते ३ खणाची कौलारु खोली भाड्याने दिली होती.  
(emphasis and underlining added)

24) Thus, Defendant Nos. 5 and 6 have repeatedly admitted the position that there was a house in the land when tenancy was created and that therefore the tenancy was also in respect of the house/structure. It therefore cannot be contended that the tenancy was created only in respect of open piece of land.



25) In fact, the plea of tenancy was created only in respect of open piece of land is nothing but an ingenuity across the bar on the part of Mr. Gorwadkar. This case was never set up before the Trial and the Appellate Courts, which is the reason why no issue relating to nature of tenancy was framed by both the Courts. I have independently examined correctness of contention about nature of tenancy based on pleadings, documentary and oral evidence. I find no substance in the submission canvassed by Mr. Gorwadkar that the tenancy was in respect of open land.

26) Once the plea of tenancy being created in respect of open land is rejected, not much remains in respect of ground of commission of acts which is destructive or permanently injurious to the suit premises. The Trial Court has accepted the ground that commission of acts contrary to provisions of Section 108(o) of the TP Act by Defendant No. 1-Baba Miya, attracts a folly under Section 13(1)(a) of the Bombay Rent Act. However, it appears that the Appellate Court has framed a slightly different point for determination about making illegal construction, permanent alterations and changes in the suit property by Defendant Nos. 5 and 6. It is sought to be contended by Mr. Gorwadkar that in absence of cross objection, the Appellate Court could not have reversed the finding of Trial Court on the ground under Section 13(1) (b) of the Bombay Rent Act, which was expressly rejected by the Trial Court. It would be apt to compare the frame of issue Nos. 2 and 3 by Trial Court and Point Nos. 4 and 6 by Appellate Court.

Issues framed by Trial Court	Points framed by Appellate Court
2. Whether defendant No. 1 has	4. Do the Plaintiffs prove that late



<p>committed any contrary act to the provisions of clause (o) of section 108 of the Transfer of Property Act, 1882? <b><u>Yes</u></b></p>	<p><b>Babamiya Imran Saheb Jahagirdar</b> made illegal construction in Suit property and thereby started bakery? <b><u>Negative</u></b></p>	<p>2024-11-11 C-AS:22360</p>
<p>3. Whether <b>defendant No. 1</b> has without plaintiff's consent given in writing erected on the suit premises any permanent structure? <b><u>No</u></b></p>	<p>6. Do the Plaintiffs prove that <b>defendants no.5 and 6</b> have made illegal construction in the suit property and thereby made permanent alteration and changes in the suit property? <b><u>Affirmative</u></b></p>	

Thus the findings by the Trial and Appellate Courts on the issue of construction of permanent structure are against different set of Defendants. It therefore cannot be said that the Appellate Court has reversed the Trial Court's finding on the issue of erecting of permanent structure.

27) Both the Trial and Appellate Courts have concurrently upheld that the Defendant Nos. 1/ 5 and 6 have constructed several structures in the suit premises which is as under:

- a) structural changes in the suit premises.
- b) construction of door for ingress and egress to their adjacent plot.
- c) installation of *bhatti* and chimney.
- d) Installation of girder.

28) For commission of above acts, the Municipal Corporation issued notice under Section 260(1) of the MMC Act. The Trial Court has viewed the said act of the tenants as violation of provisions of Section 108 (o) the TP Act whereas the Appellate Court has treated the said act as attracting the folly under Section 13 (1)(b) of the Bombay Rent Act. So long as the findings of fact relating to putting up construction and damaging the structure is not disputed, I am not inclined to interfere in



the said findings only on account of difference in grounds attached to the said acts by the Trial and Appellate Courts. 2026-AS:22360

29) So far as the ground of *bonafide* requirement is concerned, Plaintiff is a Trust and pleaded the requirement of the suit premises for use by its beneficiaries, students etc. It pleaded the case of requirement of providing accommodation to the devotees arriving for visiting the temple in Pune (*Alandi*) well as for accommodation of students taking education in Pune city. Such requirement cannot be treated as a mere fanciful desire as contended by Mr. Gorwadkar by relying on the judgment in *Rajesh s/o Jagannath Helge* (supra). It is natural for a Trust to make available premises owned by it for charitable purposes rather than earning rent from the tenant/occupant. In such circumstances, the tenant cannot dictate terms to the landlord by contending that the Trust cannot be permitted to use the premises for the purpose of use by the members of public. I am therefore not inclined to interfere in the concurrent findings relating to the *bonafide* requirement.

30) If any doubt remains in respect of the grounds of injury to structure/permanent construction or *bonafide* requirement, there can be no defence in respect of the ground of unlawful subletting. Both Trial Court and Appellate Courts have upheld unauthorized transfer of suit premises by Defendant Nos. 1 to 4 to Defendant Nos. 5 to 6. The Agreement by which transfer is effected is produced on record and there is no denial about such transfer. The Plaintiff-Trust did not create any tenancy in favour of Defendant Nos. 5 and 6, who have unauthorizedly come into possession of the suit property. Defendant Nos. 5 and 6 could not prove Plaintiff's consent in writing for their induction in the suit



premises. The ground of unlawful subletting is thus clearly proved and the folly under Section 13(1)(e) of the Bombay Rent Act is attracted. 2026-11-C-AS:22360

31) Faced with the situation that the act of transfer of tenancy is an admitted position, Mr. Gorwadkar has attempted to salvage the situation by contending that Plaintiff's suit on the ground of subletting was barred by limitation. He has relied on several judgments as discussed while recording his submissions. However, the issue in this regard is squarely covered by judgment of this Court in *M/s. Shree Durga Trading Co. V/s Ateeq Anwar Agboatwala and Anr*<sup>9</sup>. The judgment is followed in the recent decision of this Court in *Sujata Shekhar Shetty and Ors. V/s Vivek Madhavlal Pittie*<sup>10</sup> Reliance of Mr. Gorwadkar on judgment of this Court in *Bakul Nandlal Gandhi* (supra) is inapposite as the said judgment is rendered without noticing the ratio of the judgment in *Shri. Durga Trading Company*. In any case, this Court has distinguished judgment of *Bakul Nandlal Gandhi* in the recent judgment in *Ratnadeep Shankar Narkar V/s. M/s. Ish Homes Private Limited and Ors.*<sup>11</sup> This Court has thus consistently taken a view that the act of subletting constitutes continuous cause of action. The judgment of the Apex Court in *Carona Ltd.* (supra) does not assist the case of the Applicant as judgment is an authority on the proposition that the act of subletting need not continue at the time of the filing of the suit. In case before the Apex Court, the ground of subletting was sought to be defeated on the ground that the sub-tenant had already vacated the premises and that therefore the act of subletting did not continue on the date of filing of the suit. The Apex Court has interpreted the term '*has sublet*' unused in Section 13(1)(e) of

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9 CRA 564 of 2019

10 CRA 631 decided 27 March 2026

11 Civil Revision Application No. 136 of 2026 decided on 4 May 2026



the Bombay Rent Act. The Apex Court has negated the contention and has held that it is sufficient to establish that the act of subletting has taken place at some point of time after coming into force of the Act and the same need not continue on the date of filing of the suit. Thus, once the act of subletting is committed, the folly under Section 13 (1)(e) of the Bombay Rent Act gets attracted and it is not necessary that the act of subletting must continue at the time of filing of the suit. The judgment in *Corona Ltd.* is thus not an authority on the issue that the act of subletting does not give rise to a continuous cause of action.

32) Considering the overall conspectus of the case, I am of the view that, no case is made out for interference in the concurrent decrees passed by the Trial and the Appellate Courts. Civil Revision Application is devoid of merits. Pendency of litigation has enabled the Applicants to remain in possession of the suit premises for over 31 long years. Time has come that the Plaintiff-Trust utilizes the suit premises for fulfilling its objectives.

33) Civil Revision Application is accordingly **dismissed**. There shall be no order as to cost.

[SANDEEP V. MARNE, J.]