IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/LETTERS PATENT APPEAL NO. 426 of 2026

In R/SPECIAL CIVIL APPLICATION/188/2021

With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2026
In R/LETTERS PATENT APPEAL NO. 426 of 2026

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MEHSANA DISTRICT CENTRAL COOPERATIVE BANK LTD
Versus
PANCHOLI KOKILABEN BHADRISHBHAI & ORS.

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Appearance:
MR DIPAN DESAI(2481) for the Appellant(s) No. 1
MR BAIJU JOSHI(1207) for the Respondent(s) No. 1
MR. DEVANG VYAS, SENIOR ADVOCATE for MR JASH S THAKKAR(11271) for the Respondent(s) No. 4

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

Date : 11/06/2026

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

1. Mr. Baiju Joshi, learned advocate whose name is shown in the cause-list on behalf of the respondent no. 1 would submit that he has no instructions to appear on behalf of the said respondent. In view of the said statement, the name of Mr. Baiju Joshi, learned advocate be deleted from the cause-list.

2. Having heard the learned counsel for the parties and

perused the record, it is noteworthy that this intracourt appeal is directed against the judgment and order dated 13.04.2026 passed by the learned Single Judge in Civil Application (for breach of order) No. 1 of 2021 in Special Civil Application No. 188 of 2021 filed agitating the breach of interim order dated 07.01.2021 passed in the writ petition whereby the parties have been directed to maintain status qua with respect to the property in question. The order dated 07.01.2021 granting the interim injunction in the writ petition of 2021 is to be quoted hereinunder:-

> *Heard Mr.Baiju Joshi, learned counsel for the petitioner through Video Conferencing.*
>
> *Issue NOTICE, returnable on 9.2.2021.*
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> *In the meantime, there shall be ad-interim relief in terms of paragraph No.9(B).*
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> *Direct Service is permitted. In addition thereto, the Registry is requested to communicate this order through E-mail and / or Fax.*

3. The relief in paragraph no. 9 (B) prayed in the writ petition is further noted hereinunder:-

(B) During the pendency hearing and final disposal of this petition, this Hon'ble Court be pleased to stay the implementation, execution and operation of the order, dated 5.10.2020, passed by

the respondent No. 3 as well as the further proceedings held pursuant to such order dated 5.10.2020 and further be pleased to direct the respondents to maintain the status-quo qua the property in question.

4. For a bare perusal of the relief clause in the writ petition extracted hereinabove and the interlocutory order, it is to be noted that by virtue of the interim order, the implementation, execution and operation of the order dated 05.10.2020 whereby the property in question had been auctioned was stayed, directing the parties to maintain status quo qua the property in question.

5. However, it seems that the respondent no. 2 – Bank/ appellant herein had executed a sale deed dated 25.02.2021 without seeking leave or permission of this Court, within a short period of the passing of the interim order, creating a third-party right over the property in question which has led to the filing of the Civil Application for breach of the order. The learned Single Judge in the judgment impugned has clearly found the opposite party no. 2 namely the appellant – Bank and the respondent no. 4 – purchaser guilty of breach of the interim order passed by this Court and thus, having committed breach of the provisions of Order XXXIX Rule 2A

of the Civil Procedure Code willfully and deliberately.

6. While holding guilty to the appellant – Bank and the purchaser, the learned Single Judge has also found the respondent no. 3 namely the Special Recovery Officer of the Bank as liable for payment of cost and a fine in lieu of sentencing them to civil imprisonment under Order XXXIX Rule 2A of the CPC. The cost so imposed by this Court vide order dated 13.04.2026, which was liable to be paid within a period of one week from the date of the order, has not been paid so far. The result is that in case of default, the officers of the Bank namely the Chairman/ Managing Director , Rajmahel, Mahesana and Mr. P. H. Sanghavi, Special Recovery Officer are required to undergo simple imprisonment for a period of one month.

7. Mr. Dipan Desai, learned advocate appearing for the appellant vehemently argued that there was no justification for the learned Singe Judge to hold the Bank and its officers as guilty of committing contempt of its order, inasmuch as, the officers had apologized and admitted their mistakes in the Court in the replies filed upon notices being issued by the learned Single Judge.

8. However, on a query made by the Court, it is admitted that the officers of the Bank who were found guilty of committing contempt did not do anything to purge the contempt. The contempt notice issued by this Court for execution of the sale deed creating third party rights inspite of stay of the implementation, execution and operation of the auction dated 05.10.2020, cannot be discharged for this reason. The bald plea of admitting mistake, having been committed by the officers of the Bank in execution of the sale deed, inspite of the stay of the implementation, execution of the auction held on 05.10.2020 cannot be a reason for us to find any error in the order of the learned Single Judge.

9. Further, no indulgence can be granted to the officer of the Bank who filed an affidavit before the learned Single Judge denying the allegations made in the Civil Application while reserving his rights to reply on the merits of the case. A perusal of the reply filed on behalf of the respondent no. 2 namely the General Manager of the Bank/appellant herein indicates that he has challenged the maintainability of the application under Article 215 of the Constitution of India and

further submitted that the auction of the property having been completed on 05.10.2020, the successful bidder had been given possession of the auction property and the property in question was in the possession of the bidder i.e respondent no. 4.

10. It is also pertinent to note that there is no whisper in the reply submitted on behalf of the respondent no. 2 as to how and when the possession of the property in question was handed over to the respondent no. 4, when the sale deed was executed only after the interim order passed by this Court, staying effect and operation of the auction held on 05.10.2020.

11. We are of the clear view that there was no question of handing over the possession of the property in question to the respondent no. 4 namely the purchaser, when no sale deed had been executed prior to the interim order dated 07.01.2021 passed by this Court staying the implementation and effect of the auction proceedings.

12. In view of the above, from the stand taken by the respondent no. 2 in the affidavit-in-reply filed in Civil

Application No. 1 of 2021 for breach of the order, it is evident that though there was a statement to the effect that there is no willful disobedience of the order passed by this Court but the respondent no. 2 has tried to justify his action in handing over possession to a third party namely the respondent no. 4 who was merely an auction purchaser in the auction held on 05.10.2020, inspite of stay of the implementation and execution of the auction, itself.

13. The willful and deliberate disobedience of the interim order dated 07.01.2021 passed by the writ Court is evident from the said fact itself.

14. Even otherwise, the present appeal is found to be wholly misconceived, inasmuch as, it has not been filed on behalf of the officers who have been found guilty for breach of the order of this Court and have been asked to pay cost individually in lieu of sentencing them to civil imprisonment for a period of one month under Order XXXIX Rule 2A of the CPC.

15. The present appeal has been filed by the Bank and not by the officers who were found guilty of contempt and is

hence, liable to be dismissed as misconceived.

16. The appeal stands dismissed, accordingly. In view of dismissal of main appeal, civil application is also disposed of.

(SUNITA AGARWAL, CJ)

(D.N.RAY,J)

VARSHA DESAI

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: VARSHABEN VAGHAJIBHAI DESAI(HC01393), PRIVATE SECRETARY, at High Court of Gujarat on 15/06/2026 17:40:03