

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

WRIT PETITION NO. 7357 OF 2026

Jaffer Suleman Musafirkhana Trust And
Ors.

...Petitioners

Versus

Mohammad Shumun Abdul Sakur Ansari
Since Deceased Through LRs.

...Respondents

Mr. Nakul Jain, a/w Pashin Ichhaporia, i/b ANB Legal, for the
Petitioners.

CORAM: N. J. JAMADAR, J.
DATED: 16th JUNE, 2026

Oral Order:-

1. Heard the learned Counsel for the petitioners.
2. The challenge in this petition is to an order dated 18th March, 2026 passed by the learned Judge, City Civil Court, Greater Bombay, whereby the learned Judge has declined to grant exemption to the petitioners – plaintiffs from bringing the legal representatives of the deceased, sole defendant, under the provisions of Order XXII Rule 4(4) of the Code of Civil Procedure, 1908.
3. The learned Judge, City Civil Court, was of the view that the sole defendant during his lifetime had filed a Notice of Motion seeking the rejection of the plaint on the ground that the

deceased defendant was the tenant in respect of the suit premises. In the impugned order, the learned Judge had also referred to the pre-suit correspondence exchanged between the parties in which the deceased defendant has taken a stand that he was a tenant in respect of the suit premises. In the light of these facts, the learned Judge exercised the discretion not to exempt the defendant from bringing on record the legal representatives of the deceased defendant.

4. Having regard to the nature of the impugned order, which promotes the cause of determination of the lis of merits, this Court in exercise of the supervisory jurisdiction does not find any legal infirmity in the exercise of the discretion by the learned Judge, City Civil Court. The power under Order XXII Rule 4(4) is discretionary. The learned Judge has exercised the discretion judiciously. Hence, there is no propriety in entertaining this Petition.

5. The petition stands disposed.

[N. J. JAMADAR, J.]