

IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 1,
MUMBAI BENCH

CA 114/MB/2026

in

CP No. 1300/(MB)/2020

Under Rule 11 of NCLT Rules, 2016 r/w Section 420(2) of the Companies Act,
2013 and Rule 154 of the NCLT Rules, 2016

Kishore Kakumal Keswani,
1202, Lillium, Nahar Amrit Shakti,
Near Jain Mandir, Chandivali,
Powai, Mumbai - 400 072

... **Applicant**

In the matter of

Kishore Kakumal Keswani
1202, Lillium, Nahar Amrit Shakti,
Near Jain Mandir, Chandivali,
Powai, Mumbai - 400 072

... **Petitioner**

VERSUS

Manohar Kakumal Keswani
Rajkumar Kakumal Keswani
Radhika Mahal, Rom No.71/72,
Block C-1S, Hill Area, Section -17,
Ulhasnagar - 421003, Dist. Thane

... **Respondent Nos. 1 & 2**

Kailash Parbat Hotels (I) Pvt. Ltd.
Shop No.773, Section 17,
Ulhasnagar - 421003 Dist- Thane

... **Respondent No. 3**

Laxmi Manohar Keswani
Sunita Keswani
Radhika Mahal, Rom No.71/72,
Block C-1S, Hill Area, Section -17,
Ulhasnagar - 421003, Dist. Thane

... **Respondent Nos. 4 & 5**

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Mahesh D. Mulchandani

B.K. No. 303, Room Nos. 10 & 11,
Ulhasnagar - 421002, Maharashtra

... **Respondent No. 6**

Hiranand D. Mulchandani,

Flat No. 1104, Camillia, Vasant Valley,
Khadakpada, Kalyan - 421301

... **Respondent No. 7**

Ramchand C. Mulchandani,

Interface Heights, C-Wing,
10th Floor, Flat No. 1004,
Off New Link Road, Malad (West),
Mumbai - 400064

... **Respondent No. 8**

Registrar of Companies

100, Everest, Marine Drive,
Mumbai- 400002

... **Respondent No. 9**

Order delivered on 24.06.2026

CORAM:

Shri Prabhat Kumar

Hon'ble Member (Technical)

Shri Sushil Mahadeorao Kochey

Hon'ble Member (Judicial)

Appearance:

For the Petitioner

: Ms. Radhika Kesawani,
Advocate

For Mr. Deepak Kesawani

: Mr. Gaurav Sharma, Advocate

For Respondent Nos. 1 to 3

: Adv. Shyam Kapadia a/w Adv.

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Rohan Agrawal, Adv. V. Shah,
Adv. Harshad R., Adv. Pawan
Kulkarni

ORDER

Per : **CORAM**

1) This Company Application CA 114/2026 is filed on 18.04.2026 by Kishore Kakumal Keswani, the original petitioner in CP 1300 of 2020, under Rule 11 read with Section 420(2) of the Companies Act, 2013 and Rule 154 of the National Company Law Tribunal Rules, 2016, seeking following reliefs:-

- a) *be pleased to decide the present Application as a preliminary issue, prior to the adjudication of Company Application No. 28 of 2026 in Company Petition No. 1300 of 2020, as the present Application concerns correction of the judicial record and goes to the root of the proceedings.;*
- b) *be pleased to correct and rectify the record in paragraph 1 of the order dated 06.01.2026 and paragraphs 2 and 3 under the head of Company Application No. 28 of 2026 in the order dated 06.04.2026, as well as in any other order reflecting the same recording, to the limited extent that they (inaccurately) record or proceed on the basis that the Petitioner had consented to the impleadment and/or participation of Mr. Deepak Keswani;*
- c) *be pleased to expunge, delete and/or suitably modify the said observations so as to accurately reflect the submissions made and the*

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- proceedings as they transpired, and consequently be pleased to recall and set aside all directions flowing therefrom insofar as they permit or recognize participation, filing of documents, or any form of intervention by the said non-party (para 3 of the order dated 06.04.26);*
- d) be pleased to clarify and record that no consent was given by or on behalf of the Petitioner for impleadment or participation of Mr. Deepak Keswani, and that no relief is sought for or against him in Company Petition No. 1300 of 2020 or in Company Application No. 28 of 2026;*
- e) be pleased to further clarify that the scope of the proceedings shall remain confined to the parties on record and the reliefs as pleaded, and that any participation by a person not on record shall be subject to adjudication of locus standi in accordance with law;*
- f) be pleased to direct that no reliance shall be placed on the aforesaid recording in any further proceedings in Company Petition No. 1300 of 2020 or connected applications;*
- g) pending the hearing and final disposal of the present Application, be pleased to direct that no person who is not a party to the present proceedings shall be permitted to participate, address this Hon'ble Tribunal, or file any documents, directly or indirectly, including through or in the name of any existing party, unless such person is first impleaded or permitted upon adjudication of locus standi;*
- h) be pleased to permit, if deemed appropriate, verification of the WebEx recording and/or relevant hearing logs, or to permit the Applicant to place on record material evidencing the submissions made, for the limited purpose of ensuring that the judicial record accurately reflects the proceedings;*

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- i) *Be pleased to pass such further and consequential orders, including any directions necessary to give effect to the reliefs herein, as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.*
- 2) The applicant had filed an Application, numbered as CA 28 of 2026, on 29.01.2026 for amendment to the Company Petition No. 1300 of 2026, pursuant to order dated 6.11.2025, wherein it is recorded that “2. Learned Counsel for the Petitioner further submits that they shall be filing an appropriate amendment Application seeking impleadment of certain persons who are other shareholders of the Respondent Company, which includes the wife of one of the deceased brothers. The learned Counsel for the Petitioner seeks some time to file that Application. One (1) week time as a last opportunity is granted for filing appropriate Application”. Further, this Tribunal disposed of IA (Companies Act) 196 of 2023 filed by Mr. Deepak Keswani stating as follows at para 3 :

3. The learned Counsel appearing for the Applicant in IA (COMPANIE S.ACT)/196(MB) of 2023 presses for his impleadment. It is noted that the Applicant is the son of Mrs. Pushpa Keswani, one of the Shareholder who is already sought to be impleaded by the Petitioner now as Party Respondent in the Petition. The Applicant is seeking to

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intervene on the ground that he is the beneficial owner of the share held in the name of Mrs. Pushpa Keswani. When asked by this Tribunal, he fairly concedes that there is no declaration of trust in favour of the Applicant presupposing holding of those shares in the name of Mrs. Pushpa Keswani for the benefit of the son. Since Mrs. Pushpa Keswani is already considered to be impleaded as a party Respondent by the Petitioner, we feel that nothing remains in this Application as their group shall be represented duly after her impleadment and any grievance, which they may have in relation to the representation of that group on the board of Respondent Company, can be raised by Mrs. Pushpa Keswani. In view thereof, IA(COMPANIE S.ACT)/196(MB) of 2023 is disposed of. It is clarified that the right of audience of the Applicant shall not get frustrated on account of disposal of this Application.

- 3) It is case of the applicant that the order(s) dated 6.1.2025 and 6.4.2026 requires correction of errors apparent on the face of the record, rectification of material mis-recordings therein, and recall/modification of the impugned order to the extent it is contrary to the proceedings held in open court, along with consequential reliefs; seeking correction of the record in the orders dated 06.01.2026 (paragraph 1) and 06.04.2026 (paragraphs 2 and 3 in CA 28/26), as well as in any other order reflecting the same recording, because the

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Petitioner had not consented to the impleadment and/or participation of a non-party, namely Mr. Deepak Keswani, and the said purported consent does not emanate from the pleadings, record, or instructions. It is further stated that the recording therein has the effect of introducing a non-party into the lis and impacting the scope and efficacy of the proposed amendment, which in fact seeks deletion of references to Mr. Deepak Keswani and is intended to confine and clarify the lis, enabling the Petitioner to pursue his claims independently.

- 4) It is stated by the Applicant that the impugned recording has resulted in serious prejudice to the Petitioner by permitting participation of a non-party and thereby rendering the amendment proceedings illusory. The error, being apparent on the face of the record, warrants correction under Section 420(2) of the Companies Act, 2013 read with Rule 154 and Rule 11 of the NCLT Rules, 2016. It is emphatically asserted by the Petitioner and his advocate daughter that no consent for impleadment was ever given.
- 5) This tribunal's attention was drawn by Mr. Deepak Keswani on 6.4.2026 that he is not sought to be impleaded in the amendment

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application served upon him, accordingly, this Tribunal recorded the facts in Para 2 & 3. Further, the application seeking amendment of the Company Petition came on board on 28.04.2026, however, the applicant herein raised a preliminary issue concerning the correctness of the judicial record, going to the root of the proceedings and directly affecting the adjudication of the pending amendment application, and insisted that this tribunal must decide first CA 114 of 2026 i.e. present application which also came on board on 28.04.2026.

- 6) It is stated by the Applicant that, where the judicial record does not correctly reflect what transpired in Court, the same Court is duty-bound to correct the record, as held in State of Maharashtra v. Ramdas Shrinivas Nayak, AIR 1982 SC 1249 and D.P. Chadha v. Triyugi Narain Mishra, AIR 2001 SC 457. In our considered view, there is quarrel with this legal proposition. However, it is equally important to note that the applicant had not taken up any legal remedy, as available to him, after uploading of order dated 6.1.2026. It is noted that the said order was uploaded on 12.01.2026

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7) This Tribunal had passed the order dated 06.01.2026, recording at paragraph 1 thereof, and order dated 06.04.2026 recording at paragraphs 2 and 3 in CA 28/26 as follows :

Order dated 06.01.2026

1. *This Tribunal notes that the Petitioner have failed to file an amendment Application however, she submits that the said amendment Application has already been served to the Respondent. She further submits the said Application shall be filed in due course. She further submits that the Petitioner has also placed on record an affidavit in compliance with the earlier directions issued by this Tribunal, disclosing the required information. The Petitioner is directed to serve a copy of amendment application to all the Respondents, including the son of Smt. Pushpa Keswani, who was also agreed to be impleaded by the Counsel of the Petitioner.*

Order dated 06.04.2026

CA 26 of 2026

2. *Learned counsel for the Deepak Keswani was also allowed to speak after noting that the Learned counsel for the Petitioner had agreed that Deepak Keshwani will also be impleaded as party respondent by way of amendment to the Petition resulting into dismissal of Deepak*

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Keswani's application to intervene in the company petition, however, the proposed amendment in the aforesaid application does not reflect so. Further, this Tribunal also consider it appropriate to hear them on the ground that initially this Petition was filed to seek relief in relation to oppressive acts of the Respondents committed against the petitioner and Deepak Keswani, however, now by way of amendment application, the Petitioner is seeking relief against oppressive acts committed by the Respondents and Deepak Keswani.

3. *Learned counsel Deepak Keswani advances his arguments. Further, he seeks liberty to place on record certain' documents. He is directed to handover those documents on an affidavits to Respondent Company and Respondent Company shall upload those documents under their tab. The copy of those documents be served to the Petitioner as well as all the parties.*

8) As the applicant had raised a vital issue concerning the incorrect recording of the statement in the above order(s) by this Tribunal, the Ld. Counsel for Respondent No. 1, 2 & 3 were asked as to what statement was made by the Applicant to corroborate the assertion made by the petitioner in the present application. Further, Mr. Deepak Keswani was also asked the same question, as basis recording of said

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statement, his application no. IA(COMPANIE S.ACT)/196(MB) of 2023 for intervention in the captioned company petition came to be dismissed by this Tribunal.

- 9) Indubitably, the application filed by Mr. Deepak Keswani to intervene in the company came to be dismissed on submission of the Ld. Counsel for the Petitioner that the prayer for intervention of Mr. Deepak Keswani will stand worked out after impleading Mrs. Pushpa Keswani, his mother and representing deceased brother of the Petition, as the Petitioner wish to amend the company petition after seeking appropriate approval of this Tribunal for the purpose, and based on this submission, the Application filed by Mr. Deepak Keswani was dismissed by this Tribunal. Even though, this tribunal may have construed the submissions of Ld. Counsel for the Petitioner incorrectly later on as canvassed by the applicant herein, thus recording in the manner alleged to be contradictory to their submissions in this relation implying his consent for impleading Mr. Deepak Keswani as party respondent in the company petition, it is undisputed fact that the application of Mr. Deepak Keswani was dismissed without being adjudicated on its merit, in the light of said submission/concession by

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this Tribunal whereby Mr. Deepak Keswani's right of audience was preserved, and Mrs. Pushpa Keswani his mother is not proposed to be impleaded via amendment application CA 28 of 2026. Accordingly, the applicant, the petitioner herein, contesting the application of Mr. Deepak Keswani for intervention on ground of his locus derived the benefit out of such recording in the order dated 06.11.2025, which is made out to be incorrect construction of submissions made by Ld. Counsel for the Petitioner on that day. Further, it is pertinent to note that it is petitioner himself, who had alleged commission of acts of oppression by the Respondents in his petition prejudicing him as well as Mr. Deepak Keswani's interests at the relevant time, and any relief against Mr. Deepak Keswani could not have been sought by him in this context in the original petition. It is undisputed that Mr. Deepak Keswani is son of one of deceased brother of the Petitioner and presently his mother Mrs. Pushpa Keswani is holder of shares held earlier by his father in the Respondent Company, and Mr. Deepak Keswani is not a shareholder in the Respondent Company as on date.

10) The Applicant, subsequent to passing of impugned order dated 6.1.2026, filed an application no. CA 28 of 2026 for amendment and has

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not proposed either Mr. Deepak Keswani or Mrs. Pushpa Keswani as party respondent therein. It is when this Tribunal asked the Petitioner as to why Mr. Deepak Keswani or his mother Mrs. Pushpa Keswani is not sought to be impleaded as party respondent in the proposed amendments, the Applicant, herein, seeks to have woken up and filed present application seeking recall of impugned orders or, in alternate, expunge of relevant paragraphs therefrom.

11) The Hon'ble Supreme Court in case of Union Of India vs N Murugesan CIVIL APPEAL NOS. 2493-2494 OF 2021 quoted Halsbury's Laws of England, Vol. XIII, p. 464, para 512, as follows :

“On the principle that a person may not approbate and reprobate, a species of estoppel has arisen which seems to be intermediate between estoppel by record and estoppel in pais, and may conveniently be referred to here. Thus a party cannot, after taking advantage under an order (e.g. payment of costs), be heard to say that it is invalid and ask to set it aside, or to set up to the prejudice of persons who have relied upon it a case inconsistent with that upon which it was founded; nor will he be allowed to go behind an order made in ignorance of the true facts to the prejudice of third parties who have acted on it”.

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12) Thus, the Hon'ble supreme court in N Murugesan (Supra) held that *"It is evident that the doctrine of election is based on the rule of estoppel, the principle that one cannot approbate and reprobate is inherent in it. The doctrine of estoppel by election is one among the species of estoppel in pais (or equitable estoppel), which is a rule of equity. By this law, a person may be precluded, by way of his actions, or conduct, or silence when he has to speak, from asserting a right which he would have otherwise had."*

13) Even if we consider that such submissions may have been incorrectly understood by this Tribunal as has been canvassed by Applicant now, the Applicant has raised this issue before us after filing of amendment application on 29.1.2026, and after this Tribunal questioned as to why Mr. Deepak Keswani or his mother Smt. Pushpa Keswani is not proposed to be impleaded, accordingly, the submissions of the Applicant are merely an afterthought and the Applicant is precluded, by way of his conduct and silence when he has to speak, from asserting the incorrect recording in the intervening period. In our considered view, this application is nothing but another tactic to stall the final conclusion of proceedings in company petition, more so when this

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tribunal has not passed any order requiring impleadment of Mr. Deepak Keswani in the company petition.

- 14) The petitioner's request for permission to verification of the WebEx recording and/or relevant hearing logs, or to permit the Applicant to place on record material evidencing the submissions made, for the limited purpose of ensuring that the judicial record accurately reflects the proceedings is an admission on behalf of the Petitioner that he was indulged in recording the judicial proceedings without leave of this Tribunal. Para 20 of circular no. 10/03/2021NCLT dated 18.12.2021 clearly states that *"Parties are required to ensure that the VC proceedings and neither recorded/stored nor broadcast, in any manner whatsoever, as recording/copying/storing and or broadcasting, by any means, of the hearings and proceedings before the National Company Law Tribunal are expressly prohibited."* Further, Standard Operating Procedure for virtual hearing uploaded by Hon'ble NCLAT also states that *"Further, the parties are required to ensure that the proceedings by video conference are neither recorded/stored nor broadcasted, in any manner whatsoever, as recording/copying/storing and/or broadcasting, by any means of the hearings and proceedings before the Tribunal is expressly prohibited".* A breach of this

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rule shall, apart from entailing penal consequences, render such recording inadmissible in any court proceedings. (emphasis supplied)” Further, Notification no. No. Rule/P. 1603/2022 issued by Hon’ble Bombay High Court states at para 3.vi that “There shall be no unauthorised recording of the proceedings by any person or entity”. Accordingly, this tribunal can not allow verification of unauthorised recording of WEBEX, as such permission would not render an unauthorised act a legitimacy.

15) Nonetheless, this act only demonstrates the contagious conduct of the Applicant herein, which this tribunal has observed even on earlier occasions also as recorded in earlier orders passed in the captioned company petition. Though, such conduct calls for penal consequences for disobeying the express mandate in the said circular, this tribunal, at this juncture, consider it appropriate to pardon the applicant herein for his defiant and disrespectful approach to this tribunal time and again so as not to provide more fodder to blemish this Tribunal or its functionary, which he had been indulging time and again to stall the conclusion of the final hearing in the Company Petition on merit.

16) Though, we are of considered view that this turbinal has not committed any error in recording the submissions of the Ld. Counsel

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for the petitioner in the order dated 6.11.2025 (which is not challenged by the applicant also) and the recordings in the impugned order(s) were inference from this Tribunal's order dated 6.11.2025 whereby the right of audience of Mr. Deepak Keswani was preserved by clarifying that his right of audience shall not get frustrated on account of disposal of this Application IA(COMPANIE S.ACT)/196(MB) of 2023, we consider it appropriate to set the controversy to rest by clarifying that there was no express admission by the Petitioner to implead Mr. Deepak Keswani in the Company Petition and accordingly the reference to Mr. Deepak Keswani be construed as inferred from the applicant's offer to implead Smt. Pushpa Keswani as Party Respondent and this tribunal protecting right of Mr. Deepak Keswani to hear in the Company Petition vide order dated 6.11.2025.

17) In view of aforesaid, CA 114 of 2026 is disposed of.

Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)

Sd/-

SUSHIL MAHADEORAO KOCHEY
MEMBER (JUDICIAL)