

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO. 501 OF 2016
IN
OLR NO. 617 OF 2015
IN
COMPANY PETITION NO. 412 OF 2013
AND
COMPANY PETITION NO. 433 OF 2013
WITH
NOTIE OF MOTION (L) NO. 674 OF 2016**

Mrs. Alaka Madan Diwan and anr. ..Appellants

V/s.

Anil Manohar Kshirsagar and ors. .. Respondents.

Mr. Sandesh Shukla, Bhakti A. Sutar Gouri Y. Kale i/b Vikas K. Mahangare for the Appellants.

Mr. L.T. Satelkar for Official Liquidator.

Mr. Ashutosh Kaushik a/w. Mr. Anees Patel i/b M/s. M.K. Ambalal & Co. for Respondent No.2.

**CORAM: DR. MANJULA CHELLUR, C.J. &
M.S.SONAK, J.**

DATE : 30 NOVEMBER 2016.

P.C.

1] The main issue which arises for our consideration in this matter is whether the principal order dated 25th March 2015 was challenged or not and whether the impugned order is a consequential order in pursuance of main order dated 25th March 2015.

2] On perusal of the order dated 25th March 2015 and the impugned order, in the impugned order the Company Court has

just directed to implement the orders passed on 25th March 2015 and which has reached finality as on today.

3] Learned counsel appearing for the appellants tries to convince us that there is some difficulty with regard to the prayer granted so far as prayer (b) is concerned, wherein the appellants were also directed to assist the Official Liquidator in identifying the Gat numbers of which possession is to be taken. Apparently, the appellants seems to be seller of the property to the company, which went in liquidation in terms of the order dated 25 March 2015. If the appellants have any independent right, we are afraid the same cannot be decided in this appeal. They have other recourse to adopt. The directions at prayer (b) is only to assist the Official Liquidator in identifying the Gat numbers, so that in future there shall not be any dispute with regard to identification of the boundaries or measurements. In that view of the matter, we fail to understand as to how this direction would prejudice the interest of the appellants, who have already parted with the lands by conveying the same to the respondent company.

4] However, another grievance is brought to our notice with regard to the procedure to be followed. According to the appellants, the Official Liquidator has to follow the procedure under the Maharashtra Land Revenue Code for taking possession of the lands in-question as indicated in the order dated 25th March 2015. We fail to understand before initiation of any steps to take possession of the land how the appellants can presume that the

Official Liquidator is going to commit violation of any procedure. If at all there is any violation, it is always open to the parties to bring to the notice of the Official Liquidator what would be the correct position or the procedure. So far as the present appeal is concerned, the impugned order cannot be challenged in the absence of challenging the order dated 25th March 2015. Accordingly, the appeal is disposed of.

5] In view of disposal of main appeal, Notice of Motion No. 674 of 2016 does not survive and the same is disposed of accordingly.

(CHIEF JUSTICE)

(M.S.SONAK, J.)