
(1993) 07 GUJ CK 0017

Gujarat High Court

Case No: None

Budhalal Chhotalal
Zaveri

APPELLANT

Vs

Lilavatiben Ratilal and
Others

RESPONDENT

Date of Decision: July 15, 1993

Acts Referred:

- Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 - Section 13(1)(e), 13(1)(e), 13(r)(e), 15(1), 15(1)

Citation: (1994) 1 GLR 209

Hon'ble Judges: J.N. Bhatt, J

Bench: Single Bench

Judgement

J.N. Bhatt, J.

Petitioner is the owner of the shop premises bearing M.C. No. 2868-2868/1 of Kalupur, Ward No. 2-B, at Ahmedabad. One deceased Sakarchand Kasturchand was the monthly tenant of the said shop, which is hereinafter to be referred to as "the suit shop." The tenant-Sakarchand was let the suit shop at a monthly rent of Rs. 25/-for business purpose, in 1961, and the tenant was using the suit shop for the purpose of running his coal business.

2. The original tenant-Sakarchand had entered into a partnership with opponent No. 5, Vrujlal Vadilal, from 25th November, 1960, and it was run in the name of "Mis. Vrujlal Kiritkumar & Co." Tenant-Sakarchand died on 28th January, 1961, Upon his death, the partnership came to be dissolved. Opponent No. 1, Lilavati is the widow of deceased -tenant and opponents No. 2 3 and 4 are the minor children of the deceased-tenant. The landlord was issuing rent receipts in the name of Lilavatiben Ratilal after the demise of the original tenant. Lilavatiben entered into a partnership with opponent No. 5, Vrujlal Vadilal and one Shantilal Chimanlal on 27th January, 1962. The said partnership was started in the name of "M/s. Vrujlal Shantilal & Co "

giving effect from 13th November, 1961, as the oral partnership had commenced on that date. The original partnership deed between the said three partners was produced in the trial Court, at Ex. 101. One of the partners, Shantilal, expired on 29-10-1964 and the said partnership continued between Lilavatiben and Vrujial.

3. Later on tenant-Lilavatiben executed a registered document whereby, she transferred and assigned her tenancy rights with goodwill and stock-in-trade in favour of Vrujial Vadilal, on 28-4-1970 in view of the notification issued u/s 15(1) proviso of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 ("Bombay Rent Act" for short) The said registered document was produced in the trial Court, at Ex. 98. Thereafter, the erstwhile partner, Vrujial Vadilal, who came to be in charge of the entire business, stock-in-trade and the goodwill along with the tenancy rights, issued a notice to the landlord. Mr. B.C. Jhaveri, and sent the rent. However, the rent was refused by the landlord.

4. Subsequently, the landlord initiated a legal battle by filing eviction suit, being. H.R.P. Suit No. 2781 of 1971, in the Small Causes Court, Ahmedabad, on the grounds of illegal sub-letting, transfer and assignment, and also on the ground of non-payment of rent for more than six months, impleading tenant-Lilavatiben Ratilal and her three minor children and erstwhile partner, Vrujial Vadilal, as defendants. According to the case of the landlord, defendants No. 1 to 4, Lilavatiben and her three children, were liable for eviction on the ground of illegal sub-letting, transfer and assignment made to Vrujial Vadilal, defendant No. 5.

5. The tenant-original defendant No. 1, Lilavatiben, appeared and resisted the suit. Defendant No. 5 also filed a separate written statement. Original defendant No. 1, Lilavatiben, inter alia, contended that, she has not transferred or assigned any running business with stock-in-trade and goodwill with tenancy rights in respect of the suit shop to defendant No. 5 and that, she has also not obtained any amount of consideration from original defendant No. 5 According to her case, original defendant. No. 5 was doing the coal business in partnership with her husband Sakarchand Kasturchand, but on account of the death of her husband, defendant No. 5-Vadilal took undue advantage and secured her signatures on many papers. She, therefore, contended that, original defendant No. 5 might have used her signatures in preparing the document of transfer and assignment of the ongoing business. She also pleaded that, defendant No. 5 had taken possession of the suit shop without any authority and that he was liable for eviction.

6. Whereas defendant No. 5, in his written statement inter alia, contended that defendant No. 1 Lilavatiben, had colluded with the plaintiff and has filed false written statement. According to his case, after the death of original tenant-Sakarchand, Lilavatiben was accepted as a tenant and she went on paying the rent of Rs. 25/- per month and the landlord was issuing the rent receipts in her favour. It was also further pleaded that he was doing partnership business with the deceased-tenant and, thereafter, a new partnership was constituted among

Lilavatiben, himself and one Shantilal Chimanlal, and the business was run in the name of Vrujial Shantilal and Company, which continued upto 29-10-1964 until Shantilal died. Thereafter, according to the case of defendant No. 5, Vrujial, the coal business continued by Lilavatiben and himself in a partnership in the name of Shah Vrujial Vadilal, in which Lilavatiben had 6 Annas share out of a rupee and that partnership continued till 27-4-1970. Defendant No. 5 also pleaded that, thereafter, defendant No. 1, Lilavatiben, who was a tenant in respect of the suit shop sold the stock-in-trade and goodwill with running business; and her tenancy rights were also transferred, legally, in his favour for a consideration of Rs. 2,000/- under a registered document. Thus, according to the case of defendant No. 5, he has become a lawful tenant and he is in legal possession of the suit shop since 28-4-1970 and, thereafter, he had sent the rent, which was refused by the landlord and, therefore, he was not a defaulter in payment of rent.

7. Upon appreciation of the facts and circumstances, the trial Court found that, after the death of original tenant-Sakarchand Kasturchand, original defendant No. 1, Lilavatiben, daughter of Ratilal, was accepted as a tenant of the suit shop by the plaintiff-landlord. The trial Court also held that the registered document dated 28-4-1970, produced at Ex. 98, executed by defendant No. 1, Lilavatiben Ratilal, in favour of defendant No. 5, Vrujial Vadilal, assigning and transferring the right, title and interest of the suit shop along with running business and stock-in-trade and the goodwill of business was valid and genuine one. Therefore, the trial Court found that the plaintiff-landlord was not entitled to decree for possession on the ground of unlawful sub-letting or assignment u/s 13(1)(e) read with Section 15(1) of the Bombay Rent Act. It was also found by the trial Court that, after defendant No. 5, Vrujial Vadilal, became the tenant by virtue of Ex. 98, a registered deed, he was ready and willing to pay the rent and there was no default on his part. Thus, both the grounds on which the eviction was sought, were held against the landlord-plaintiff. Consequently, the suit for possession came to be dismissed. On appeal before the Appellate Bench of the Small Causes Court, at Ahmedabad, the landlord failed. Hence, this revision u/s 29(2) of the Bombay Rent Act.

8. It has been seriously contended by learned Counsel Mr. Trivedi on behalf of the petitioner-original plaintiff-landlord that the opponents-original defendants are liable for ejectment on the ground of unlawful sub-letting, transfer or assignment. He has also contended that the Courts below have seriously erred in refusing to pass the decree for possession. This submission is seriously countered by learned Counsel, Mr. Desai, for the opponent-original defendant No. 5. Other defendants came to be deleted in the course of the proceedings.

9. In order to appreciate the aforesaid contention, it would be necessary, at this stage, to refer the provisions of Section 13(1)(e) and Section 15(1) of the Bombay Rent Act, in the background of the facts of the present case. u/s 13(1)(e), a landlord shall be entitled to recover possession of the demised premises if the Court is

satisfied that the tenant had, since the coming into operation of the Act, unlawfully, sublet the whole or part of the premises or assigned or transferred in any other manner his interest therein. Under Clause (e), the landlord has to prove (i) that the tenant has sub-let, assigned or transferred in any other manner his interest in the demised premises; (ii) that it is done after the commencement of the Act; and (iii) that it is unlawful. The tenant incurs liability to eviction under this Clause when unlawful sub-letting is established even on or before the date of the notice. It is not further necessary to show that the sub-letting should be subsisting at the date of the suit. Thus, any sub-letting, assignment or transfer made after the commencement of the Bombay Rent Act, if it is found to be unlawful, it is made a ground for eviction.

10. Under the provisions of Section 15(1), the Legislature, in absence of contract to the contrary, has prohibited the tenant to sub-let or transfer or assign in any other manner his interest. It would be interesting to refer the provisions of Section 15(1), which read as under:

15(1). Notwithstanding anything contained in any law, but subject to any contract to the contrary, it shall not be lawful after the coming into operation of this Act for any tenant to sub-let the whole or any part of the premises let to him or to assign or transfer in any other manner his interest therein:

Provided that the State Government may, by notification in the Official Gazette, permit in any area the transfer of interest in premises held under such leases or class of leases and to such extent as may be specified in the notification.

11. This Section prohibits sub-letting and makes it unlawful for a tenant to assign or to transfer his interest in any rented premises, in any manner. Obviously such a provision was incorporated on public policy. The tenant should not misuse the protection that is given to him from eviction, and make a profit by sub-letting, assigning or transferring whole or any part of the rented premises. However, it could very well be seen from the proviso to Section 15(1) that the State Government is competent to permit, by issuing notification in the Official Gazette, in any area the transfer of interest in the demised premises held under such leases or class of leases and to such extent, as may be specified in the notification. The person, who wants to claim protection by virtue of the exception under the notification issued by the State Government under the proviso to Section 15(1) is obliged to establish the following ingredients:

(i) that there was a going business;

(ii) what stock-in-trade and goodwill;

(iii) that whole interest of the tenant including leasehold interest is transferred or assigned;

(iv) that the transferee is in a position to go on with the running business; and

(v) that it was done by a registered document.

No doubt, the person claiming benefit under notification issued under the proviso to Section 15(1) of the Bombay Rent Act has to prove his defence.

12. The proviso was inserted by the Bombay Act 36 of 1948, and it permits sub-letting, assignment or transfer of interest in the premises in cases covered by the Government notification. In exercise of the powers conferred by the proviso, the State Government has issued a notification under which it has permitted in all areas to which part II of the Bombay Rent Act extends, all transfers and assignments by lessees of their interests in leasehold premises and to the extent specified in the schedule. The relevant provision and operation out of the said schedule of the notification reads as under:

...Transfer or assignment incidental to the sale of a business as a going concern together with the stock-in-trade and the goodwill thereof, provided that the transfer or assignment is of the entire interest of the transferor or assignor in such leasehold premises together with the business and the stock-in-trade and goodwill thereof.

13. The said notification was issued by the erstwhile Bombay Government on 21-9-1948 and it was published in the extra-ordinary Gazette on 24-9-1948. By virtue of the Gujarat Adaptation of Laws (State and Concurrent subjects) Order, 1960, the said notification came to be applied to the State of Gujarat other than Saurashtra and Kutch, and insofar as area of Saurashtra and Kutch is concerned, it was applied by the Gujarat Government by issuing a separate notification dated 28-4-1969 published in Official Gazette on 8-5-1969, *pari-materia* with Bombay notification.

14. The provisions of Section 13(1)(e) and Section 15 are required to be read together. Sub-letting, assignment or transfer in any other manner by a tenant of his interest in whole or part of the premises, which is unlawful and is a ground for eviction of the tenant and also his sub-tenant for assignment u/s 13(1)(e), it does not confer on the sub-tenant, assignee or transferee any right under the Bombay Rent Act and, therefore, he is also not entitled to the protection.

15. There is no dispute about the fact that the deceased tenant-Sakarchand had entered into a partnership with defendant No. 5, Vrujial, in respect of his coal business and it was run in the name of M/s. Vrujial Kiritkmnar and Company, on and from 25th November, 1960, till Sakarchand died.

After the death of the original tenant-Sakarchand, defendant No. 1, widow of the deceased, was accepted as a tenant by the landlord and other heirs had not objected to her being the tenant of the suit shop. Thus, she became the tenant and she went on paying rent at the rate of Rs. 25 per month. The contention that, widow of the deceased-Lilavatiben was not accepted as a tenant cannot be sustained. There are several rent receipts in the name of Lilavatiben Ratilal and many such rent receipts were produced in the trial Court. Having seen the "viva-voce" and

documentary evidence, this Court has no hesitation in holding that the landlord had accepted Lilavatiben Ratilal as his tenant in respect of suit shop, after the death of Sakarchand, original tenant. There is also no dispute about the fact that defendant No. 1, Lilavatiben Ratilal, and defendant No. 5, Vrujial, had entered into a new partnership on 13-1-1961, with one Shantilal Chimanlal. The copy of the partnership document in this behalf is produced, at Ex. 101. Shantilal Chimanlal died on 29-10-1964 and, therefore, the said partnership was also dissolved. Subsequently, defendant No. 1, Lilavatiben and defendant No. 5, Vrujial, continued the said coal business in partnership till 27-4-1970.

16. The contention is that the act of the tenant in entering into partnership with defendant No. 5, Vrujial, would tantamount unlawful subletting. First of all, it may be noted that, the mere fact that a tenant enters into partnership and allows the demised premises being used for partnership concern "ipso facto" does not constitute an act of sub-letting, transfer or assignment in favour of the partnership firm, entitling the landlord to recover possession. Needless to mention that a partnership is not a legal person or a corporation sole or corporation aggregate having a distinct legal personality. It is also very well recognised that the partnership, as such, is a compendious mode of describing the partners collectively. In order to hold a tenant guilty for sub-letting or for unlawful transfer or assignment, it must be successfully shown that the tenant has lost the possession and that he has abandoned his interest in the demised premises. In a case of partnership, all the partners are joint in respect of partnership properties subject to the extent they have agreed. In an assignment, the assignor transfers the totality of his rights and interests to the assignee. The transaction results in the assignor being denuded of the entire interest and the assignee replacing him and acquiring the entire interest in the property. If the tenant of a shop takes one or more partners for doing business in the demised shop, would this itself constitute either sub-letting or assignment. The answer would be positively in the negative. Even assuming that the tenant interest had been thrown into the partnership, even in that case also, the tenant continues to have an interest along with other partners. Unless it is shown that the original tenant's entire leasehold interest has been extinguished and that of someone else to the exclusion of the original tenant is created, it is futile to contend that there has been an assignment or transfer of interest.

17. Taking a partner or entering into a partnership firm for doing a business in a demised shop "ipso-facto" also would not constitute an act of sub-letting. Sub-letting postulates two distinct personalities, the head tenant and the sub-tenant. Undoubtedly, their rights and obligations would be different. One cannot be one's own sub-tenant. If the transaction of taking in partners constitutes sub-letting, the defendant-tenant will be a head tenant and he himself along with his other partners will also be sub-tenants, as the partnership firm, as such, has no separate legal entity. It must be successfully shown that there was a transfer of legal possession. There is a distinction between actual possession and legal possession.

What is contemplated is the transfer of legal possession. The physical occupation may be of one or more partners, but the legal possession would remain with the tenant, if such a possession is not parted with, with or without consideration. Thus, if the partners of the firm attend the shop and do business along with the tenant, it cannot be contended that the partners are in legal possession of the demised shop.

18. In view of the facts and circumstances emerging from the record, there is no evidence to remotely indicate that the tenant had abandoned his leasehold interest or had lost legal possession in respect of demised shop. It is a well settled proposition of law that, if there was a partnership firm, of which tenant of the premises in which the business of the firm was carried on has been a partner, the fact of carrying on of business of the partnership in the demised premises would not Ipso facto tantamount to sub-letting, transfer of interest or assignment, inviting the forfeiture of the leasehold or tenancy rights. This proposition is very well explained and expounded by the Apex Court in [Helper Girdharbhai Vs. Saiyed Mohmad Mirasaheb Kadri and Others](#), . Decision of the Supreme Court in [Madras Bangalore Transport Co. \(West\) Vs. Inder Singh and Others](#), was followed in the aforesaid decision of the Supreme Court. Therefore, the contention that the tenant had entered into a partnership and carried on the business along with strangers in the demised shop would disentitle him to continue his tenancy rights cannot be sustained.

19. Next it is submitted on behalf of the landlord by learned Counsel, Mr. Trivedi, that the tenant was to be paid a fixed amount of Rs. 150/- per month irrespective of profit and loss in the partnership is suggestive of unlawful sub-letting and illegal transfer of tenancy. Prima facie, this submission may appear to be sub-let, but not sound when one gets into the reality and the factual matrix of the present case. The partnership deed between defendant No. 1, Lilavatiben and defendant No. 5, Vrujial, is produced, at Ex. 101. It is dated 27-1-1962. The partnership was constituted among Lilavatiben Ratilal, Vrujial Vadilal and one Shantilal Chimanlal for doing the coal business in the demised shop, in the name and style of M/s. Vrujial Shantilal & Company. Upon the death of partner Shantilal Chimanlal, on 29-10-1964, defendant No. 1, Lilavatiben and defendant No. 5, Vrujial, continued the same business in partnership till 27-4-1970. This aspect is also not in controversy. It is very clear from Clause (6) of the said partnership deed, at Ex. 101, that the tenancy rights in respect of demised shop shall remain with tenant-Lilavatiben and no partner had any right therein, and even on dissolution, the tenancy rights in respect of demised shop shall revert to tenant-Lilavatiben, as per the specific stipulation in Clause (6) of the partnership deed.

20. Again, it is contended that, Clause (7) of the partnership deed is objectionable and contents therein would go to show that there was no partnership as such and it was a camouflage. It is clearly stated in Clause (7), at Ex. 101, partnership deed, that partner-Lilavatiben was to be paid lumpsum fixed amount of Rs. 150/- in lieu of her

share in the profit irrespective of the profit or loss in the business of the firm. She was also held to be not responsible in the event of any loss in the partnership business. Relying on the aforesaid averments, it is sought to be contended that, there was no partnership as tenant-Lilavatiben had not agreed to share the profits of a business. In other words, it is submitted that the tenant-Lilavatiben was not entitled to be paid more amount even in case of profit other than the fixed amount of Rs. 150/- and, therefore, one of the essential ingredients constituting a partnership was lacking and it would tantamount to unlawful sub-letting. Such a submission would steal the heart but not the head.

21. At this stage, it would be relevant to refer the provisions of Section 4 of the Indian Partnership Act, 1932, which defines partnership, partner and firm. Section 4 of the Indian Partnership Act reads as under:

"Partnership", is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all. Persons who have entered into partnership with one another are called individually "partners" and collective "a firm", and the name under which their business is carried on is called the "firm name".

22. Relying upon the aforesaid definition, it is contended that, tenant-Lilavatiben could not be said to be a partner even if there was a partnership concern as she was not to share the profits of the partnership business and she was entitled to only lumpsum fixed amount of Rs. 150/-, irrespective of profit and loss of the partnership firm. In support of this submission, reliance is also placed on a decision of Punjab High Court, rendered in [Nandu Mal and Others Vs. Ramji Lal and Another](#), . In that case, tenant and a third party had entered into a transaction of partnership, in the terms of an agreement between the tenant-Ramjilal and the third person-Babulal, it was found by the Punjab High Court that the tenant-Ramjilal was to have no interest in profits and no concern in losses and it was enough to take the agreement out of the definition of partnership. Having examined the facts and circumstances of this decision, this Court is of the clear opinion that, it is not applicable to the facts of the present case, as the conclusion of the Punjab High Court that, tenant-Ramjibhai, who was to have no interest in profit and no concern in losses was enough to take the agreement out of the definition of partnership was founded upon the appreciation and interpretation of the terms and conditions of the agreement between the tenant-Ramjilal and partner-Babulal. Therefore, Mr. Trivedi is not in a position to make any slice of profit out of the said decision. As against that, the reliance is placed on the decision of the Hyderabad High Court, rendered in *Kundanmal and Anr. v. Madangopal* AIR 1956 Hyd 27. In that matter, the case of the plaintiff was that, there was a partnership between the parties relating to ration shop. That due to some dispute between the partners in respect of profits, the matter was referred to the arbitration. The Arbitrators gave the award and the award was filed in the Court, and in that proceeding, there was a compromise.

Upon appreciation of the evidence, the trial Court decreed the suit, holding that no partnership subsisted between the parties and that Section 69 of the Partnership Act was not applicable to the case.

23. The said decision was challenged in a revision before the High Court. While appreciating and interpreting the provisions of Section 4 of the Partnership Act, it was held that, agreement to share the profits of a business is an essential element of a partnership and it is open to partners to agree to share the profits in any way they like. They may agree either to share the profits in specific proportions or specific sums. There is nothing to stop a partner from agreeing to receive a fixed annual or monthly amount by way of profits, irrespective of whether profits are earned, or not. Thus, it becomes clear from the said decision that, when a partner agrees to receive a fixed annual or monthly sum, by way of profits, irrespective of whether profit is earned or not, it cannot be said that he is not a partner or that there was no constitution of partnership.

24. Similarly the Apex Court, in "Helper Girdharbhai"s" case (supra), has held that, following important elements must be there in order to establish partnership:

- (i) There must be an agreement entered into by all the parties concerned;
- (ii) The agreement must be to share the profits of business; and
- (iii) The business must be carried on by all or any one of the persons concerned, acting for all.

It is further held in the said case that the partnership deeds were three they are entitling the petitioner-tenant to share in the partnership. The partnership deed provided that the bank accounts were not to be operated by the tenant and further that, irrespective of the profit, there should be a fixed percentage of profit to be given to the partner-tenant. The tenant was not to share the loss.

25. The main question before the Supreme Court, in that case, was as to whether there was a genuine partnership at all between a tenant and other partners. The amount of Rs. 1500/- to tenant was to be paid after debiting towards the head of expenditure even in absence of any profit. Relevant observations were made in paragraph 7, which are reproduced hereinbelow;

7. This was set aside in appeal. The Appellate Court so far as the material for the present appeal is concerned held that there was no sub-letting and there was only carrying on of the business in the partnership with defendants Nos. 2 to 5 in the name of Bharat Neon Signs. Therefore, the first question that had to be decided by the Appellate Court being the Court of Small Causes, Bombay and if a revision lay before the High Court was whether there was any genuine partnership. The partnership deeds were three, the appellant was not to share in the losses. The Court of Small Cau as came to the conclusion on an analysis of the evidence before it and the terms of the three partnership deeds referred to hereinbefore that there

was a genuine partnership in law which was acted upon. The High Court in revision reversed that finding. The first question, therefore, is whether the High Court could do so in the facts of this case and secondly whether the High Court was right in so doing.

26. Thus, it becomes very clear from the aforesaid decision of the Apex Court that, when a partner has brought in as his asset tenancy of the premises in which the partnership business was to be carried on, the fact that the partner in question was to share the profits only and was to get a fixed percentage of the profits or the further fact that the said partner was not to operate the bank accounts, there being nothing intrinsically wrong in law from constituting a partnership in the manner it was done, it could not be said that no genuine partnership had come into existence. Appeal of the tenant against the eviction decree on the ground of sub-letting u/s 13(1)(e) of the Bombay Rent Act was allowed. This decision fully reinforces the version of the tenant and runs counter to the proposition that the absence of specific share in the profit and not the fixed amount in the share would be an essential ingredient for consideration of the genuine partnership u/s 4 of the Partnership Act.

27. Having regard to the facts and circumstances emerging from the record of the present case, it cannot be contended that the landlord is entitled to ejectment decree on the ground of Section 13(r)(e) read with Section 15(1) of the Bombay Rent Act. Again, the powers of revisional Courts u/s 29(2) of the Bombay Rent Act are circumscribed. The revision on hand is filed by the landlord by invoicing the aids of the provisions of Section 29(2) of the Bombay Rent Act. No doubt, in view of the amendment made in Sub-section (2) of Section 29, by Gujarat Act 18 of 1965, which came into effect on June 17, 1965, the said Section confers upon the High Court a jurisdiction little wider than the jurisdiction exercisable u/s 115 of the Code of Civil Procedure. Though the powers of the High Court u/s 29(2) are wider than that of Sec 115 of the Code of Civil Procedure, the powers do not become that of an Appellate Court to reappreciate the evidence and come to a different conclusion than what has been rightly arrived at by the lower Court. In other words, unless there is an error of law, which vitiates the approach of the trial Court or the lower Court, the High Court has no power to reappreciate the evidence u/s 29(2). Even if the other view is possible, the High Court cannot substitute its own views in place of the views of the trial Court on facts. The Supreme Court, in *Helper Girdharbhai*"& case (supra) has held that, in exercising revisional powers u/s 29(2), the High Court must ensure that the principles of law have been correctly borne in mind by the lower Court. Secondly, the facts have been properly appreciated and a decision arrived at after taking all material and relevant facts in mind. In order to warrant interference, the decision must be such a decision which no reasonable man could have arrived at. Lastly, such a decision does not lead to miscarriage of justice. But, in the guise of revision, substitution of one view where two views are possible and the Court of Small Causes has taken a particular view, is not permissible. If a possible view has

been taken, the High Court would be exceeding its jurisdiction if it substitutes its own view in place of that of the Courts below because it considers it to be a better view. The fact that the High Court would have taken a different view is wholly irrelevant. Therefore, considering the aforesaid settled legal proposition, even believing for the time being that the other view is possible, it will not be permissible to this Court to interfere with the view on the question of facts which is concurrency reached by the lower Courts.

28. Having regard to the overall picture emerging from the facts and circumstances, while viewed in the light of the aforesaid celebrated legal set up, it cannot be contended even for a moment that the finding of the Courts below that the tenant is not liable for ejection on the ground of sub-letting transfer or assignment u/s 13(1)(e) read with Section 15(1) of the Bombay Rent Act, is in any way erroneous or warranting interference of this Court in this revision u/s 29(2) of the Bombay Rent Act. The second ground of eviction on the ground of non-payment of rent, obviously, was not pressed, at the time of hearing of this revision.

In the result, this revision must fail and, therefore, it is dismissed. Rule discharged with no order as to costs.