

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO. 272 OF 2025

Dr. Hemant Bansilal Bhandari & Anr.

.....APPLICANTS

: VERSUS :

Shri. Sorab Shapurji Engineer
(Deleted since deceased)

Smt. Saroj Sorab Engineer & Anr.

.... RESPONDENTS

Mr. Vishal Kanade with Mr. Parag S. Gosar, Ms. Tanaya Pathankar i/b. Swati N. Chheda, for the Applicants.

Mr. Prashant Chawan, Senior Advocate with Mr. Sachin Kudalkar and Mr. Murari Madekar i/b. M/s. Madekar & Co., for the Respondents.

CORAM : SANDEEP V. MARNE, J.

JUDGMENT RESD. ON: 9 APRIL 2026.

JUDGMENT PRON. ON : 23 APRIL 2026.

JUDGMENT :

1) Applicants have invoked revisionary jurisdiction of this Court under Section 115 of the Civil Procedure Code, 1908 **(the Code)** for challenging the judgment and order dated 5 March 2025 passed by the Appellate Bench of the Small Causes Court by which the Appellate Court has reversed the decree of the Trial Court by allowing the Appeal and has

decreed the suit of the Plaintiffs on the ground of unauthorized additions and alterations of permanent nature and has directed the Applicants/Defendants to handover possession of the suit premises to the Plaintiffs. The Trial Court had dismissed Plaintiff's R.A.E. Suit No.59/94 of 2012 vide judgment and order dated 30 October 2021 by rejecting the grounds of non-user, unauthorized additions and alterations, nuisance/annoyance and bonafide requirement and cause of waste/damages to the suit premises. The Applicants are aggrieved by Appellate Court's decree for eviction on the ground of unauthorized additions and alterations and have accordingly filed the present Revision Application.

2) Bablibai Shapurji Sorabji Trust is a family trust formed by Bai Bablibai Shapurji Sorabji to maintain family properties. The trust owns the property known as Laxmi Niwas building situated at Plot No.30, Keluskar Road (North), Shivaji Park, Dadar, Mumbai-400 028. Block No.5 on first floor of the building Laxmi Niwas are the '**suit premises**'. Dr. B.C. Bhandari was the original tenant in respect of the suit premises. After the death of the original tenant, the tenancy in respect of the suit premises devolved upon his legal heirs, Dr. Hemant B. Bhandari and Smt. Kamlabai B. Bhandari (Defendants). The trustee of the Plaintiff-Trust alleged that Defendants were making unauthorized additions and alterations of permanent nature in the suit premises and accordingly a complaint was made to the Municipal Corporation of Greater Mumbai (**MCGM**). The Trustees of the Trust accordingly instituted R.A.E. Suit No.59/94 of 2012 in the Court of Small Causes Court at Mumbai seeking recovery of

possession of the suit premises from the Defendants on various grounds such as unauthorized additions and alterations of permanent nature, non-use, annoyance/nuisance, bonafide requirement and cause of waste/damage to the suit property. Defendants appeared in the Suit and filed Written Statement. Plaintiff filed application for temporary injunction in the Suit and by order dated 10 February 2012, the Trial Court partly allowed the said application and restrained the Defendants from undertaking any further construction work in the suit premises taking note of notice dated 14 January 2012 issued by the MCGM. The prayer for appointment of the Court Commissioner was however rejected. Plaintiffs thereafter took out another application at Exhibit-20 under Section 28 of the Maharashtra Rent Control Act, 1999 (**MRC Act**) for inspection of the suit premises. By order dated 18 June 2013, the Trial Court allowed the said application and permitted Plaintiffs to inspect the suit premises alongwith their architect and photographer. Accordingly, the suit premises were inspected by the Plaintiffs alongwith the architect and photographer. Plaintiffs amended the suit to bring on record various developments including the outcome of the inspection. Defendants filed additional Written Statement. Based on pleadings, the Trial Court framed issues. Plaintiffs examined three witnesses, Sagar Sorab- Plaintiff No.3(P.W.1), Mr. Jamshed Sethna-Architect (P.W.2) and Mr. Kiran Shetye- Photographer (P.W.3). Defendant No.1 examined himself as D.W.1.

3) After considering the pleadings, documentary and oral evidence, the Trial Court proceeded to dismiss the suit by judgment and order dated 30 October 2021. Plaintiffs preferred Appeal No. 278 of 2021

before the Appellate Bench of the Small Causes Court. By judgment and order dated 5 March 2025, the Appellate Bench has allowed the Appeal and has set aside the decree dated 30 October 2021. The Appellate Court has decreed the Suit on the solitary ground of unauthorized additions and alterations of permanent nature and has directed the Defendants to handover possession of the suit premises to the Plaintiffs with further direction to conduct inquiry into mesne profits from the date of the suit. Applicants/Defendants have filed the present Revision Application challenging the judgment and decree of the Appellate Court. By order dated 23 June 2025, statement on behalf of the Plaintiffs was recorded about non-filing of execution proceedings. The Revision Application is taken up for final hearing at the admission stage with the consent of the learned counsel appearing for the parties.

4) Mr. Kanade, the learned counsel appearing for the Applicants submits that the Appellate Court has grossly erred in reversing well considered decision of the Trial Court which had dismissed the suit. That the ground of unauthorized additions and alterations of permanent nature is erroneously accepted by the Appellate Court in ignorance of the position that the Plaintiff failed to prove any additions or alterations of permanent nature by the Defendants by leading any cogent evidence. He submits that the case of the Defendants was that no changes of permanent nature are effected by them and that the suit premises are in the same state as were let out to them. On the contrary, it was Plaintiffs pleaded case that the suit premises are materially altered as per the sanctioned plans. He takes me through pleadings in the plaint to

demonstrate that the whole case of the Plaintiffs was about variation in the suit premises as compared to the original sanctioned plan of MCGM. He submits that the Plaintiffs however failed to produce any such sanctioned plan. That therefore Plaintiffs have thoroughly failed to prove their pleaded case, which position was rightly appreciated by the Trial Court. He submits that the Appellate Court has erroneously shifted the burden or even the onus on to the Defendants. That Defendants need not prove that what is effected are tenantable repairs when the clear burden to prove the unauthorized additions and alterations of permanent nature was on the Plaintiffs. In support, he relies on judgment of this Court in **Sukhlal Chunilal Ghagani & Anr. Versus. Harish Suvarna & Anr.**¹ In support of his contention that since Plaintiffs have approached the Court with a specific case that tenants have made the alteration, it is for the Plaintiffs to lead the evidence in that regard. He submits that by erroneous shifting of burden and onus on the Defendants, the Appellate Court has grossly erred in decreeing the suit.

5) Mr. Kanade further submits that Plaintiffs need to stand on their own legs and cannot depend on the evidence of the Defendants. That the Appellate Court has grossly erred in relying on suggestions given in cross-examination by Plaintiff's witness. That Plaintiffs themselves did not produce any evidence. He further submits that mere suggestion given in cross-examination by Plaintiff's witness cannot be treated as admission that the Defendants have carried out construction of permanent nature. That cross-examination conducted by the Defendants

1 1998 SCC Online Bom 61

cannot prove Plaintiffs case. He further submits that mere sketch prepared by the architect or photographs taken by the photographer cannot prove that what exists at the site is not what is sanctioned by the Municipal Corporation. That therefore it was incumbent for the Plaintiffs to prove the mismatch of the structure as compared to the sanctioned plan. That Defendants have not given any admission which could have been used for decreeing the suit. That merely because Defendants raised a defense of Plaintiff No.1 granting permission to carry out tenantable repairs, does not mean that the entire burden could have been shifted on the Defendants. That Plaintiff No.1 was not examined as a witness which was clearly fatal to the suit of the Plaintiffs. Mr. Kanade prays for setting aside the decree of the Appellate Court.

6) Mr. Chawan, the learned senior advocate appearing for the Respondents/Plaintiffs opposes the Revision Application. He submits that the Appellate Court has rightly appreciated the evidence on record for arriving at the conclusion that Defendants have carried out additions and alterations of permanent nature in the suit premises. He takes me through the sketch prepared by the Architect as well as the photographs of the building of the suit premises taken by the photographer to demonstrate unauthorized constructions carried out by the Defendants. He submits that the photographs clearly indicate removal of pillars supporting the balconies by the Defendants causing damage to the structure. Additionally, several internal changes are effected in the suit premises. That all the photographs have been proved during the course of evidence. That the sketch and the photographs produced have been

considered by the Appellate Court. That the Appellate Court has rightly held that the Defendants have carried out structural changes to the suit premises under the garb of tenantable repairs. That the Trial Court has erroneously discarded the photographs by emphasizing on details of bills. That admittedly there is no written permission by the Plaintiffs for carrying out additions and alterations. He takes me through the cross-examination of the Defendant to demonstrate that he has admitted the correctness of the photographs. Mr. Chawan accordingly submits that the case involves clear admission of unauthorized additions and alterations to the suit premises and therefore no interference is warranted in the decree passed by the Appellate Court. He prays for dismissal of the Revision Application.

7) Rival contentions canvassed on behalf of the parties now fall for my consideration.

8) Though the suit was initially filed on various grounds such as non-use, unauthorized additions and alterations, annoyance/nuisance, bona-fide use and cause of waste/damages, all the grounds of eviction were rejected by the Trial Court and the suit was dismissed. The Appellate Court has reversed Trial Court's decree on singular ground of unauthorized additions and alterations of permanent nature. Therefore, the only issue that falls for consideration is whether the Appellate Court has committed any jurisdictional error and has exercised jurisdiction with material irregularity while reversing Trial Court's finding on the issue of unauthorized additions and alterations.

9) The Trial Court has rejected the ground of unauthorized additions and alterations of permanent nature by recording following findings :

25. After going through the alleged permanent structures in the plaint and evidence of the plaintiffs, it is observed that they mainly fall under the Explanation of Section 16(1)(b). The other allegations relating to demolishing the walls, construction of new bathroom and W.C. and causing damage to the support to the second floor are tried to be proved with the help of evidence of the P.W. Nos.2 and 3. I have already discussed the lacuna or short comings in the evidence of the P.W. Nos.2 and 3 hereinabove. Therefore, very precisely I state that the oral evidence of both the said witnesses is not helpful to the plaintiffs to prove the allegation of permanent structures alleged to have constructed by the defendants. Especially, the evidence of the P.W.No.2, the architect is certainly Suspicious. He did the work of inspection on the request and as per the requirements of the plaintiff No.1. He has admitted the said fact. Moreover, his long acquaintances with the plaintiff no.1 and doing the inspection work without any consideration renders his work as well as his testimony doubtful. The evidence in a civil trial is based on the principle of preponderance of probabilities. In the present case after perusing the evidence of the P.W. No.2 the probability of it is given under the influence of the plaintiff No.1 arises. So also the P.W. No.3 has clearly admitted in his cross examination that his affidavit in lieu of examination in chief is prepared by the plaintiff and he does not know its contents. Hence, the plaintiffs have failed to prove said Issue. The defendants have time and again stated that they obtained oral consent from the plaintiff No.1 on telephone for tenantable repairs. The plaintiff No.3 has admitted in his cross-examination that he has no knowledge about the same. In such situation even if the Law requires consent in writing, it was absolutely necessary for the plaintiffs to examine the plaintiff No.1. But for the reasons best known to the plaintiffs they failed to do so. Hence, after going thorough the entire material placed before me, I have reached to the conclusion that the plaintiffs have miserably failed to prove that the defendants have carried out permanent structures in the suit premises without their consent and the defendants have caused waste and damages to the suit premises.

10) Plaintiffs had led evidence of three witness viz. Sagar Sorab-Plaintiff No.3(P.W.1), Mr. Jamshed Sethna-Architect (P.W.2) and Mr.

Kiran Shetye-Photographer (P.W.3). The Trial Court doubted the evidence of the Architect (P.W.2) by terming the same as suspicious. The evidence of Architect is discarded on the ground of he acting on instructions of Plaintiff No.1 and on account of long acquaintances. So far as evidence of Photographer (P.W.3) is concerned, the Trial Court has discarded his evidence on the ground that the affidavit in-lieu of examination-in-chief is prepared by the Plaintiff. This is how vital evidence of Architect and Photographer, who visited the premises in pursuance of interim order passed by the Trial Court, was brushed aside and discarded in toto by the Trial Court. The Trial Court further proceeded to accept the theory of the Defendants about grant of oral consent by Plaintiff No.1 on telephone for tenantable repairs. This theory is accepted on account of failure on the part of the Plaintiffs to lead evidence of Plaintiff No.1.

11) Perusal of the above findings of the Trial Court would clearly indicate the perfunctory manner in which the Trial Court has assessed the evidence on record. The Trial Court has erroneously discarded the evidence of the Architect and Photographer without any basis. It has not even taken pains to take into consideration the sketch, map and photographs both of which speaks volumes about blatant unauthorized work carried out by the Defendants.

12) The Appellate Court has reappreciated the evidence of P.W.1, P.W.2 and P.W.3. It took into consideration evidence of P.W.1, who deposed that the original suit premises comprised of one hall, one bedroom, kitchen, lobby, W.C. and a bathroom. He further deposed that

Defendants demolished the wall separating the kitchen, lobby and bathroom and relocated the bathroom, W.C. and also constructed new walls by encroaching upon additional kitchen space. He further deposed that Defendants removed the kitchen platform and replaced the wooden window with a large window thereby damaging the wall. He further deposed that there was no bathroom in the kitchen but the Defendants constructed one by demolishing the structure. He further deposed about Defendants constructing toilet and bathroom in the room which did not exist earlier. He also deposed about the demolition of wall between the gallery and the hall causing damage to the supporting pillars of the second floor premises.

13) Most importantly, the manner in which cross-examination of P.W.1 was conducted is of vital importance. Defendant's advocate gave suggestions to P.W.1 during cross-examination in such a fashion which clearly shows admissions on the part of the Defendants in respect of various works carried out in the suit premises. It would be apposite to reproduce relevant portion of cross-examination of P.W.1 recorded on 20 November 2017 :

P.W.1: Mr. Sagar Sorab Engineer on S.A.

Further cross-examination of P.W.1 by Advocate Ms. Lapasia for the defendant.

I am going to examine witnesses as per list Exh.28. The suit flat consists of hall, bedroom and kitchen. My statement made in para 6 of the plaint and affidavit of examination-in-chief is correct. In bedroom and hall, there is no WC. Witness volunteers, additional bathroom was constructed in the bedroom. It is still in existence in the bedroom.

Bathroom was constructed outside the bedroom and hall, Earlier bathroom was in kitchen compartment.

Q. Earlier door of the bathroom and WC was opened towards hall and Bedroom?

Ans. Yes.

Now the kitchen platform is demolished.

Q. Newly constructed bathroom and WC opened towards the earlier position of kitchen platform?

Ans. Yes.

I am not aware that after demolition of kitchen platform, the defendant has placed modular wooden kitchen on the left side of WC, bathroom. It is incorrect to say that only opening of the bathroom was changed and not the plumbing work is altered.

Now I am shown my examination-in-chief para No.9. the statement mentioned therein that "I say that later on after filing of the suit, said structure of toilet and bathroom has been demolished by the defendant, which was constructed in the bedroom" is a correct statement. There is no provision of drainage system in bedroom. I have not given specific date, time when the defendant constructed toilet and bathroom in the bedroom. I am not aware that none of my Architects have mentioned in their report about existence of toilet and bathroom in the bedroom. It is incorrect to say that there was no construction of toilet and bathroom in bedroom as there was no provision for it.

Shown Exh.32. Letter dt. 04/01/2012 written to BMC, it does not mentioned the construction of toilet and bathroom in the bedroom. It is correct to say that original partition walls between kitchen, lobby and bathroom were demolished and new partition walls by covering some extra area of the kitchen room were constructed. It is correct to say that window walls of the kitchen were in very bad condition as the building is 70 years old and under repairs by MHADA. MHADA was repairing outside the building. It is true to say that the defendant removed kitchen wooden window by replacing new window. Witness volunteers that new big window were placed. It is incorrect to say that defendant did not change the dimensions of the window. It is correct to say that I have not given the dimensions of the new windows. Upto 2013, MHADA was repairing the building. Inside of the building was not repaired by the MHADA. The building is 71 years old, hence requires maintenance by the flat owners. Plaintiff No.1 and 3 were visiting the suit building together. I am not aware that defendants have taken permission from

plaintiff No.1 for tenantable repairs to the suit flat. It is incorrect to say that defendants have telephonically obtained permission to carry out tenantable repairs in October-November, 2011, from Plaintiff No.1. I am not going to examine plaintiff No.1 as a witness. I am not aware whether the defendant No.2 shifted to licensed premises during the repairs of the suit flat. it is incorrect to say that the suit was filed at the stage of completion of repair work of the suit flat. Defendant No.1 is a Doctor and stays at Bandra. Defendant No.1 is a Orthopedic Surgeon and working as a full time Doctor in Bombay Hospital. Defendant No.2 was not staying in the suit flat during the repairs. It is correct to say that without giving notice to the defendants, I along with Architect Jamshed Sethna visited suit flat on 1/02/2012. It is incorrect to say that in the absence of defendants, I have obtained report from the architect which suits me. I had not taken permission from the court for visit to the suit flat on 01/02/2012 with Jamshed Sethna. That report was filed before the Court. Injunction order was passed in my favour by the court based on the report.

14) Thus, far from extracting any admission or poking holes in the depositions of P.W.1, Defendants gave suggestions in respect of various works actually carried out in the suit premises. There are admissions of construction of new bathroom and W.C. and also about demolition of kitchen platform. Suggestions of demolition of original partition walls between kitchen, toilet and bathroom were also given to P.W.1 during his cross-examination. Similarly, construction of new partition wall was also given in the cross-examination. Similarly, suggestion of removal of kitchen wooden window by replacing new window was also given during cross examination. In my view, therefore the manner in which cross-examination of P.W.1 is conducted leaves no manner of doubt that Defendants have caused various additions and alterations of permanent nature in the suit premises.

15) I have also gone through the photographs, which are admitted in evidence. A cursory look at the photographs would indicate that the Defendants have enclosed a balcony within the hall and while doing so they have broken the two pillars with support of balconies of higher floors. Defendant No.1 has admitted correctness of those photographs. Despite availability of those photographs on record, instead of appreciating the position depicted in them, the Trial Court has discarded the same only on the ground that the affidavit of evidence of the Photographer was drawn as per instructions of the Plaintiff. Once photographs are admitted by the Defendant, the Trial Court ought to have taken into consideration, the position depicted in the photographs. The Appellate Court has rightly taken into consideration the photographic evidence and has held in para-40 of the judgment as under :

40. The plaintiffs relied on photographic evidence, which was primarily challenged due to a lack of signatures on the bill. However, the photographs themselves were not disputed, as DW1 admitted to their authenticity in cross-examination. The Trial Court, rather than focusing on the merit of the photographs, incorrectly emphasized the bill's details. Nevertheless, the photographic evidence, corroborated by other testimony, establishes that the defendants carried out permanent alterations.

16) Mr. Kanade's main criticism of Appellate Court's order is about shifting of the burden/onus on the Defendants when the initial burden was on the Plaintiffs to prove that Defendants made unauthorised additions/alterations of permanent nature. In my view, the criticism by Mr. Kanade is without any substance. The Appellate Court has independently assessed the evidence on record and has arrived at a finding that additions of substantial nature have been carried out by the

Defendants in the suit premises. However, since Defendants pleaded in the Written Statement that what is carried out by them are tenantable repairs in accordance with the permission granted by Plaintiff No.1, the Appellate Court held that the onus to prove that defence was on the Defendants. When Defendant takes a simple defense of not carrying out any additions or alterations, the burden is on Plaintiff to prove that such additions or alterations are carried out. However, when Defendant admits carrying out of additions/alterations but takes a defence that the same are carried out with the consent of the landlord and are merely tenantable repairs, the onus to prove such defence obviously shifts on the Defendant. In the present case, Defendants came out with following defence:

The Defendants submit and put it on record that the suit building is more than 60 years of age which was once repaired by MHADA and instead of repairing the same MHADA had damaged the suit premises and the same require tenantable repairs therein. As a result of which time and again the Defendants contacted The Plaintiffs on mobile phone and informed them that several work was required to be carried out of tenantable nature in the suit premises. Somewhere in October 2011 the Plaintiff No.1. granted permission to the Defendant No. 1 to carry out the work, and allowed the work to be continued for over 3 months and when major part of the repairs was completed the Plaintiffs have approached this Hon'ble Court with a view to harass the Defendants. The Defendants crave leave to, refer to and rely Tipon the mobile call chart, photographs, certificate dated 18/1/2012 issued by M/s. Lakdavala & Associates to show that, the Defendants have not carried out any act of additions, alterations, repairs and renovation of structural nature in the suit premises.

17) Thus, the onus to prove the above defence was clearly on the Defendants, which they failed to prove. However, it is not that the Plaintiffs have depended only on inability of the Defendants to prove

their defence. They have independently proved that blatant unauthorized structural repairs are carried out in the suit premises.

18) Mr. Kanade has strenuously submitted that the plaint was premised on the alleged sanctioned plan of MCGM, which Plaintiffs never produced. In my view, the Defendants have admitted that repair works have been carried out by them. The photographs which are admitted by the Defendants clearly prove breaking of pillars on the facade of the building for enclosing the gallery/balcony into the hall. It was therefore not at all necessary for the Plaintiffs to produce original sanctioned plan of MCGM. In the present case, carrying out of alleged repair works is admitted by the Defendants, but they raised a defence that the same were carried out only with the consent of the Plaintiffs, and that the same falls within the purview of tenantable repairs. However, Defendants thoroughly failed to prove both the defenses. They did not produce written consent of the landlord which is the requirement under Section 16(1)(b) of the MRC Act. Alleged oral consent given over telephone does not satisfy the requirement under Section 16(1)(b) of the MRC Act. Defendants also failed to prove that the massive works carried out by them in the suit premises, as discussed above, fall within the definition of Section 342 of the Mumbai Municipal Corporation Act, 1888. In such circumstances mere non-production of MCGM's sanctioned plan could not have been a reason for ignoring the vital evidence on record, which clearly depicts carrying out of massive unauthorized additions and alterations by the Defendants.

19) Reliance by Mr. Kanade on judgment of Single Judge of this Court in ***Sukhlal Chunilal Ghagani*** is misplaced. In that case, the Defendants-tenants had contended that one block was divided into two blocks, which were let out to two tenants and that those alterations were made by the previous landlord. The Trial Court had passed the burden of proof on the Defendants to prove the said defence. This Court held that it was for the landlord to prove that any additions or alterations were made by the tenants after purchase of property by him. In that case, the landlord had also failed to plead that because of any additions, any damage was caused to the building by relying on judgment of the Apex Court in ***Venkatlal G. Pitti Versus. Bright Bros. Pvt. Ltd***². In the present case, Plaintiffs have both pleaded and proved various additions and alterations made to the suit premises. Plaintiffs have also proved that such additions or alterations have damaged the structure of the building though this is not a requirement of Section 16(1)(b) of the MRC Act.

20) On the other hand, reliance by Mr. Chawan on judgment of Apex Court in ***Purushottam Das Bangur & Ors. Versus. Dayanand Gupta***³ is apposite. The Apex Court has held in para-20 and 21 as under:

20. To sum up, no hard-and-fast rule can be prescribed for determining what is permanent or what is not. The use of the word "permanent" in Section 108(p) of the Transfer of Property Act, 1882 is meant to distinguish the structure from what is temporary. The term "permanent" does not mean that the structure must last forever. A structure that lasts till the end of the tenancy can be treated as a permanent structure. The intention of the party putting up the structure is important for

2 1987 3 SCC 558

3 (2012) 10 SCC 409

determining whether it is permanent or temporary. The nature and extent of the structure is similarly an important circumstance for deciding whether the structure is permanent or temporary within the meaning of Section 108(p) of the Act. Removability of the structure without causing any damage to the building is yet another test that can be applied while deciding the nature of the structure. So also the durability of the structure and the material used for erection of the same will help in deciding whether the structure is permanent or temporary. Lastly, the purpose for which the structure is intended is also an important factor that cannot be ignored.

21. Applying the above tests to the instant case the structure was not a temporary structure by any means. The kitchen and the storage space forming part of the demised premises was meant to be used till the tenancy in favour of the respondent occupant subsisted. Removal of the roof and replacement thereof by a concrete slab was also meant to continue till the tenancy subsisted. The intention of the tenant while replacing the tin roof with concrete slab, obviously was not to make a temporary arrangement but to provide a permanent solution for the alleged failure of the landlord to repair the roof. The construction of the passage was also a permanent provision made by the tenant which too was intended to last till the subsistence of the lease. The concrete slab was a permanent feature of the demised premises and could not be easily removed without doing extensive damage to the remaining structure. Such being the position, the alteration made by the tenant fell within the mischief of Section 108(p) of the Transfer of Property Act and, therefore, constituted a ground for his eviction in terms of Section 13(1)(b) of the West Bengal Premises Tenancy Act, 1956.

The present case clearly involves alterations of permanent nature since the structure of the building is also altered by changing its façade by enclosing the gallery in the hall.

21) Considering the overall conspectus of the case, I am of the view that the Appellate Court has rightly reversed the findings of the Trial Court on the issue of unauthorized additions and alterations of permanent nature. The findings arrived at by the Appellate Court are well supported by the evidence on record. The Appellate Court has not

committed any jurisdictional error. It has exercised jurisdiction vested in it by law. It has not exercised jurisdiction with any material irregularities. In my view, therefore there is no scope for exercise of revisionary jurisdiction under Section 115 of the Code by this Court. The Revision Application therefore must fail.

22) The Civil Revision Application is accordingly **dismissed**. However, considering the facts and circumstances of the case, there shall be no order as to costs.

[SANDEEP V. MARNE, J.]

23) After the Judgment is pronounced Mr. Kanade the learned counsel appearing for Applicants requests for continuation of Order dated 23 June 2025 by which statement was recorded about non-filing of execution proceedings. The request is opposed by the learned counsel appearing for Respondents contending that the Applicants do not even reside in the suit premises. Considering the nature of findings recorded in the judgment and the fact that the execution proceedings are yet to be filed, I am not inclined to continue the Order dated 23 June 2025. The request is accordingly rejected.

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signed by
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[SANDEEP V. MARNE, J.]

