IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 449 OF 2010
WITH
CIVIL APPLICATION NO. 434 OF 2019

1. Mahendra Shankarrao Gadve,
Age : 49, Occupation Business,
Residing at 1114, Budhwar Peth,
Pune – 411 002.

2. Shivkumar Shankarrao Gadve,
Age : adult, Occupation Business,
Residing at 1114, Budhwar Peth,
Pune – 411 002.
Control Building, Pune – 411001. ...Applicants

Versus

Ajay Ramanlal Gujrathi
Age about 47 years, Occu: Business,
Residing at 8A, Kaka Halwai Industrial,
Estate, Off. Pune-Satara Road,
Pune – 411 009. ...Respondent

WITH
CONTEMPT PETITION NO. 746 OF 2022

1. Mahendra Shankarrao Gadve
Age Adult, Occ. Business,
Residing at 2052, Sadashiv Peth
Vijaynagar Colony, Pune 411 030

2. Shivkumar Shankarrao Gadve,
Age Adult, Occ. Business,
Residing at 2052, Sadashiv Peth
Vijaynagar Colony, Pune 411 030 ...Petitioners

Versus

1. Ajay Ramanlal Gujrathi
B-2/22, Todkar Gardens, Kondhawa,
Bibwe Wadi, D.P. Road,
Pune – 411 037

2. Dhone Suzuki
Having address at
8A Kaka Halwai Industrial Estate,
Off Pune Satara Road, Pune 411009 ...Respondents

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Mr. Vineet Naik, Senior Advocate a/w. Mr. Sukand Kulkarni i/b. Mr. Siddharth R. Ronghe for the Applicants/Petitioners.
Mr. N. V. Walawalkar, Senior Advocate a/w. Mr. S. N. Chandrachood for Respondent No. 2 in Contempt Petition and for sole Respondent in CRA.

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CORAM : M. M. SATHAYE, J.
RESERVED ON : 12th JANUARY 2026
PRONOUNCED ON : 8th JUNE 2026

JUDGMENT:

1. This Civil Revision Application is filed by original Plaintiffs/lessors against lessee/original Defendant under provision of Section 115 of the Code of Civil Procedure, 1908 ('CPC' for short). It challenges the impugned Judgment and Decree dated 23.03.2010 passed by the District Judge – 10, Pune in Civil Appeal No. 576 of 2008, by which the appeal filed by the Respondent/Defendant was allowed and Judgment and Decree dated 13.06.2008 passed by the Joint Civil Judge, Senior Division, Pune (on Deputation 5th Additional Judge, Small Causes Court, Pune) in Civil Suit No. 653 of 2001, was set aside. The Trial Court had decreed the suit directing the Respondent to vacate the suit premises. This eviction decree is set aside by the Appellate Court.

2. Land beneath the structure constructed on plot No. 8 from sanctioned layout of Survey No. 46/2 and 46-B/1 in TPS No.3,, Parvati admeasuring about 10673 sq. ft. equivalent to 991.99 sq. mtrs situated within the limits of the Sub-Registrar, Taluka – Haveli, District Pune and within the limits of

Pune Municipal Corporation, Parvati is the subject matter property and the same is hereinafter referred to as 'suit premises'.

3. The Revision Applicants filed the said suit, contending *inter alia* as under.

3.1. That suit premises was owned by Hindu Undivided Family (HUF) of Shri Shankarrao Morappa Gadve, who in the capacity of Karta/Manager of HUF, executed a registered lease deed dated 14.04.1966 in favour of 'Raja Steel Industries' ('the original lessee' for short). According to the terms and conditions of the said lease deed, the period of lease was to be 35 years and agreed rent was Rs.150/- per month. During the period of lease, the lessee was permitted to erect structure on the suit premises at his own cost and use and occupy the same.

3.2. That it was agreed that if lessee wants to extend the period of lease for further 35 years, the lessee was to communicate to the lessor in writing, at least 3 months in advance and rent for extended period was to be decided mutually.

3.3. That it was agreed that after expiry of the lease period, the lessee would remove/demolish the structure and would deliver vacant physical possession of suit premises to the lessor.The period of lease expired on 13.04.2001.

3.4. That during subsistence of the lease, the original lessee executed a registered Deed of Assignment dated 06.05.1994 and assigned its rights, title and interest in the suit premises in favour of the present Respondent. By virtue of said Assignment Deed, the Respondent stepped into the shoes of original lessee and is therefore bound by the terms and conditions therein.

3.5. That in December 2000, the Respondent addressed a letter to Revision Applicants intimating that he wants to get the lease extended; however, at the time of receipt of said letter, the Revision Applicants were not aware of the transaction between original lessee and Respondent. Therefore, Revision Applicants addressed a letter to the Respondent calling upon him to supply copy of the document between original lessee and Respondent. Accordingly, a copy was sent.

3.6. That since it is specifically agreed that lessee will be entitled to extension 'only if' rent for further period is mutually fixed, since further rent is not fixed, the Respondent has lost right to get the lease extended.

3.7. That Revision Applicants therefore addressed a letter demanding the rent in proportion to increase in the market price of suit premises. The said letter returned with postal remark "addressee left". The Revision Applicants produced original envelope on record. The Respondent had not informed any change of address. Therefore, the question of fixing further rent mutually did not arise. The lease has expired by efflux of time and thereafter, Revision Applicants are entitled to claim possession of the suit premises. The suit was filed on 19.12.2001.

4. The Respondent filed written statement contending *inter alia* as under.

4.1. That Revision Applicants have not made out any grounds for eviction. That the Respondent has contractual and statutory protection against eviction. That the terms and conditions of the original lease deed was admitted. Expiry of the lease is denied.

4.2. That by deed of assignment all the rights, title and interest of original lessee is sold, transferred to the Respondent along with options available.

That the Respondent as well as original lessee intimated the fact of assignment to the Revision Applicants under letter dated 25.06.1994, which Revision Applicants did not accept. That the Respondent paid/offered the amount of rent from time to time. That another letter dated 28.06.1995 was sent by the original lessee and the Respondent also sent another letter dated 10.01.1996 to the Revision Applicants. That the Revision Applicants duly received letter dated 10.01.1996, however did not intimate any action and did not accept and encash the cheque enclosed with the letter nor returned it.

4.3. That by letter dated 22.12.2000, the Respondent has exercised his option for extension of lease for a further period of 35 years. That the option became effective immediately on sending of letter dated 22.12.2000.

4.4. That the Revision Applicants have acted in ignorance of registered Assignment Deed between original lessee and the Respondent. That copy of the registered Assignment Deed was supplied, as demanded. That the Respondent was always ready and willing to pay the amount of lawful rent and permitted increases. That Revision Applicants have however unilaterally and arbitrarily stipulated huge amount of rent of Rs.1,65,000/- per month without any basis under original lease deed. That Revision Applicants have stipulated that user of the suit premises will be restricted to Respondent only, contrary to clause (e) of the original lease deed. That Revision Applicants are implying execution of another lease deed which is not contemplated in original lease deed. That Revision Applicants wanted to unilaterally foreclose the matter. That on issuance of letter dated 22.12.2000, the Respondent continued as contractual and lawful tenant. That Respondent has never received communication from Revision

Applicants dated 23.08.2001. That on the date of said letter, the Respondent was not residing at the address mentioned in the letter. That Revision Applicants were aware of the business address of the Respondent, namely the suit premises and residential address of the Respondent and therefore, the Revision Applicants could have sent letter to either of them. On these and other grounds, the suit was resisted.

5. Learned Trial Judge on appreciation of evidence found that the Revision Applicants are entitled to receive possession of the suit premises with demolition of the structure standing thereof. Accordingly, the suit was decreed and the Respondent was directed to remove the construction of the suit premises and hand over the possession of the suit premises. The Respondent filed the said appeal, which was allowed under the impugned judgment and decree and the decree of eviction was set aside.

6. The revision application was admitted on 02.09.2010 and by way of interim order/relief, the Respondent was restrained from two things, first, from parting with possession and second, from creating third party rights and interests in the suit premises. The revision application was dismissed for default in the meantime and it was restored by order dated 08.02.2016 along with the interim relief. At the time of restoration, the Respondent was duly represented by his Advocate.

7. The Revision Applicants came to know sometime in April 2022 that the Respondent has created third party interest and inducted a third person (Respondent No. 2 in Contempt Petition No. 746 of 2022) in the suit premises and has committed contempt of the order of this Court. The Respondent No. 2 (in contempt petition) is running business of Dhone Suzuki Automobile business in the suit premises, despite injunction against

the Respondent/tenant (Respondent No. 1 in contempt petition).

8. During hearing of the above revision application as well as contempt petition, advocate for Respondent No. 2 in Contempt Petition was directed to place on record a copy of the present agreement between the Respondent/tenant and Respondent No. 2 in Contempt Petition. Accordingly, a document of registered leave and license dated 23.12.2021 has been placed on record under which Respondent no. 2 is in occupation of suit premises till 28.02.2027.

SUBMISSIONS

9. Learned Senior Advocate Mr. Naik, appearing for the Revision Applicants, submitted that the original Lease Deed dated 14.04.1966 contemplated period of lease of 35 years which is already over. That the lease has come to an end by efflux of time. That under the extension clause provided in the original lease deed, if the lessee wants to continue for a further period of 35 years, the lessee was required to inform 3 months in advance by writing and the lease could be continued on same terms, 'only on mutual agreement about fresh rent'. He submitted that the fresh rent was never mutually agreed and therefore, the extension clause does not come into play. He submitted that by letter dated 23.08.2001, it is already informed that the market value of the suit premises has increased many Hundred times and therefore, the fresh rent was communicated and the Respondent was called upon to inform if they agree on the fresh rent proposed. It was also specifically informed that if the fresh rent is not agreeable, then the lease comes to an end on efflux of time. He relied on following judgments in support of his case.

(i) Sevoke Properties Ltd. v/s. West Bengal State Electricity

Distribution Company Ltd. [2019 AIR SC 2664].

(ii) Smt. Shanti Devi v/s. Amal Kumar Banerjee [AIR 1981 SC 1550].

(iii) Bhawanji Lakhamshi and others v/s. Himatlal Jamnadas Dani and others [AIR 1972 SC 819].

(iv) Bijay Kumar Manish Kumar HUF v/s. Ashwin Bhanulal Desai [2024 AIR SC 3051]

(v) Indian Oil Corporation Ltd. and Ors. v/s. Sudera Realty Private Limited and Ors. [2022 AIR SC 5077]

10. On the other hand, Mr. Walawalkar learned Senior Advocate appearing for the Respondent (in CRA) and Respondent No. 2 (in contempt petition) submitted as under. That the main issue involved in the case is whether the lease in question has expired by efflux of time or whether the Respondent was holding out after expiry of lease by continuing in possession 'with the assent of the lessor'. He submitted that the Respondent lessee has exercised his option of renewal within time, however, the lessor communicated his counter offer beyond the expiry of lease period (in August 2001). Therefore, the lessee's possession has continued with the assent of the lessor. He submitted that the communication from the Revision Applicants dated 23.08.2001 contains clauses beyond the terms of the original lease and it closes the doors of further negotiations and such unilateral increase in the rent is not contemplated in the original lease. That the letter dated 23.08.2001 was not served upon the Respondent which is the finding of fact by the Appellate Court. That the letter dated 23.08.2001 is not proved by the Revision Applicants in the evidence though it is

exhibited. That if it was proved in evidence, the Respondent lessee could have got opportunity to cross-examine Revision Applicants, on the point of tenant holding over. That this has caused irreparable prejudice and injury to the Respondent. That the Revision Applicants have not discharged the burden to prove that the lease has expired by efflux of time. That the Respondent by not entering witness box will not give any advantage to the Revision Applicants. He finally submitted that the revisional jurisdiction is very limited and the finding of fact arrived at by the Appeal Court, should not be interfered with. He relied upon following judgments in support of his case.

(i) Shyam Lal v/s. Deepa Dass Chela Ram Chela Garib Dass [(2016) 7 SCC 572]

(ii) Sevoke Properties Limited v/s. West Bengal State Electricity Distribution Company Ltd. [(2020) 11 SCC 782]

(iii) Satish Chand Makhan and others v/s. Govardhan Das Byas and Others [(1984) 1 SCC 369]

(iv) State of A.P. v/s. Vatsavyi Kumara Venkata Krishna Verma [(1999) 2 SCC 297]

REASONS AND CONCLUSION

11. I have considered the rival submissions carefully and perused the record.

12. Admittedly, the Respondent has not stepped into witness box, nor has examined any other witness.

13. At the outset, it is important to note that the foundational document

that governs the rights and liabilities of the parties is the registered Lease Deed dated 14.04.1966. It is not much in dispute that under registered Assignment Deed dated 06.05.1994, the original lessee 'Raja Steel Industries' assigned its leasehold rights to the present Respondent, who stepped into the shoes of original lessee. It is also not in dispute that the Respondent is bound by the terms and conditions of the original lease. Undisputedly, the period of lease was 35 years from 14.04.1966, which came to an end on 13.04.2001.

14. Now let us consider the communications between the parties. Before expiry of the lease, by letter dated 22.12.2000, the Respondent informed the Revision Applicants that he is prepared to pay the amount of legal rent and permitted increases and a cheque dated 22.12.2000 of Rs.14,250/- for the period upto 14.04.2001 was sent. No calculation or rate is mentioned. The Revision Applicants by their letter dated 09.01.2001 (Exh. 60) informed the Respondent that the suit premises was let out to original lessee Raja Steel Industries and since a reference is made to registered document dated 06.05.1994 and since they are not aware of the transaction, a request was made to send a copy of the document. It was informed that till the copy is received, it is not possible for Revision Applicants to either accept the Respondent as tenant or receive any amount from him. According to averments in Civil Revision Application, the Revision Applicants had addressed a letter to the Respondent acknowledging that they received copy of the documents sent by Respondent, a copy of which is produced as Exh. 'F' to the Revision Application. It is informed across the bar that this Exh. 'F' letter is dated 23.08.2001. This letter specifically informs that the Government valuation of the suit premises has increased 1100 times since inception and therefore, by fresh calculation, the rent of the suit premises

will be Rs.1,65,000/- per month and 'if the Respondent is ready to pay such rent amount' the same may be communicated in writing. It was further informed that if fresh lease is executed, it will not have a clause of extension and in that situation, the Respondent alone shall be able to use/occupy the suit premises. It was then informed that if these terms are acceptable to the Respondent, a time for meeting may be fixed, otherwise, the lease comes to an end on efflux of time and separate notice will not be required.

15. This letter dated 23.08.2001 is rather contentious. According to Respondent, he has not received this letter. Perusal of record and proceedings reveals that an office copy of an advocate's letter 23.08.2001 sent on behalf of Revision Applicants is produced on record with returned original envelope at Exh. 62. It was issued by Adv. C. V. Wakankar. The sum and substance of this advocate's letter is same as that of letter dated 23.08.2001 referred to in Civil Revision Application. It is clearly stated in said advocate's letter that if Respondent is not agreeable for offer of increased rent, then Revision Applicants are not interested in continuing the relationship.

16. Perused the Trial Court's judgment. From paragraph 13, it appears that the Respondent has argued that the Revision Applicants cannot put any new condition for extension of the lease. The Trial Court has considered the clauses of the lease deed and has come to the conclusion that it cannot be held that the original lease was for 70 years and fixation of new rent by mutual agreement is necessary. The Trial Court has considered the correspondence between the parties and has come to the conclusion that since the parties have not agreed upon fresh rent by mutual consent, it cannot be said that the lease got extended for a further period of 35 years.

After going through the communications as referred above and the reasons given by the Trial Court, in my view, the conclusion drawn by the Trial Court is legal and proper, because admittedly, new rent has not been fixed between the parties by mutual agreement.

17. Now let us consider how the Appellate Court has dealt with the issue at hand.

18. I have perused the impugned judgment. The Appeal Court has framed a point for consideration 'whether the Respondent has committed breach of condition of lease deed?'. It is material to note that it is not the case of Lessor (Revision Applicants) that there is breach of condition of lease deed. The case of the Revision Applicants is based on lease coming to an end by efflux of time and not being renewed. This itself indicates that Appeal Court has not considered the dispute between the parties in proper perspective.

19. It is clear from paragraph 11 of the impugned judgment that the Appeal Court was conscious of the term in the lease deed that 'after expiry of initial period of 35 years, the lease rent will be mutually decided and lease deed should not be extended in the absence of mutual settlement of rent'. It is therefore clear that the Appeal Court was well aware of the agreement between the parties, that the renewal clause was not to come into play in absence of mutual settlement about the rent. Despite such situation, the Appeal Court has positively held that mere sending of letter dated 22.12.2000 by the Respondent, thereby exercising the option for extension along with cheque of Rs.14,250/- is sufficient for extension of the lease. This is perverse in the teeth of a clear contemplation in lease deed about mutual settlement of rent as a condition precedent for extension.

20. The letter issued by Revision Applicants dated 23.08.2001 is

contentious because according to the Respondent this letter is not proved by the Revision Applicants. The Appeal Court has held that this letter allegedly issued by the Revision Applicants is not proved and therefore, cannot be read in evidence. If the letter dated 23.08.2001 is to be ignored and not to be read in evidence, then after the letter dated 09.01.2001 (Exh. 60) was issued by the Revision Applicants and it was duly responded by the Respondent by letter dated 13.01.2001 along with copy of the assignment deed, there is nothing on record to demonstrate that the Respondent took any effort for fixing/ settling new rent by mutual agreement. In that case, there is nothing on record to show that the mutual settlement of rent has taken place between the parties. There is nothing on record about negotiations. There is also nothing on record to positively show that fresh rent was mutually agreed. In that case, the whole argument advanced on behalf of the Respondent that the letter dated 23.08.2001 is unilateral decision about rent and it shows no scope for negotiations, falls to the ground.

21. It is also the contention of the Respondent that this letter was not received at all by him, because it was sent to the address where Respondent was not residing. I refrain from entering the controversy being a disputed question of fact. Therefore, there is no need to deal with the argument of the Respondent that the Revision Applicants could have sent the letter upon the address of the suit premises or other residential premises available with the Revision Applicants.

22. It is seen from the paragraph 12 of the impugned judgment that the Appeal Court has proceeded on the basis that lease deed (Exh. 59) is for a period of 70 years with condition to communicate for extension of the lease

before completion of 35 years with rent mutually fixed by both the parties. I have perused the copy of the lease deed at Exhibit-59. The said document does not in any way indicate that the lease was for 70 years. In fact the clause-2(b) of the lease deed specifically contemplates that if the lease is to be extended after a period of 35 years, it will be informed by written communication at least 3 months in advance and 'on mutually agreeing on rent at the relevant time (after 35 years), the lease will be extended' on same terms and conditions. The Appeal Court in paragraph 14 has held that the option of extension of lease for further period of 35 years, is validly exercised and therefore lease stands extended. This finding is perverse to say the least. If there is nothing on record to establish that rent was mutually agreed after initial period of 35 years is over, then the lease cannot be held as extended automatically by mere sending of a communication by Respondent.

23. The Appeal Court has held that Revision Applicants have failed to take any pains to serve the said letter dated 23.08.2001 on the suit premises. That is not the requirement under the terms agreed between the parties. It was for the Respondent/lessee to inform 3 months in advance about extension of lease and it was incumbent upon the Respondent to agree with Revision Applicants about rent at the relevant time (post expiry of initial 35 years) and only then, the lease could have been extended.

24. In view thereof, the Appeal Court was not justified in interfering with the judgment of the Trial Court. The interpretation of the lease deed at the hands of the Appeal court is perverse therefore, if allowed to stand, would amount to clear miscarriage of justice. Therefore, I find this to be a fit case to interfere.

25. So far as the judgment of **Shyam Lal (supra)** is concerned, in the said case, since the lessee remained in possession beyond the lease period with implied consent of landlord, it was considered as tenant holding over under Section 116 of the Transfer of Property Act, 1882 ('TP Act' for short). In the present case, the argument of so called assent is based on the letter dated 23.08.2001 which is issued after expiry of lease. On one hand, it is argued that this letter is not proved by the Revision Applicants and if it was proved then the lessee could have got opportunity to cross examine the the Revision Applicants. On the other hand, the same letter is relied upon to contend 'assent by the lessor'. The Respondent cannot be permitted to take such contrary positions. Even otherwise, perusal of the said letter clearly shows that it was clearly communicated that if the lessee was agreeable to increased proposed rent and also agreed to condition that further extension shall not be granted and only the lessee will be able to occupy, only then further meeting was possible, otherwise it was clearly informed that the lease will stand expired after the efflux of time as per the lease agreement and separate notice shall not be required. The stand of the Respondent is that he has not received this letter and there is no further communication on record. In such peculiar circumstances, it cannot be said that 'there was assent of the landlord'. Therefore, Respondent cannot be held as 'tenant holding under' under section 116 of the TP Act. For this reason the said judgment will not advance the case of the Respondent.

26. In **Satish Chand Makhan (supra)** the Hon'ble Supreme Court has held that where the lease is for definite term, it stands determined by efflux of time under Section 111 (a) of the TP Act and erstwhile tenant becomes tenant at sufferance. In the said case, there was no evidence of showing definitive term. However, in the present case, admittedly the lease is for a

period of 35 years (more than 1 year) and therefore, under Section 107 of the TP Act, the lease can be made only by registered instrument. In the present case, admittedly the lease deed dated 14.04.1966 is registered document. In the present case, since the definite term of 35 years is available the lease stands determined on efflux of time and separate notice is not necessary. In the absence of assent of the landlord, the Respondent becomes tenant at sufferance. In that view of the matter, this judgment will also not help the Respondent.

27. In **Sevoke Properties Ltd. (supra)**, the document was unregistered document and the Hon'ble Supreme Court considered express admission given by the lessee in written statement that the lease was for a definite period of 15 years thereby holding that the tenant was at sufferance. The facts of the present case are totally different. In the present case, there is document of lease with definite period of 35 years and therefore, once again in the absence of assent of the landlord, the Respondent cannot be called a tenant holding over under section 116 of the TP Act. For this reason this judgment will also not help the Respondent.

28. So far as the judgment of **State of A.P. Vs. Vatsavji Kumara (supra)** is concerned, the same is relied upon by Respondent in support of the argument that revisional jurisdiction of the High Court is limited. In paragraph 43 of the subsequent judgment of the Hon'ble Supreme Court in **Hindustan Petroleum Corporation Limited Vs. Dilbahar Singh [(2014) 9 SCC 78]**, it is held that if the finding of the impugned order is found to be based on perverse appreciation and misreading of pleadings and evidence and if allowed to stand, would amount to miscarriage of justice,then interference is justified. In the present case, this Court is not interfering with

the finding of fact but is interfering with the perverse interpretation of the terms of registered lease document and therefore, even this judgment will not advance the case of the Respondent.

29. The argument of the Respondent is that by Revision Applicants' letter, sent in August, 2001, they communicated a counter-offer after the expiry of the lease and therefore, this amounts to assent by the lessor. If this letter is to be considered then the said letter clarified that if the Respondent is not ready for increase rent to Rs. 1,65,000/- with other conditions, then lease is expired on efflux of time. Interpreting this letter in the best possible way in favour of the Respondent, such assent, if at all, would only extend up to August, 2001 and not beyond. Therefore, viewed from any angle, on the date of filing of the suit, the Respondent was a tenant at sufferance and cannot be held as tenant holding over. Since the lease was for fixed period, more than one year, it has came to an end by efflux of time and no notice of termination under Section 106 of the TP Act is necessary.

30. So far as the contempt petition is concerned, according to office note, Respondent/lessee (Respondent No. 1 in contempt petition – Mr. Ajay Ramanlal Gujrathi) was required to be served by substituted service by news-paper publication. He has finally filed a reply dated 18.11.2025 clearly admitting that he came to know about the filing of above Civil Revision Application when he received notice dated 31.07.2015. He has also admitting that this Court vide order dated 08.02.2016 restored the above Civil Revision Application. Perusal of the order dated 08.02.2016 shows that he (Respondent No.1 in contempt petition) was clearly represented by an advocate and therefore clearly had knowledge of the order. Paragraph no.4 of the said order shows that ad-interim relief was restored. Therefore, from

08.02.2016, Respondent/lessee (Respondent No.1 in contempt petition) was clearly restrained from both - parting with possession of the suit premises and creating third party rights and interest therein.

31. Perusal of the registered leave and license document dated 23.12.2021 (produced on record by Respondent no.1 in contempt petition) shows that the Respondent No.2 in contempt petition has been inducted as licensee in the suit premises till 28.02.2027 i.e. for a period of 5 years, commencing from 01.03.2022. Clause-B of the said leave and license document puts Respondent No.2 in 'exclusive possession' for use of business. Clause-E of the said document provides that the licensor will have right to enter upon suit premises to inspect the licensed premises. Combined reading of Clauses B and E in my view amounts to exclusive handover of the possession to the Respondent No.2 in contempt petition, which was prohibited by this Court. This Court had restrained Respondent no.1 in contempt petition from parting with possession of the suit premises. It is material to note that the injunction was two-fold, firstly, not to part with possession and secondly, not to create third party possession or rights. The said leave and licence agreement *prima facie* appears to be a mere facade to defeat the injunction order of this Court. Therefore, without commenting upon whether the said leave and license agreement amounts to creating third party interest/right, I hold that it amounts to parting with exclusive possession. Therefore, apparently the Respondent no.1 has committed contempt of the order by this Court. Therefore, necessary further action in accordance with Rules is necessary.

32. In the result, the Civil Revision Application succeeds. The impugned judgment and decree dated 23.03.2010 is set aside. Civil Appeal No. 576 of

2008 is dismissed. The judgment and decree dated 13.06.2008 granting eviction is confirmed. Considering the peculiar facts and circumstances as narrated above, the Respondent in Civil Revision Application (Mr. Ajay Ramanlal Gujrathi) or anybody claiming through or under him is directed to handover vacant and peaceful possession of the suit premises to the Revision Applicants within a period of 8 weeks from today.

33. **Rule is made absolute and Civil Revision Application is disposed of in above terms.** In view of disposal of Civil Revision Application, the pending Civil Application is also disposed in above terms. No order as to costs.

34. Registry is directed to issue appropriate notice returnable after 4 weeks, to the Respondent – Mr. Ajay Ramanlal Gujrathi as per Rule 9 or such other applicable Rule made under the Contempt of Courts Act, 1971 to secure his presence. **Contempt Petition shall proceed in accordance with law.**

35. At this stage, learned counsel for the Petitioners seeks an order for grant of mesne profits. Learned counsel appearing for the Respondent in Civil Revision Application, opposes the same, contending that mesne profits are not even claimed in the plaint. In the facts and circumstances of the case, suffice it to observe that if the Petitioners file any application seeking mesne profits, the same shall be decided on its own merits and in accordance with law and rival contentions of both sides, in that regard, are kept open.

36. All concerned to act on duly authenticated or digitally signed copy of this order.

(M. M. SATHAYE, J.)