IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPEAL (L) NO. 52 OF 2015
IN
COMPANY APPLICATION NO. 118 OF 2015
IN
COMPANY APPLICATION NO. 297 OF 2014
IN
CLB COMPANY PETITION NO. 12 OF 2012
WITH
COMPANY APPLICATION (L) NO. 59 OF 2015

Mr.Rakesh Malhotra …Appellant
vs.
Unique Properties & Securities Pvt.Ltd. & Ors. ...Respondents

Mr.Dinyar Madon, Senior Advocate with Mr.Gautam Ankhad, Mr.Yogesh Chawak, Mr.Amol Bavare, Mr.Abhishek Adke i/b. Legasis Partners for Appellant.

Mr.Aspi Chinoy, Senior Advocate and Mr.Mustafa Doctor, Senior Advocate, Mr.Rohan Cama, Rohan Dakshini & Ms.Shweta Jaydev, Mr.Ashwin Bhadang i/b. Federal & Rashmikant for Respondents.

CORAM : S.C. GUPTE, J.

12 AUGUST 2015

P.C. :

The company appeal impugns an order passed by the Company Law Board ("CLB"), Delhi Bench, on an application for clarification of orders passed in the original company petition earlier by the CLB, Mumbai Bench. By these latter orders, a commissioner appointed by the Bench was directed to take possession of properties belonging to the Respondent company. A clarification was sought by the Appellant before the CLB that these properties do not include a certain flat, which was claimed to be a personal property of the Appellant. By the impugned order, the CLB refused to issue such clarification. The controversy in the matter concerns this flat (hereinafter called "the subject flat"). The facts of the case may be briefly stated as follows :

2 Respondent No.1 – Sapphire Properties Pvt. Ltd. ("Sapphire"), original petitioner before the CLB in a petition under Sections 397 and 398 of the Companies Act, 1956 ("the Act"), is a shareholder of first Respondent company – Unique Properties and Securities Pvt.Ltd. ("Unique", or simply "company"). The other shareholder is another company by the name of Transauto and Mechaids Pvt. Ltd. ("Transauto"), also arraigned as a Respondent to the petition. Sapphire and Transauto between them hold the entire shareholding of Unique. Transauto holds 99.99% shareholding of Unique, whilst the balance 0.01% is held by Sapphire. All three companies, namely, Unique, Sapphire and Transauto, are group companies promoted and effectively owned by Rajinder Kumar Malhotra ("RKM"). RKM holds 49,999 out of the 50,000 issued and subscribed equity shares of Sapphire. The remaining one share is held by Rajiv Malhotra, the younger son of RKM. Out of 3504 issued and subscribed equity shares of Transauto, RKM holds 3503 shares, whilst the remaining single share is held by his wife Veena Malhotra. By this means, Unique is effectively held and owned by RKM.

3 All companies of RKM group are managed by professionals, who are employees of the group. Unique was also managed likewise by a board of directors comprising *inter alia* of two employees of the group, namely, Respondent No.2 – Mr.Talla Nageshwar Rao ("Rao") and Respondent No.3 – Mr.Jasraj Bhagwandas Goyal ("Goyal"). It is the case of RKM that as in the case of all other companies of the group, even in the case of Unique, the board of directors acted in consultation and according to the advice of RKM in respect of all important business and financial matters.

4 In March 2011, pursuant to an investment made by Actis Consumer Grooming Products Ltd. ("Actis"), a private equity firm, in one of the holding companies of Supermax Personal Care Pvt.Ltd ("Supermax"), the business of some of the RKM group companies was transferred to Supermax. The transfer was effected on 18 March 2011. Pursuant to this transfer, Rao and Goyal, who were employees of RKM group, resigned from their existing employment and were absorbed by Supermax as employees or consultants. Rao and Goyal,

however, continued to work as directors of Unique, having worked with the RKM group for last several years. The Appellant herein, Rakesh Malhotra, who is the elder son of RKM ("Rakesh"), was incharge of the management of Supermax.

5 It is the case of RKM that Rao and Goyal, acting under instructions of Rakesh, started mismanaging the affairs of Unique and made deliberate efforts to cover the finances of Unique in a shroud of secrecy, audaciously refusing to provide information to RKM; that RKM had reason to believe that this sudden change in the attitude of Rao and Goyal was because they were acting under the instructions and/or influence of Rakesh, whose relations with RKM had turned acrimonious; and that the course of conduct adopted by Rao and Goyal under the directions and/or influence of Rakesh amounted to mismanagement of Unique within the meaning of Section 398 of the Act and was also oppressive to the interest of RKM as the largest shareholder of Unique effectively holding about 99.99% interest therein through Sapphire and Transauto. One of the apprehensions of RKM was that under the influence of Rakesh, Rao and Goyal were likely to engage in further acts of oppression and mismanagement which might result into permanent impairment of the assets of the company and/or irreparable loss or damage to it and its shareholders. RKM had proposed to hold an extra – ordinary general meeting of Unique for reconstitution of its board of directors, but the existing board was not co-operating for the convening and holding of such meeting. Accordingly, directions were sought in the original petition for calling of an extra- ordinary general meeting of the company to consider removal of the present directors, including Rao and Goyal, and appointment of new directors in their place. Apart from the relief concerning the extra-ordinary general meeting of the company, appropriate directions and orders were also sought under Section 402 of the Act concerning the various alleged acts of oppression and management, including directions for true and fair disclosure of various payments made and liabilities incurred by Unique with effect from 18 March 2011 and compensation in respect of losses incurred on account of such acts. A general order was sought for termination and modification of all agreements that may have been executed by Unique after 18 March 2011.

6 RKM also apprehended that pending the disposal of the original petition, Rao and Goyal, in collusion with Rakesh, might sell, transfer, encumber or otherwise dispose of assets of Unique, including immovable properties described in Annexure-2 to the petition. Annexure-2 to the petition included the subject flat, which we are concerned with in the present appeal. On the basis of this allegation of likelihood of frittering away of all assets of Unique, interim reliefs were sought in the petition to restrain Rao and Goyal from alienating the assets of the company, including immovable properties described in Annexure-2, and also requiring Rao and Goyal together with Rakesh to maintain status quo with regard to all properties and assets of Unique.

7 On the application of RKM, the CLB passed orders in the petition from time to time. Particularly, by an order dated 31 January 2013, the CLB refused to restrain RKM from holding the proposed extra-ordinary general meeting of Unique and replacing the present directors with directors of his choice, having regard to the fact that his shareholding to the extent of 99.99% in the group companies, including Unique, was not disputed. The CLB also appointed an observer – cum - facilitator in respect of Unique. The order was carried in appeal both by RKM and Rakesh before this Court under Section 10F of the Act. RKM's appeal was restricted to the appointment of the observer and certain other findings contained in the order, whilst Rakesh's appeal pertained to the directions passed in respect of the EGM of Unique and replacement of its directors proposed therein. This Court, by its order and judgment dated 12 / 20 August 2014, refused to interfere with the directions of CLB concerning the EGM or replacement of directors of Unique. It also rejected Rakesh's application for stay of the order and continuation of pending interim reliefs concerning change in the composition of the board of directors of Unqiue. Rakesh carried this matter before the Supreme Court by way of a Special Leave Petition. Whilst his SLP was admitted by the Supreme Court, his application for stay of the judgment and order of this Court was refused. The Supreme Court, instead, directed that the matter would be proceeded with before the CLB in accordance with law.

8 In pursuance of the EGM of Unique held in the interregnum, Rao

and one Subhash Choudhari - Respondent No.6 herein ("Choudhari") (who was appointed during the pendency of the petition by Rao, as alleged by Respondent No.7, as director of Unique), were removed as directors of Unique. A request was thereupon made by RKM group through its advocates to the erstwhile directors of Unique to "*at least now co-operate with our clients and hand over the assets and records (statutory, financial and otherwise) of the companies so that the interest of the Companies can be properly protected".* The directors of Unique, including Rao and Choudhari, refused to hand over the assets to RKM and the new directors appointed in the EGM. By their Advocates' reply, Choudhari and Rakesh instead purported to contend that the ex-directors of Unique continued to be the directors and their removal was in violation of the order passed by this Court on 12 / 20 August 2014.

8 Having regard to this contention, a clarification was sought by RKM from this Court of its order dated 12 / 20 August 2014. The application was moved by way of abundant caution. Whilst clarifying the order, this Court observed that it was made amply clear in its order of 12 / 20 August 2014 that it was not staying the change in the constitution of the board of directors of the company and that the only restraint was against the CLB Respondents, i.e. Rakesh, Rao and others, from utilising the companies' funds or from disposing of or encumbering their assets.

10 After this clarification was issued by this Court, once again a request was made to the ex-directors for handing over charge of the properties (both movable and immovable) of Unique. The request was, however, not heeded.

11 Accordingly, a company application was moved by RKM before the CLB in the original company petition. The case of RKM in this company application was that Rao and Choudhari were wrongfully purporting to act and hold themselves out as directors of Unique, despite having been replaced as directors in the EGM held on 18 September 2014. It was also pointed out that Rao and Choudhari were bound and liable to hand over to the newly appointed directors of Unqiue all properties, both movable and immovable and all

documents and records pertaining to Unique and that their refusal to do so amounted to illegally holding onto the property of the company. In the premises, particular prayers were sought in the company application concerning the properties described in Exhibit-N and N-1 (which also formed part of the original annexure to company petition – Annexure 2 - and included the subject flat). A direction was sought for handing over all these properties belonging to Unique and in the possession and custody of the ex-directors. A specific prayer was also sought for securing the documents and properties of the company listed in Exhibits-N and N-1 and hand them over to the newly appointed directors.

12 On this application, the CLB passed an order on 2 February 2015. The CLB restrained the answering Respondents, including Rao, Choudhari and Rakesh, from causing any obstruction / interference in the ingress of the Petitioners / Applicants to the company's factory sites and other immovable properties (such other immovable properties having been added in the text of the order pursuant to a subsequent order passed by the CLB on 4 February 2015). It is not in dispute that these other immovable properties would include the subject flat, which is listed in Exhibits-N and N-1 to the company application. The CLB also held that it would be the duty of local administrative and police authorities to ensure that the present management / directors of the Petitioners / Applicants are allowed to have access of the factory sites / manufacturing units and other immovable properties (such other immovable properties having been likewise added to the text of the order by the further order dated 4 February 2015). The CLB also directed the local commissioner appointed by it to visit the sites including the immovable assets of the company and make an inventory and hand over the same to the Petitioners / Applicants.

13 The order of CLB dated 2 February 2015 (as corrected by the order of 4 February 2015) was not challenged by Rakesh. After the expiry of the limitation period for filing of an appeal, by his letter dated 29 June 2015, RKM called upon the local commissioner to take possession of the properties. The commissioner, by his letter dated 30 June 2015, fixed a preliminary meeting on 2 July 2015 for deciding the future course of action. At that stage, a request was

made on the part of Rakesh to allow him to have a say in the matter. The commissioner made it clear that he was proceeding to make inventory and take possession in accordance with the orders of the CLB.

14 At this stage, an application was moved by Rakesh seeking a clarification of the order passed by the CLB on 2 February 2015 (and corrected on 4 February 2015). It was submitted by Rakesh in the clarification application that there was an attempt to take over and usurp personal assets of Rakesh under the guise of compliance with the CLB order of 2 February 2015 as corrected. It was submitted that the subject flat was wrongly included in Exhibit-N to the company application; that this flat actually belonged to Rakesh in his personal capacity; that Rakesh was neither a shareholder nor an employee of the company nor even a director of the company; that nevertheless, he was made in the first place a party to the petition; and that now the subject flat, which was a personal asset of Rakesh, was sought to be illegally and unlawfully taken over by the company. Rakesh produced along with his application a copy of the sale deed executed by the vendor in his favour for the subject flat and also a share certificate issued to him by the society.

15 By the impugned order dated 16 July 2015 (signed on 20 July 2015), the CLB rejected the clarification application. The CLB *inter alia* held that though the order dated 2 February 2015 had not used the words "to take possession of the properties", it had restrained the answering Respondents, i.e. the ex – directors and Rakesh, from causing any obstruction / interference to the ingress of the Petitioners / Applicants to the factory sites and also other immovable properties of the company. The CLB also noted that once the local commissioner prepared an inventory, he was bound to hand over all the properties to the Petitioner / Applicant company and that the properties were to thereafter remain in the custody of the Petitioner / Applicant company. The CLB observed that the word "inventory" used in the order was to be construed as referring to the properties of the company, including immovable properties. The CLB held that there being a further clarification issued on 4 February 2015 to the effect that the original order of 2 February 2015 included all immovable properties

of the company, the CLB could not now digress on the basis of the clarification application or hold that the subject flat was not included in the inventory contemplated in the order. The CLB held that if at all Rakesh disputed the title of the company to the subject flat, he should have filed an appeal and assailed the order of 2 February 2015. The CLB held that it could not go beyond the scope and ambit of the company application and consider whether the company could have claimed anything more than what was asked for in the main company petition. The CLB, in the premises, held that there was no merit in the company application and disposed of the same by directing the Commissioner to act in accordance with the orders passed by it on 2 February 2015 and 4 February 2015.

16 Mr.Madon, learned Senior Advocate appearing for the Appellant Rakesh, makes the following submissions :

(a) No interim orders could be passed in respect of delivery of possession of immovable properties including the subject flat, considering that the main reliefs (as also the interim reliefs in the main company petition) did not warrant the same;

(b) The CLB, whilst adjudicating the dispute under Sections 397 and 398 of the Act, could not have passed any order dispossessing a person from his own property, and particularly, when such person was neither a shareholder nor a director nor even an employee of the company;

(c) Without deciding the question of title to the subject flat, the CLB could not have granted any interim relief, which had the effect of a mandatory injunction;

(d) Directions in the original order, i.e. order dated 2 February 2015, as corrected on 4 February 2015, were to make only an inventory of the factory premises and not of the immovable properties including the subject flat.

17 The submission that the order of 2 February 2015 (as corrected on

4 February 2015) does not require any inventory (and thereafter, custody) of the subject flat has no substance whatsoever. Para 10 of the order requires the local commissioner to visit "*the factory sites/manufacturing units of the Petitioners / Applicants or any other immovable assets belonging to them"* to prepare inventories of the companies' assets. It then entitles the commissioner to enlist the assistance of local police for the purpose. It then provides that after the inventories are prepared and assets handed over to the Petitioners / Applicants, *"it shall be their responsibility to keep such assets in safe custody".* It is futile to suggest either that what was to be handed over was 'inventory' and not 'assets' or that the assets only mean factory sites / manufacturing units and not the immovable properties including the subject flat. Such reading of the order would be far too contrived. At any rate, if in the impugned order the CLB clarifies or holds that the original order of 2 February 2015 (as corrected on 4 February 2015) includes inventory and custody of the subject flat, surely it is a legitimate reading of that order and no question of law would arise in that behalf for the determination of this Court.

18 It is pertinent to note that the order of 2 February 2015, as corrected on 4 February 2015, has now become final. The original company petition as well as the company application included the particular property, namely, the subject flat, as part of the assets belonging to Unique. Reliefs were sought in respect of these particular properties. Such reliefs were granted on 2 February 2015. The order was corrected on 4 February 2015. There was an injunction order restraining ex-directors of the company, including Rao and Choudhari, from interfering with the ingress of the current directors of Unique to the properties including this flat and there was also an inventory order of properties including this flat and thereafter custody of the properties was to be handed over to the current directors. These orders having become final, the question as to whether interim relief, in the nature of the one which is granted by the CLB, could have been granted in respect of the subject flat in the face of the main reliefs as also interim reliefs claimed in the original petition or whether the CLB could have passed an order dispossessing the Appellant Rakesh from his own property or could have granted any interim relief without a decision on the question of title,

are all questions which clearly arise out of the orders passed by the CLB on 2 February 2015 and 4 February 2014. These are not questions which arise on the clarification application. The CLB was absolutely right that these contentions would have required the CLB to *“go beyond the scope and ambit of the company application”* (i.e. the clarification application).

19 Even otherwise, Mr.Madon is also not right on merits. The contention of Mr.Madon is that interim reliefs, which had the effect of making over possession of the subject flat to the current directors of Unique, could not have been granted having regard to the main reliefs as well as interim reliefs in the original company petition. The answer to this controversy lies in the developments which took place in this matter, both before and after the filing of the original petition. As I have already recounted in the narration of facts above, the original petition was in respect of oppression and mismanagement of Unique. At that stage, the then directors of Unique, namely, Rao and Goyal, it was the case of RKM, were mis-managing the affairs of the company and were likely to dispose of the assets of the company, which included the subject flat. At that stage, these directors were sought to be removed and the management of Unique was sought to be taken control of by RKM. The CLB having refused to grant any interim relief in respect of holding of the EGM of Unique, the EGM was held and directors of Unique, who were acting at the behest of Rakesh, were removed from the board and in their place, the current directors were appointed. At that stage, what was expected was that the current directors, who were installed in the EGM, would take charge of all the assets of the company, including, of course, the subject flat. This did not happen. The ex-directors refused to part with control of either the property or the records of the company, including, of course, the subject flat. It is, in this premises, that company application was made before the CLB seeking particular reliefs in respect of the immovable property including, of course, the subject flat and it is in response to this application that the impugned order was passed by the CLB directing the local commissioner *inter alia* to make an inventory of the properties of the company and hand over the properties to its current directors. It is thus clear that the main relief sought in the petition dealt with the entire control and management

of Unique, which included all its properties and naturally the subject flat. It was, therefore, sufficient at that stage to apply simply for removal of the directors of Unique, who were in control of Rakesh and get new directors appointed. That would have brought the entire control over the properties including the subject flat to the new directors. Since this did not happen, as noted above, the company application was moved seeking particular reliefs in respect of the properties including the subject flat. The interim relief sought in the company application was, thus, very much in aid of the main relief sought in the company petition and there is absolutely nothing wrong in the CLB granting the interim orders sought. Mr.Madon relied on a judgment of the Supreme Court in the case of **Cotton Corporation of India Ltd. vs. United Industrial Bank Ltd.**[1] The Supreme Court in this judgment has held that the power to grant temporary injunction was conferred merely in aid of, or ancillary to, the final relief that can be granted. If the final relief cannot be granted in terms as prayed for, temporary relief in the same terms can hardly, if ever, be granted. Relying on this judgment, it is submitted *inter alia* that the terms of the main relief, assuming the same could be granted at the final hearing of the main petition, did not contemplate the relief actually granted by the CLB as an interim order. As I have explained above, the interim order granted by the CLB was necessitated as a result of refusal of Rakesh and the directors under his control to comply with the orders of the Court and acts authorized by the Court, namely, to accept the appointments made in the EGM allowed to be held by the Court and to hand over the property of the company to the new directors. That being so, the relief awarded is very much in aid of, and auxiliary to, the final relief claimed in the petition. There is thus no merit in this contention.

20 Apropos of the contention of Mr.Madon that the question of title to the residential property not having been considered by the CLB, no interim relief could have been granted, it is pertinent to note that there was absolutely no contest, in the first place, on the ownership of the property. In the company petition, a specific position was taken by RKM that this particular flat belonged to Unique. There was no reply filed by Rakesh or any of his directors to the

1 **(1983) 4 SCC 625**

company petition disputing this position. There was no contest even at the stage of the company application. No reply was filed to the effect that the properties listed in Exhibit-N and N-1 to the company application (which included the subject flat) did not belong to the company. In the premises, the CLB was justified in granting the reliefs that it did in respect of the properties including the subject flat. The order of CLB dated 2 February 2015, as corrected by the order dated 4 February 2015, had attained finality and it was only when, in pursuance of this order, the local commissioner was about to make an inventory with a view to make over the property to the current directors of Unique that Appellant Rakesh, for the first time, applied to the CLB to keep the subject flat out of the list of immovable properties of the company. No question of law, therefore, can arise in respect of the interim relief granted by the CLB concerning the subject flat. The Appellant relies upon the share certificate and agreement for sale in respect of the subject flat in his favour to contend that the subject flat belongs to him and that he cannot be asked to make over the same to the company. In reply, it is pointed out by the Respondents that it was the parents of the Appellant, RKM and Veena Malhotra, who, as owners of Unique, had purchased the subject flat through funds of Unique; that since at the relevant time, the society rules did not permit a corporate body to be a member of the society, the subject flat was purchased in the name of Rakesh and his name was inserted in the share certificate. It is submitted that contemporaneously with the agreement for sale dated 16 October 1984, Rakesh had executed a letter in favour of Unique confirming this. The letter dated 16 October 1984, addressed by Rakesh to Unique, was produced before the CLB. In this letter, Rakesh has confirmed that the subject flat was held in his name as a nominee of Unique, as the society did not accept membership of a corporate body. He also has confirmed that all right, title and interest in the subject flat belonged to Unique and that he had no interest therein. The subject flat is also reflected in the schedule of fixed assets of the company in its balance sheets filed from time to time. Thirdly, at no stage, Income-tax returns of Rakesh disclosed the subject flat as part of his property. In fact, there is a letter addressed by the Rakesh to the competent authority - Inspecting Assistant Commissioner of Income-tax - that the subject flat was not purchased by him in his individual capacity but that he was a nominee of Unique and that the total consideration for the subject flat was paid by Unique through its own funds. In an affidavit filed in proceedings before the High Court of Justice, Queen's Bench Division Commercial Court in England, he has furnished a schedule of properties, in which the subject flat is referred to as a 'family company property'. Rakesh has also accepted in the affidavit that the subject flat was in possession of Unique. No doubt, this position has since been retracted from by Rakesh in his subsequent written statement filed before the High Court of Justice, Queen's Bench Division. It is, however, pertinent to note that the later statement was filed in December 2014 after the company application for interim reliefs was taken out by RKM. Finally, it is pertinent to note that even in the present appeal, whilst dealing with the contentions of RKM regarding the purchase of the subject flat by the company, Rakesh did not dispute the specific averments of RKM (i) that the entire purchase price was actually paid by the company and (ii) that even in his application and appeal, Rakesh never contended that he had made payment for the subject flat or that the company had not made payment for the same. Though this Court need not decide the question of title at this stage, that being squarely a matter for the CLB to do at the final hearing of the company petition, what is noted above implies at least this much. Firstly, Rakesh has been unable to satisfy this Court that *prima facie* the subject flat is of his ownership and secondly, in the backdrop of all these facts, Rakesh not having joined issues with the company's case before the CLB in the original company petition as also in its company application that the flat belongs to the company, there cannot possibly be anything wrong with the interim order passed by the CLB in respect of the subject flat.

21 Mr.Madon, relying on a judgment of the Supreme Court in the case of **Metro Marins vs. Bonus Watch Co. (P) Ltd.**[2]**,** submitted that in the impugned order, the CLB had granted a mandatory injunction which had the effect of dispossessing the Appellant Rakesh. In **Metro Marins,** the Supreme Court, relying on the dicta of **Dorab Cawasji Warden vs. Coomi Sorab Warden**[3]**,** held that an interim mandatory injunction can be granted only in exceptional cases

2 **(2004) 7 SCC 478**
3 **(1990) 2 SCC 117**

coming within the exceptions noticed in **Warden's** case. First of all, considering the fact that by a duly passed resolution of an EGM of the company, new directors were appointed in place of the old directors, who were bound to make over the company's properties to the former, there is nothing wrong with the order requiring taking over the company's properties from the old directors and putting the new directors in possession thereof for safe custody. That would be the natural fall out of an order recognizing the new directors as having replaced the old directors. The subject flat was said to belong to the company and in possession of its old directors. No issues having been joined with that fact, there was no reason why the CLB could not have ordered an inventory and taking over of the subject flat by the new directors. As mentioned above, there was no contest before the CLB that the subject flat either did not belong to the company or was owned and / or possessed by Rakesh. The impugned order, accordingly, was a direction for taking over the custody of the subject flat as the company's property by the new directors. There is no legal infirmity with the same. Also as noticed above, the Appellant Rakesh has been unable to satisfy this Court that *prima facie* he owned the suit flat or even that he was in possession thereof. There is, thus, no question of the impugned order amounting to any mandatory injunction resulting in dispossession of Rakesh. After the Court recognizes a change in the management of the company, its ordering of taking over the property of the company and making the same over to the custody of the new management cannot be faulted as breaching the law laid down in **Dorab Cawasji Warden.** The directors of a company hold its property as trustees and are bound to make over the same to the new directors upon change of management. There is absolutely no case for resisting such making over. Besides, even the balance of convenience is clearly in favour of the new directors. The case comes indeed within the exceptions mentioned in **Dorab Cawasji Warden.**

22 In that view of the matter, there is no infirmity or error of law in the impugned order passed by the CLB. There is no merit in the appeal. The appeal is dismissed.

23 It is clarified that all observations concerning the title to the subject

flat in this order are made only for the purposes of the present appeal and that the question of title is not decided one way or the other in this order. All contentions of the parties in that behalf are kept open, to be decided by the CLB at the final hearing of the petition.

24 Mr. Chinoy for the Respondents states that the local commissioner shall not take any steps in respect of the subject flat for a period of four weeks from today.

(S.C. Gupte, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed Judgment/Order :