

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 12383 of 2025**

With
CIVIL APPLICATION (FOR AMENDMENT) NO. 1 of 2025
In R/SPECIAL CIVIL APPLICATION NO. 12383 of 2025

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GUJARAT FISHERIES CENTRAL CO-OPERATIVE ASSOCIATION LTD.

Versus

M/S TAVETA PROPERTIES PVT. LTD. & ORS.

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Appearance:

MRS YOGINI V PARIKH(2163) for the Petitioner(s) No. 1

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CORAM: **HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE**
SUNITA AGARWAL
and
HONOURABLE MR. JUSTICE D.N. RAY

Date : 09/09/2025

ORAL ORDER
(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL)

1. The petitioner herein seeks invocation of the supervisory jurisdiction of this Court under Article 227 of the Constitution of India to challenge the order dated 30.04.2025 passed by the Judge, Commercial Court, in allowing the application Exh. 159 under Order I Rule 10 of the Code of Civil Procedure, 1908 to delete the names of defendant Nos. 2 and 3 from array of the parties.

2. The submission of Ms. Yogini V. Parikh, learned advocate appearing for the petitioner is that the respondent-defendant

Nos. 2 and 3 had succeeded in getting the order of deletion of their names by suppression of material facts and, after passing of the order dated 30.04.2025, a pursis had been filed in the Commercial Court to place the documents dated 23.12.2021 issued by the Registrar of Companies under sub Section 5 of Section 248 of the Companies Act, 2013 read with Rule 9 of the Companies Rules, 2016 for removal of name of the Company from the Registrar of Companies.

3. The contention is that, along with the notice of striking off the name of the Companies from the Registrar of the Companies and dissolution thereof, only copy of Form STK-2 application given by the defendants was filed on record. On a further inquiry made by the petitioner herein, the petitioner could obtain a copy of the indemnity bond dated 19.04.2021 submitted along with Form No. STK-3 by the defendant No.2 to the Registrar of Companies wherein a false statement has been made to the effect that the Company does not have any assets and liabilities as on date. The other conditions of the Indemnity Bond dated 19.04.2021 which has been suppressed from the Commercial Court has been placed before us to assert that the defendants have succeeded in deletion of their

names and the facts brought on record subsequently would result in frustration of the suit for recovery, filed against the Company.

4. On a query made by this Court as to why the petitioner has not filed any application seeking recall of the order dated 30.04.2025 before the Commercial Court, which according to it, has been obtained by suppression of material facts, the learned Counsel for the petitioner would submit that the Commercial Court is proceeding with the suit at a fast pace and the same has been posted for final hearing wherein, the date fixed is tomorrow i.e. 10.09.2025. The matter requires consideration.

5. Let a notice be issued to the respondent Nos. 1 to 3 through the Speed Post, returnable on 07.10.2025. Necessary steps be taken within a week.

6. In addition to the above, notice be also sent to the respondent Nos. 1 and 3 through the ordinary process, i.e. through the Court concerned. The Commercial Court is hereby restrained from proceeding further with the

Commercial Civil Suit No.480 of 2021 till the next date fixed.

7. However, it is left open for the petitioner to file a proper application seeking for recall of the order dated 30.04.2025 before the Commercial Court by bringing the correct and complete facts on record to demonstrate that the said order has been obtained by suppression of material facts. On such application being filed, if any, the Commercial Court shall first proceed with the same after giving due opportunity to the other side. The pendency of the present petition shall not come in the way of the Commercial Court in deciding the recall application filed, if any. All the respondents may file their response on the next date fixed.

(SUNITA AGARWAL, CJ)

BINA SHAH

(D.N.RAY,J)