

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

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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
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 : 08/05/2026

ORAL ORDER

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

1. Learned advocate Mr.J.S. Yadav appearing for the appellant submitted that, in compliance of the Order dated 24.05.2025, the appellant has deposited an amount of Rs.2,60,650/- on 06.05.2026 with the Registry of this Court.

2. This Court, by Order dated 23.01.2018, observed as under:

“6) In support of his contentions counsel relied on the following decisions:

*1) In case of **Hardev Singh v. Gurmail Singh (Dead) by Lrs.** reported in (2007) 2 Supreme*

Court Cases 404, in which while explaining the provisions contained in section 41 of the Transfer of Property Act. 1882, Supreme Court has observed as under:

"9. Application of Section 41 of the Act is based on the law of estoppel to the effect that if a man has represented that the transferor consents to an act which has been done and that he would not offer any opposition thereto, although the same could not have been lawfully done without his consent and he thereby induces others to do that from which they might have abstained, he could not question the legality of the act he had so sanctioned, to the prejudice of those who have so given faith to his words or to the fair interference to be drawn from his conduct."

*ii) In case of **Syed Abdul Khader v. Rami Reddy and others** reported in (1979) 2 Supreme Court Cases 60, in which the facts were that father of the plaintiff throughout acted in relation to others as the owner of the property though the plaintiff was the real owner of the property. The father executed an agreement to sell the land in favour of defendant no.1. Such transaction was completed in presence of the plaintiff. The*

sale consideration was put in the hands of the plaintiff. In such background, the Supreme Court held that the plaintiff would be estopped from contesting the validity of sale on the ground that his father had no authority to sell the land.

*iii) Reliance was also placed on decision of Supreme Court in case of **Unoin of India v. Ibrahim Uddin and another** reported in (2012) 8 Supreme Court Cases 148 in which it was observed that no evidence is permissible to be taken on record in the absence of the pleadings in that respect and no party can be permitted to travel beyond its pleadings.*

13. The Official Liquidator had no further inputs, except for abiding by the averments made in the multiple reports filed before the learned Company Judge.

14. Having heard the learned advocates for the parties and having perused the documents on record, we may recall, the appellant had filed the said Company Application mainly contending that several parcels of lands belonging to him are in the possession of the Official Liquidator of the company, mistakenly proceeding on the basis that the properties are of the ownership of the

company, he had referred to lands bearing various survey numbers including lands bearing survey nos. 340/1. 340/2 and 340/3. By the time the learned Company Judge passed the impugned judgment, the applicant had given up the claim of ownership over land bearing survey no. 340/1. With respect to all remaining lands mentioned in the application including lands bearing survey nos.340/2 and 340/3, the learned Judge on the basis of clear averments made by the Official Liquidator in his report dated 12.12.2014 came to the conclusion that the applicant was the owner of the lands and not the company. With respect to other lands, except lands bearing survey nos. 340/2 and 340/3, the learned Company Judge accepted the request of the applicant and directed the Official Liquidator to handover the possession of such lands to the applicant. Lands bearing survey nos. 340/2 and 340/3, were separated for different treatment. This was on the basis that such lands carried superstructures which was occupied by the labourers of the erstwhile company. With respect to the ownership of the superstructures, the learned Company Judge made somewhat conflicting observations. At one part of the judgment it was observed that:

"...it is clear from the record that the applicant himself has permitted the company in liquidation to construct the

residential quarters of the workers on the land bearing survey Nos. 340/1 i.e. the property of the company in liquidation as well as land bearing survey Nos. 340/2 and 340/3 i.e. the properties of the applicant."

15. At a later portion of the judgment, learned Judge observed as under:

"In fact, as observed hereinabove, the applicant himself has constructed the quarters of workers in land bearing Survey Nos. 340/1 as well as survey nos. 340/2 and 340/3."

3. In compliance of the aforesaid order, the Official Liquidator obtained the valuation report. However, thereafter the matter did not proceed further and, in the year 2024, this Court (Coram: Hon'ble Mr.Justice A.Y. Kogje and Hon'ble Mr.Justice Samir J. Dave), by Order dated 12.09.2024 passed in the Civil Application preferred by the appellant, observed as under:

"11. An argument is advanced by the learned advocate for the applicant that considering the dilapidated condition of superstructures, such valuation is on the higher side and has counter the same by placing yet another valuation report of a private valuer."

4. It appears that thereafter, vide Order dated 25.03.2026, the following observations were made:

“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.”

5. In compliance of the Order dated 25.03.2026, the

Official Liquidator has placed on record the valuation report dated 28.04.2026 and therefore, the following order was passed on 04.05.2026:

"4. On perusal of the Valuation Report, it emerges that the Final Valuation Conclusion is as under:

"Final Valuation Conclusion

Based on the site inspection, survey demarcation, and application of the Depreciated Replacement Cost method, the value of construction presently existing and falling within Revenue Survey No. 834 & 835, Village: Laxmipura (Nandasan), Taluka; Kadi, District: Mehsana (corresponding to Intermediate Survey Nos. 87/2 & 87/3 of Village Laxmipura (Nandasan), originally bearing Survey Nos. 340/2 & 340/3 of Village Nandasan) is assessed at: Taluka: Dist.:

Rs.2,60,650/- (Rupees Two Lakh Sixty Thousand Six Hundred Fifty Only).

The above valuation has been carried out strictly in accordance with the directions of the Hon'ble High Court and is restricted solely to the construction falling within the subject survey numbers."

5. Learned advocate Mr.J.S.Yadav for the appellant submitted that the amount of Rs.2,60,650/- shall be deposited before the Registry on or before 8th May, 2026.

6. In view of the above submission, the appellant to deposit an amount of Rs.2, 60, 650/- before the Registry as per the final valuation conclusion arrived at by the registered valuer on or before 8th May, 2026."

6. In compliance of the aforesaid order, learned advocate Mr.J.S. Yadav appearing for the appellant submitted that the amount of Rs.2,60,650/- has been deposited with the Registry of this Court on 06.05.2026.

7. In view of the above chronology of events and the various orders passed by this Court, as the appellant has deposited the amount towards the final valuation as per the report of the registered valuer dated 28.04.2026 amounting to Rs.2,60,650/-, the directions issued by this Court vide Order dated 23.01.2018 stand complied with and accordingly, possession of the buildings is ordered to be restored to the appellant forthwith.

8. Accordingly, the impugned Order dated 30.10.2015 passed by the learned Company Judge is modified to the aforesaid extent and it is clarified that the appellant shall have exclusive possession of Survey Nos.340/2 and 340/3 including

the superstructure standing thereon, which presently corresponds to Revenue Survey Nos.834 and 835, Village Laxmipura (Nandasan), Taluka: Kadi, District: Mehsana, corresponding to Intermediate Survey Nos.87/2 and 87/3 of Village Laxmipura, originally bearing Survey Nos.340/2 and 340/3 of Village Nandasan.

9. The amount of Rs.2,60,650/- deposited by the appellant with the Registry is ordered to be transferred to the Official Liquidator to be appropriated in the account of M/s. Minal Oil and Agro Industries and others (in liquidation), so as to appropriate such proceedings in accordance with law after obtaining necessary permission from the learned Company Judge as per the Company Court Rules, 1959.

10. In view of the above observations, the appeal along with all connected Civil Applications stands disposed of.

(BHARGAV D. KARIA, J)

(L. S. PIRZADA, J)

STANCY GOMES