

Exh-21

**IN THE DEBTS RECOVERY TRIBUNAL-II AT AHMEDABAD**  
***Present: Pankaj Kumar Upadhyay, Presiding Officer, DRT-II.***

**MISCELLANEOUS APPLICATION NO.18 OF 2023**

**IN**

**ORIGINAL APPLICATION No: 17 OF 2005**

**Date of Judgment : 14- 08-2026**

1. MR. GIRISH JAYANTIBHAI PATEL  
12, Shobhna Nagar Society  
Vasna Road  
Vadodara.

**.... Applicants**

**Versus**

1. UNION BANK OF INDIA  
(ERSTWHILE ANDHRA BANK)  
Akota Branch  
G-1 & 2 Silver Coin  
Shrenik Park Char Rasta  
Akota,  
Baroda
2. M/S APOLLO CHEMTEK LTD  
109 – 114 Silver Coin  
Akota,  
Baroda
3. SHRI PIYUSH B. SHAH  
G-2, Kanha Complex  
Pushottam Nagar  
BPC Road,  
Baroda
4. SHRI PRAGNESH B. SHAH  
G-2, Kanha Complex  
Pushottam Nagar  
BPC Road,  
Baroda
5. TAKSH ENTERPRISE  
A Partnership Firm  
Through its Partner  
Shri Girishbhai Sunderlal Shah  
Shri Girishbhai Jayantibhai Patel  
Shri Chandan Arjandas Ganchandani  
301, Taksh Classic, Vasan Road,  
Vadodara.

**..... Respondents**



**Present:** Ms. M.A. Gogia, Ld. Counsel for the Applicant.  
Mr. C.Z. Shankhla, Ld. Counsel alongwith Ms. Asha Panchal,  
Ld. Proxy Counsel for the Respondents.  
Mr. Sandip Solanki, Ld. Counsel for third Party Intervener

### **JUDGMENT**

1. I have heard the Ld. Counsels for all the parties on 11-08-2026 and ordered that in this case order will be passed today. Accordingly, order is being passed today:
2. This Miscellaneous Application has been filed by the Applicant praying therein to direct the Respondent No: 1 the Union Bank of India to execute Sale Deed with regard to the subject property of this case in favour of the Applicant free from all encumbrances by directing that due to failure on the part of Opponent No: 4 to abide by the consent terms, the Sale Deed to be executed without the presence of Opponent No: 4 as confirming authority and sale may be treated as final and binding qua Opponent No: 4 also.
3. As per the MA, the brief facts of the case are that the Opponent No. 2 had availed credit facilities of Rs. 65 lakhs from Opponent No. 1 Bank in 2002. Opponent No. 4, Shri Pragnesh B. Shah, was a director/guarantor and mortgaged the subject agricultural land by depositing its title deeds with the Bank. Opponent No: 1 Bank demanded repayment of the amount from Opponent No: 2 but in spite of repeated notice and telephone calls and personal visits, Opponent No: 2 failed and neglected to pay the amount. Due to default by the borrower, the Bank initiated Original Application No. 17 of 2005 before the DRT, Ahmedabad, seeking recovery of approximately Rs. 75.78 lakhs and sale of the secured properties.
4. During the pendency of the OA, Opponent No. 4 expressed his willingness to sell the subject property and the said aspect was recorded in the order dated 25.02.2008. Earlier, Opponent No. 1 Bank had filed an application Exh. A/11



seeking possession and auction of the subject property. On 21.09.2006, the DRT appointed the Bank's Branch Manager as Court Receiver and authorised him to take possession and sell the mortgaged property. The property was valued and an auction notice was published in the newspaper on 26-02-2008.

5. Opponent No. 4 thereafter preferred a Review Application Exh. R/14, which came to be rejected by this Tribunal vide order dated 25.02.2008 and his appeal before the DRAT, Mumbai, was dismissed on 24.11.2014.
6. The auction was conducted on 26.08.2008, wherein Opponent No. 5 was declared the highest bidder for a total consideration of **Rs. 90.59 lakhs** and deposited **Rs. 22.65 lakhs** towards the bid amount.
7. The order dated 25.02.2008 was challenged by Opponent No. 4 before the Hon'ble DRAT by filing Misc. Appeal No. 85 of 2008, which was dismissed by Oral Judgment dated 24.11.2014. Opponent No. 4 thereafter challenged the said judgment before the Hon'ble High Court of Gujarat by filing SCA No. 2522 of 2015. The Hon'ble High Court, vide order dated 13.02.2015, granted status quo in respect of the subject property, subject to Opponent No. 4 depositing Rs. 50 lakhs. The Bank was allegedly not aware of the said status quo order and, after receiving the entire bid amount, issued the Sale Confirmation Letter dated 19.02.2015. It is the Applicant's case that Opponent No. 4 did not disclose the pendency of the SCA or the status quo order to the Bank.
8. During the pendency of SCA No. 2522 of 2015, Opponent Nos. 1, 4 and 5 and Applicant No. 1 entered into consent terms, which were placed before the Hon'ble High Court on 12.08.2015. Under the consent terms, it was agreed that the subject land situated at Survey No. 328, Block No. 295,



Village Mouje Sevasi, District Vadodara would be sold in favour of the Applicant/Proposed Buyer for a consideration of Rs. 2.25 Crores. It was further specifically agreed that the sale deed would be executed by the Court Receiver/Branch Manager, Andhra Bank, Akota, Vadodara, within 21 days of receipt of the stipulated amount. Opponent No. 4 was required to sign the sale deed as the confirming party. It was also agreed that upon execution of the sale deed, possession and the original title deeds would be handed over to the Proposed Buyer and the earlier Sale Certificate issued in favour of Opponent No. 5 would stand cancelled.

9. The Hon'ble High Court disposed of SCA No. 2522 of 2015 on 12.08.2015, accepting the consent terms and recording that the settlement would result in a higher amount being made available to the Bank towards repayment of the outstanding debt. The overall consideration was fixed at **Rs. 2.25 crores**. In compliance with the consent terms and the order of the Hon'ble High Court, the Applicant(s) made payments of Rs. 95.96 lakhs + Rs. 32.32 lakhs to Opponent No. 5 and Rs. 96.66 lakhs to Opponent No. 1 Bank. However, despite the consent terms and the order of the Hon'ble High Court, Opponent No. 4 failed to remain present before the Sub-Registrar and failed to execute the sale deed as the confirming party.
10. The Applicant thereafter filed Misc. Civil Application No. 2832 of 2015, seeking appropriate modification/directions in relation to the order dated 12.08.2015. The said application was disposed of on 09.10.2015, with liberty to the Applicant to take appropriate proceedings in accordance with law if any direction was not complied with. Thereafter, the Applicant initiated Contempt Application No. 3338 of 2015 alleging non-compliance with the order and consent terms. The Hon'ble High Court, vide order dated



06.12.2021, closed the contempt proceedings with a direction that the Applicant could approach the DRT for appropriate relief.

11. On these grounds, the Applicant has submitted that he is a bonafide purchaser of the immovable property for valuable consideration and the entire consideration agreed under the settlement was paid in 2015. The Applicant has been unable to obtain the Sale Deed or enjoy the property for years solely because Opponent No. 4 has failed to cooperate and sign as the confirming party. Therefore, the Applicant has requested this Tribunal to issue appropriate directions to Opponent No. 1 Bank/Court Receiver to execute and register the Sale Deed in favour of the Applicant in respect of the subject agricultural land, free from all encumbrances, and to give effect to the Consent Terms and the High Court's orders.
12. As far as the Respondent Bank is concerned, Ld. Counsel for the Respondent Bank has submitted that they have no objection if this MA is allowed.
13. It is necessary to mention here that in this case a third party Intervener in person late Mr. Bipinchandra Prabhudas Patel and his legal heirs has claimed that prior to the mortgage in this case late Mr. Bipinchandra Prabhudas Patel has purchased the property in question from Mr. Pragnesh B. Shah vide registered agreement to sale dated 21-03-2003 and a Civil Suit No: 102/2006 filed by the Intervener is pending against Mr. Pragnesh B. Shah before the competent court of jurisdiction. His intervening application was heard and decided by this Tribunal passing a detailed order dated 8<sup>th</sup> May, 2024 in which it was observe that the claims of the Intervener third party cannot be legally taken into account by this Tribunal and his IA No: 66/2024 was dismissed with no order as to cost.



14. It has been submitted by the Intervener third party that against the order dated 8<sup>th</sup> May, 2024 the Intervener has preferred an Appeal No: 4017/2024 before Hon'ble DRAT, Mumbai but on question being put by this Tribunal that whether any stay order with regard to staying the proceeding of this MA has been passed by Hon'ble DRAT, Mumbai in this case, it was responded by the Intervener that the Appeal is still pending with any order on interim relief. Accordingly, there is no reason to withhold the proceeding of this SA on mere submission that Appeal against order dated 8<sup>th</sup> may, 2024 is pending.
15. In this case, I have heard the Ld. Counsels for the Applicant and the Respondent Bank and perused the records. On the basis of which it has been observed that following orders of various authorities which has attained finality and which are very important with respect to merit of this MA. These orders are as follows :-
- 1) On 21<sup>st</sup> September, 2006, the then Ld. Presiding Officer has passed order in OA No: 17/2005 allowing the application Exh.A/11 with cost and passing order that ***"Branch Manager of the Applicant is appointed as Receiver for purpose of taking the possession and selling the mortgaged property described in Schedule-I of the Original Application, in the light of the provisions of Second and Third Schedule to the Income Tax Act, 1961. The amount of the sale proceed shall be appropriated towards the suit amount."***
  - 2) Against that order dated 21<sup>st</sup> September, 2006, the Defendant No: 2 has preferred the Review application Exh.R/14 before this Tribunal and this Tribunal vide its order dated 25<sup>th</sup> February, 2008



has rejected the Review application Exh.R/14 with the following observation.

***"The Bank has pointed out from the Affidavit dated 14<sup>th</sup> February, 2008 that consent of Defendant No: 2 was there for disposing of the property in question. He has further pointed out a letter dated 27-09-2004 from Defendant No: 2 to the bank disclosing its consent for disposing of the property. After going through the above documents, I do not find any substance in the contention that consent of Defendant No: 2 was there for payment of the part payment and not the whole amount due. Under such circumstances, the Application of Defendant No: 2 deserved to be rejected".***

- 3) Defendant No: 2 preferred Miscellaneous Appeal No: 85/2008 against order dated 21<sup>st</sup> September, 2006 and this Appeal was dismissed with no order as to cost vide order dated 24<sup>th</sup> November, 2014 of Hon'ble DRAT, Mumbai.
- 4) The Defendant No: 2 again preferred a Special Civil Application No: 2522 of 2015 against order dated 24<sup>th</sup> November, 2014 passed by Hon'ble DRAT before Hon'ble High Court of Gujarat at Ahmedabad in which a status quo order was passed by Hon'ble High Court of Gujarat vide order dated 13<sup>th</sup> February, 2015. The relevant paragraph of the order is hereby being reproduced:

***"Learned counsel for the petitioner submitted that the petitioner is willing to clear the entire dues of the Bank with interest in order to save his property. To show***

~



*his seriousness, the petitioner would deposit a sum of Rs.50,00,000/= latest by 20th February 2015. He would deposit rest of the amount within reasonable time, once the Bank presents the calculation of the outstanding amount with accumulated interest.*

*Notice returnable on 27th February 2015. There shall be status quo regarding the possession and title of the land in question on the condition that, as promised, latest by 20th February 2015, the petitioner deposits a sum of Rs. 50,00,000/= before the registry of this Court. On the returnable date, the Bank shall also give details of the highest bidder at the auction held on 26th February 2008."*

- 5) During the pendency of this SCA, a consent term dated 12<sup>th</sup> August, 2015 was filed between the Defendant No: 2 Mr. Pragnesh B. Shah and Respondent No: 1 Andhra Bank, Vadodara and Respondent No: 2 M/s Apollo Chemtek Limited and Respondent No: 5 Taksh Enterprise. The prominent portions of this Consent Terms are reproduced here:

*Para 1: "It is agreed that the land situated at Survey o: 328, Block No. 295, Village Mouje : Sevasi, District- Vadodara shall be sold in favour of one Mr. Girisihchandra Jayantibhai Patel (hereinafter referred to as the "Proposed Buyer") for a consideration of Rs.2.25 Crores.*

*Para 5: It is also agreed that the sale deed shall be executed by the Court Receiver viz. the Branch Manager, Andhra Bank, Akota, Vadodara appointed vide order dated 21st September 2006 below Application Exh. A/11 in O.A.*



***No. 17 of 2005 passed by the Hon'ble Debt Recovery Tribunal, Ahmedabad within 21 (twenty one) days of receiving the amount mentioned in Clause 3 above. It is also agreed that the Petitioner shall sign as the confirming party in the said Sale Deed executed between the Parties.***

***Para 6: On execution of the Sale Deed, the Branch Manager shall hand over the peaceful possession and the original title deed of the impugned land to the Proposed buyer. The Sale Certificate issued in favour of Respondent No. 5 shall stand cancelled.***

- 6) On this consent terms, Hon'ble High Court has passed order dated 12<sup>th</sup> August, 2015 taking the consent terms on record and passing relevant order which is reproduced below:

***"In view of the aforesaid consent terms, we find that the resultant effect would be that more amount would be available to the respondent no.1 Bank out of the sale of the property, which can be utilized for repayment of the debt of respondent no.2 Company, may be by the petitioner, in capacity as the guarantor of the loan.***

***It is further observed that as per the consent terms, fresh sale certificate is to be issued and the petitioner is also entitled to withdraw the amount of Rs.50,00,000/- deposited pursuant the interim order passed by this Court. Therefore, after the fresh sale certificate is issued as per the consent terms by the competent officer/court receiver, the petitioner shall be at the liberty to withdraw the***



***amount of Rs.50,00,000/- within 15 days from the issuance of the fresh sale certificate".***

***7) In compliance of that Consent Terms, the Applicant Mr. Girisihchandra Jayantibhai Patel has paid Rs. 95.96 lakhs + Rs. 32.32 lakhs to Opponent No. 5 and Rs. 96.66 lakhs to Opponent No. 1 Bank.***

8) The Hon'ble High Court of Gujarat has finally disposed of the matter pending before it passing order dated 9<sup>th</sup> October, 2015 which is as following:

***"The orders are already passed and directions are already issued. If any of the directions is not complied with the applicant may resort to appropriate proceeding in accordance with law against the party, who is acting in contravention of the directions, but no modification is called for. Hence the application is disposed of".***

9) It is observed that even after signing the Consent Terms and after depositing the entire amount by the Applicant, the Defendant No: 2 did not appear to sign on the sale deed as confirming party. Against this act of first Respondent, Mr. Pragnesh B. Shah and contempt petition R/MISC. Civil Application No: 3338 of 2015 was preferred by Andhra Bank and this contempt petition was disposed of by Hon'ble High Court of Gujarat vide order dated 6<sup>th</sup> December, 2021. This order is being reproduced as follows:

***"In fact, the said order is an executable order before the jurisdiction Debts Recovery Tribunal and if the complainant is so advised, he can take appropriate steps in this regard***

At



***and with this observation, the contempt proceedings stands closed".***

- 10) An application was filed before the Hon'ble Registrar, Hon'ble High Court which is withdrawn.
- (11) And therefore, the present application is preferred in this Tribunal.
16. Keeping all these orders and observations in mind, it transpires that in this case the Defendant No: 2 has consented to comply in accordance with the terms of the Consent Terms and one of the term was that he will be present to sign as confirming party on the sale deed executed in favour of the Applicant in this case with regard to the subject property and this order was passed by Hon'ble High Court of Gujarat but Defendant No: 2 in the Original Application and Respondent No: 4 in this MA Mr. Pragnesh B. Shah did not bother to comply the specific instructions of Hon'ble High Court of Gujarati while the Applicant deposited the entire sale proceed as mentioned in the Consent Terms way back on 31<sup>st</sup> August, 2015 and from that date on, the Applicant in this case is moving from pillar to post for execution of sale deed in his favour.
17. As Hon'ble High Court of Gujarat has very clearly observed the order passed on the Consent Terms by the Hon'ble High Court of Gujarat is an execution able order and only for the reason that the Defendant No: 2 i.e. Owner of the property who is Respondent No: 4 in this MA has not complied with the order of Hon'ble High Court of Gujarat, the sale deed of the property in question is still not being executed.
18. Accordingly, this Tribunal has no option left than to allow this MA and direct the Opponent No: 1 i.e. Union Bank of India (erstwhile Andhra Bank) to execute the sale deed in favour of the Applicant free from all



encumbrances and since the Opponent No: 4 has not abided by the Consent Terms, the sale deed to be executed without the presence of Opponent No: 4 as confirming party and this sale shall be final and binding for the Opponent No: 4 Mr. Pragnesh B. Shah.

19. In this case, when this order was dictated on 13<sup>th</sup> August, 2026, a Purshish for placing on record the pendency of Appeal and Registered Lis Pendens for objection of the present MA Exh.R/20 was filed by Ld. Counsel for third party Intervener in which the proof of pendency of Appeal 17/2025 against the order dated 8<sup>th</sup> May, 2024 of this Tribunal before Hon'ble DRAT, Mumbai has been proved by filing the relevant documents. Also, pendency of Civil Suit concerning the subject property and Registered Lis Pendens dated 17<sup>th</sup> September 2021 which has been registered vide Registration No: 1418/2021 has also been filed. Let these documents be kept on record. There is nothing new with regard to these documents. It has already been mentioned in this order that the third party Intervener wants that the disposal of this MA may be kept in abeyance till final disposal of Appeal No: 17/2025 pending before Hon'ble DRAT, Mumbai. While it has been made clear that simply pendency of Appeal without any stay order is not sufficient ground to withhold the disposal of the Miscellaneous Application. Already more than one year has been passed from the order dated 8<sup>th</sup> May, 2024 when the application of the third party Intervener was rejected by this Tribunal. Accordingly, in the facts and circumstances of this case, there appears no ground for withholding the disposal of this MA any more. Needless to say, the order of this Tribunal will always be subject to the final order passed by Hon'ble DRAT, Mumbai in Appeal No: 17/2025 as well as any order passed by the competent Civil Court in Civil Suit No: 1418/21.



20. Accordingly, this MA deserves to be allowed.

**ORDER**

1. MA No: 18/2023in OA No: 17/2005 is hereby allowed.
2. Respondent No: 1 Union Bank of India (erstwhile Andhra Bank) through the concerned Branch Manager of the Bank/Authorised Officer is hereby directed to execute the sale deed in favour of the Applicant with regard to Survey No. 328, Block No. 295, Village Mouje Sevasi, District Vadodara (subject property in this case). It is further observed that this sale deed will be free from all encumbrances and since the Defendant No: 2 in this OA/Opponent No: 4 in this MA Mr. Pragnesh B. Shah has miserably failed to comply the direction of Hon'ble High Court of Gujarat to abide by the Consent Terms, this sale deed will be executed without the presence of Opponent No: 4 Mr. Pragnesh B. Shah as confirming party and sale will be final and binding on the Opponent No: 4 also.
3. With these observations, this MA is finally disposed of with no order as to cost.
4. Let a copy of this order be sent for compliance to Opponent No: 1 Union Bank of India(erstwhile Andhra Bank).
5. Let this file be consigned to records.

Pronounced in open Court on **14th day of August, 2026.**

  
(PANKAJ KUMAR UPADHYAY)  
PRESIDING OFFICER,  
DRT-II, AHMEDABAD

us