IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/O.J.APPEAL NO. 54 of 2015

In R/COMPANY APPLICATION/164/2010
In R/COMPANY PETITION/207/2001
With
CIVIL APPLICATION (OJ) NO. 1 of 2015
In R/O.J.APPEAL NO. 54 of 2015

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PRAMODBHAI KANJIBHAI PATEL
Versus
OFFICIAL LIQUIDATOR OF M/S MINAL OIL AND AGRO INDUSTRIES & ORS.

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Appearance:
MR JS YADAV(1003) for the Appellant(s) No. 1
MR ABHIJIT P JOSHI(1330) for the Opponent(s) No. 1
MR SIDDHANT K GUJARATHI WITH MR DEVESH RAMAKRISHNAN FOR NANAVATI ASSOCIATES(1375) for the Opponent(s) No. 4
RAJ K VYAS(8559) for the Opponent(s) No. 3
SINGHI & CO(2725) for the Opponent(s) No. 2

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CORAM: **HONOURABLE MR. JUSTICE BHARGAV D. KARIA**
And
HONOURABLE MR.JUSTICE L. S. PIRZADA

Date : 25/03/2026

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

ORDER IN CIVIL APPLICATION (OJ) NO.1 OF 2015

As the O.J. Appeal is pending since 2015 and similar prayers are also made in the Civil Application for stay of the order passed by the learned Single Judge in Company Application No.164 of 2010, this application is disposed of as the orders under main matters are being passed on merits.

ORDER IN O.J.APPEAL NO.54 OF 2015

1. This Court passed the order on 18.03.2026 so as to enable the Official Liquidator to submit the valuation report obtained pursuant to the order dated 23.01.2018 on record of this appeal.

2. In compliance of the aforesaid order, the Official Liquidator has submitted Official Liquidator's Report of March, 2018 along with the letter dated 22.06.2018 from the Gujarat Industrial and Technical Consultancy Organization Limited (for short, the "GITCO") providing various clarifications to the Valuation Report. It appears that the appellant thereafter, has filed various applications since 2018 on one pretext or another as recorded by this Court in the order dated 06.01.2026 passed in Civil Application (OJ) (Direction) No.1 of 2025. For the sake of brevity, the same is reproduced hereinunder:-

“8. The Court has also taken into consideration the Report of the Official Liquidator, perusal of which indicates that the applicant herein on earlier occasion had filed Civil Application No.1 of 2023 and Civil Application No.1 of 2024 in O.J. Appeal No. 54 of 2015 seeking same reliefs as prayed for in the present Civil Application, which are already rejected by the Division Bench of this Court vide order dated 12-09-2024.

8.1 Present Civil Application has once again been filed by the applicant seeking same directions/reliefs from this Court. In this regard, the Official Liquidator submits that as per direction given in the order dated 23-01-2018 passed by this Court in O.J. Appeal No. 54 of 2015, the Official Liquidator had appointed the Govt. approved valuer i.e. GITCO Ltd., for the purpose of carrying out the valuation of the building structure of the Company in Liquidation. Accordingly, the GITCO Ltd. had submitted their valuation report March, 2018 valuing the construction on the land in question at sum of Rs. 34,00,000/- (Rupee Thirty Four Lakhs only).

8.2 It is strongly contended that the valuation and depreciation work done in the valuation report prepared by GITCO is Mechanical, self-contradictory in its contents and utter disregard of the directions given by the Division Bench of this Court vide order dated 23-01-2018.

8.3 The Official Liquidator submits that it is an admitted position that, the labour quarters were constructed on the land in question by the Company in liquidation and the Respondent No.3 (Kanak Castor Product Pvt. Ltd.) is using the said labour quarters and all those facts are clearly mentioned/recorded by the Division Bench of this Court in order dated 23.01.2018 passed in O.J Appeal No. 54 of 2015.

8.4 The Court has also considered that the applicant himself has undertaken the valuation of the very premises claiming it have been done through the Government Recognized Valuer, copy of which is placed at Page No.80, where the valuation arrived is at Rs.2,83,000/- (Rupees Two Lakhs Eighty Three Thousand only). There is nothing on record to suggest that the manner in which the applicant has got the valuation done. This Valuation Report, which appears to have been under the signature of one Shri Girishkumar H. Shah, has given valuation of the very property at Rs.2,83,000/- (Rupees Two Lakhs Eighty Three Thousand only) (Page No.80).

8.5 Therefore, the Court is having Valuation Report by Gujarat Industrial and Technical Consultancy Organization Ltd. (GITCO), which is at Annexure-F (Page No.64 onwards), which appears to have been carried out pursuant to Order dated 23-01-2018 and on the other hand, Valuation Report privately done by the applicant through Valuer though Government recognized; Shri Girishkumar H. Shah (Page No.75), the Court is not willing to accept the Report carried out by the applicant through Shri Girishkumar H. Shah (Page No.75 onwards) to arrive at specific conclusion of the valuation, as it is not under the orders of the Court nor it is within the knowledge of the Official Liquidator.

9. The Court having considered rival submissions of the parties and having perused the documents on record, it appears that the applicant is making consistent efforts by filing one application or the other by praying for the reliefs, which are similar. Earlier also, after the Order dated 23-01-2018, another application being Mics. Civil Application (OJ) (for Review) No.5 of 2018 was filed and by order dated 14-02-2020, the Court had dismissed such application for Review, wherein declaration was sought that the labour quarter did not exist on the lands bearing Survey Nos.340/2 and 340/3.

9.1 Again, application was made for directions being Civil Application (For Direction) No.1 of 2023 and Civil Application (For Direction) No.1 of 2024, wherein similar type of prayers were made, which would have similar effects, as is claimed in the present application. Those applications were also decided against the applicant by order dated 12-09-2024.

9.2 Today once again, the application is filed with the submissions that whatever be the amount that may be decided towards the valuation of the construction, the applicant is ready to pay the same and is in fact, kept the money ready to deposit the same, in case the application is decided in his favour.

9.3 Controversy is the stand of the applicant in the present application that despite the directions given by this Court in its Order dated 23-01-2018, particularly in Para-31, where clear directions were given to valuer not to apply the rate of depreciation provided in the Income Tax, while carrying out the valuation of the construction standing on the lands bearing Survey Nos.340/2 and 340/3, despite valuation arrived at is on the higher side and by applying formula of depreciation as per Income Tax method. For appreciating this argument, it would be necessary to refer to the directions contained in Para-31 of the Order dated 23-01-2018, wherein it is directed that the Official Liquidator shall have the cost of construction standing on lands bearing survey nos.340/2 and 340/3 assessed by a Government approved valuer and the construction being quite an old one, value of such construction as on date is to be arrived at on the basis of the current cost of similar construction reduced by depreciation for the period between the completion of construction till date. Direction also made it clear that the valuer shall not to apply the rate of depreciation provided under the Income Tax Act. With this Guidelines already issued, it appears that valuation was undertaken, the Report is placed at Annexure-F (Page No.64) and with regard to specific old construction on the Survey Nos. mentioned, Annexure-B of the Valuation Report (Page No.73) arrives at depreciated value of the construction to tune of Rupees Thirty Four Lakhs. Contention that the valuation is arrived at by following the formula of Income Tax method for depreciation, cannot be accepted as perusal of Annexure-B of the Valuation Report itself clearly

> takes average of cost of depreciation as per Income Tax method and cost of depreciation as per Jantri Guide Lines 2011.
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> 10. In the opinion of the Court, no fault can be found in such valuation, as the same in the opinion of the Court is not in conflict with the directions contained in Para-31 of Order dated 23-01-2018."

3. The appellant made the following prayer in the said application in para 12AA, which reads as under:-

> "12.(AA) This Hon'ble Court may kindly be pleased to order and/or direct, in furtherance of the Para No.28 to 32 of the Judgment dated 23-01-2018, at Annexure-A, that the applicant be restored the possession of the lands bearing old survey No. 340/2 and 340/3 (New Survey No. 834 and survey No. 835) of Village Laxmipura-Nandasan, Taluka-Kadi, Dist.-Mehsana on the condition of the present Applicant paying an amount, as may be decided fixed by the Hon'ble court in view of pleadings of the Applicant in the above Application and more particularly para No. 3 to 7 of this Application, to the official liquidator, being the cost of construction in the said land, as directed by this Hon'ble court vide judgment and orders date 23-01-2018, at Annexure-A, with all consequential and incidental orders in favor of the Applicant in this regard in the peculiar facts and circumstances of the case."

4. Learned advocate Mr.J.S. Yadav for the appellant submitted that the appellant is ready and willing to pay an amount as may be decided and fixed by this Court and a fresh valuation report may be obtained as more than 8

years have passed since the direction issued by the Court to obtain valuation report by the Official Liquidator and in spite of the various efforts made by the appellant to find fault with the said valuation report, the same has been upheld by this Court from time to time. It was further submitted that as of now, the condition of the fixed assets, which was created by the company in liquidation has been substantially reduced by efflux of time and, therefore, it would be in the interest of justice, to obtain the fresh valuation report so as to enable the appellant to deposit the amount as per such valuation report in compliance of the order dated 23.01.2018 or as further order, which may be passed by this Court.

5. On the other hand, learned advocate Mr.Abhijit P. Joshi appearing for the Official Liquidator submitted that the conduct of the appellant is required to be taken into consideration as, on one pretext or another, he did not deposit the amount as per the valuation report obtained by the Official Liquidator, as directed by this Court vide Order dated 23.01.2018 and has whiled away the time of

more than 8 years by filing one application after another, as recorded by this Court in the Order dated 06.01.2026, while rejecting Civil Application No.1 of 2025 filed by the appellant. It was, therefore, submitted that no further valuation report is required to be obtained and the valuation report placed on record with the Official Liquidator's Report filed pursuant to the direction issued by this Court vide Order dated 18.03.2026, should be considered so as to direct the appellant to deposit the amount as per the said valuation report and further orders may be passed, as may be required in the matter in consonance with the Order dated 23.01.2018 to dispose of the appeal.

6. Having heard the learned advocates appearing for the respective parties and considering the facts of the case, it would be germane to refer to the directions issued by this Court vide Order dated 23.01.2018, which read as under:-

> "29. The conclusions we have broadly arrived at on the basis of the materials on record are :

i) It is universally accepted that the applicant is the owner of the lands bearing survey nos. 340/2 and 340/3 and not the company in liquidation.

ii) The superstructures standing on such lands were put up by the company at its cost.

iii) The labourers of the company were residing in such quarters when the company was actually operational. We are informed that currently the labourers employed by respondent no.3 in the factory are occupying such premises for their residential use.

iv) Neither the lands nor the superstructures standing thereon were put for sale under the advertisement dated 30.5.2007

v) Neither the lands nor the superstructures formed part of the sale deed dated 16.6.2005.

vi) Consequently, respondent no.3 never became and is not the owner of the superstructures standing on lands bearing survey nos. 340/2 and 340/3.

30. Despite these conclusions, we are not inclined to grant reliefs of the applicant as claimed. This is so because, as noted, the superstructures were constructed by the company at its own cost and would therefore, be the property of the company. If the applicant seeks restoration of the possession, the applicant must pay the cost of such construction to the Official Liquidator which proceeds can be used for the purpose of discharging Company's remaining debts. The assessment of such cost must be on the basis of scientific exercise undertaken for such purpose. We may also add a caveat that nothing stated in this order or the order that we may pass later on reverting the possession of the lands and the superstructures to the applicant would enable him to seek eviction of the occupants therein without following due process of law. Learned advocate Shri M.B. Gandhi for the appellant agreed that the applicant will pay the assessed cost of construction.

31. On such basis, we pass the following order :

> 1) The Official Liquidator shall have the cost of construction standing on lands bearing survey nos. 340/2 and 340/3 assessed by a Government approved valuer. The construction is quite an old one. Value of such construction as on date therefore, shall have to be on the basis of the current cost of similar construction reduced by depreciation for the period between the completion of construction till date. We make it clear that the valuer shall

> not apply the rate of depreciation provided in the Incometax Act which is entirely for different purpose but actual reduction in value of construction with passage of time.
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> 2) Such report shall be placed before the Court on the next date of hearing. SO to 21.3.2018.
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> 3) The applicant shall deposit an adhoc sum of Rs.50,000/ with the Official Liquidator towards the possible cost of such valuation subject to adjustments in future latest by 5.2.2018."

7. The aforesaid Order was complied with by the Official Liquidator by placing on record the valuation report from GITCO in March, 2018. The appellant has thereafter, preferred various applications raising objection to such valuation report and more than 8 years have passed since such objections are raised. It would be, therefore, in the interest of justice, to direct the Official Liquidator to get a fresh valuation report from the Government approved valuer from the panel of the Official Liquidator to ascertain the cost of construction standing on the lands bearing survey No.340/2 and 340/3 to be assessed as of now. The construction is now very old and, therefore, the value of such construction as on date, shall have to be on the basis of the current cost of

similar construction reduced by the depreciation for the period between the completion of the construction till date by considering the depreciation as per the Stamp Act and not the Income Tax Act, depreciation rate provided under the Income Tax Act for the purpose of ascertaining the actual reduction and value of construction with passage of time.

8. Such report shall be placed on record before this Court on the next date of hearing.

9. The appellant shall deposit an ad-hoc sum of Rs.50,000/- with the Official Liquidator towards the possible cost of such valuation subject to adjustments in future latest by 15.04.2026.

10. Stand over to 29.04.2026.

(BHARGAV D. KARIA, J)

(L. S. PIRZADA, J)

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