

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 361 OF 2023

M/s. Chandulal and Co. and Ors. ... Applicants

V/s.

Shri Madhavsinh Jamnadas Kapadia ... Respondent

Mr. Chirag Balsara with Ayaz Ahmed Ansari and Maneesh Mishra i/by
Ravi Kumar Mishra, for the applicants.

Mr. Shravan M. Vyas, for the respondent.

CORAM : N.J. JAMADAR, J.

DATE : 13th AUGUST 2025

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PC:

1. Heard the learned counsel for the parties.
2. The challenge in this application is to a judgment and decree passed by the Appellate Bench of Court of Small Causes in(2A) Appeal No. 77/2019 whereby the Appellate Bench has allowed the appeal preferred by the landlord and set aside the judgment and decree dated 3rd December 2018 passed by the learned Judge, Court of Small Causes in RAE No. 707/1060 of 2014 thereby dismissing the said suit. The Appellate Bench has instead passed a decree of eviction on the ground that the defendant No.1 has not used the suit premises for the purpose

of its business for a continuous period of six months immediately preceding date of the institution of the suit, and the defendant No.2 has unlawfully sublet the suit premises to defendant No. 3.

3. The defendant no. 2 was inducted as a partner in the M/s. Chandulal and Co. the defendant No. 1. It is the case of the plaintiff that the defendant no. 2 has also completely transferred the interest of the demised premises in favour of defendant no. 3, who is the son of defendant no. 2.

4. In view of the conflicting findings recorded by the learned Judge, Court of the Small Causes and the Appellate Bench of Court of Small Causes and having regard to the relationship between defendant no. 2 and defendant no. 3, the question as to whether the decree could have been passed on the ground of unlawful subletting arises for consideration.

5. By an order dated 6th September 2023, the interim relief was granted subject to the applicant depositing the interim compensation @ Rs.15,000/-p.m., from 4th October 2022.

6. Post the petition for hearing and final disposal.

7. The parties are at liberty to file compilation of documents.

8. In the meanwhile, ad-interim relief, granted earlier, shall continue to operate till the final disposal of the petition on the condition that the petitioner continues to deposit the amount of interim compensation, as ordered by this Court.

9. Stand over to 24th September 2025 at 3.00p.m. for the final hearing.

10. The respondent is at liberty to file an application for enhancement of the amount of compensation.

(N.J. JAMADAR, J)