

2016 (198) CC 670

GUJARAT HIGH COURT

Hon'ble Judges:Vipul M.Pancholi, J.

Pramodbhai Kanjibhai Patel Versus Official Liquidator Of M/s Minal Oil And Agro Industries Priva

COMPANY APPLICATION No. 164 of 2010 ;
COMPANY PETITION No. 207 of 2001 ; *J.Date :- OCTOBER 30, 2015

- [COMPANIES ACT, 1956](#) Section - [433](#), [434](#)

Companies Act, 1956 - S. 433, 434 - winding up - realisation of assets - application seeking for holding and declaring that land are private and personal properties of present applicant and, therefore, Official Liquidator has no right to sell the same and possession of all the lands have been taken over by the Official Liquidator - further, prayed for directing Official Liquidator to remove the seals from the said property and further direction be issued to hand over the possession of the same to applicant - this Court had confirmed sale in favour of respondent No.3 in the year 2004 and respondent No. 3 is using the said quarters for its workers since then - this application is filed in the year 2010 i.e. after 6 years since the date of confirmation of sale - respondent No. 3 is required to be permitted to use the quarters constructed on land - therefore, applicant is not entitled to get back the possession of land - if respondent bank is of opinion that bank is entitled to get possession of lands in question, it is open for respondent bank to file appropriate proceedings before appropriate Court and as and when such proceedings are filed, it is open for applicant to take all available contentions and to object such request - if proceedings are initiated by respondent bank, the same shall be decided in accordance with law without being influenced by the present order - this court directed Official Liquidator to handover the possession of the land to the applicant within a period of six weeks - application partly allowed.

Imp.Para: [[23](#)] [[24](#)] [[25](#)]

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JUDGMENT :-

1 The applicant has taken out this Judge's Summons, wherein, he has prayed for the following relief/s:

"(b) That this Hon'ble Court be pleased to hold and declare that the land bearing Survey Nos.167/1, 167/2, 168/1, 168/2, 169/1, 170, 171, 340/3, 340/2 and 340/1 in all admeasuring 23873 sq.mtrs. are the private and personal properties of the present applicant and, therefore, the Official Liquidator has no right to sell the same and the possession of all the lands have been taken over by the Official Liquidator and this Hon'ble Court therefore by holding that the property is a private property of the applicant and not that of M/s.Minal Oil & Agro Industries Private Limited, direct the Official Liquidator to remove the seals from the said property and further direction be issued to handover the possession of the same to the applicant.

(c) This Hon'ble Court be pleased to hold and declare that the land bearing Survey No.340/1, 2 & 3 are the personal properties of the deponent and the superstructure built thereon are also the private properties of the deponent and therefore, the sale which has been effected in favour of Kanak Castors Products Private Limited to this extent is required to be cancelled and sale deed is also required to be set at naught and it is required to be declared that the superstructure along with the land aforesaid are the private properties of the applicant.

(cc) In the alternative, if the Hon'ble Court comes to the conclusion that Survey No.340/1 is not of the ownership of the petitioner, then in that case, the superstructure which is existing on remaining Survey Nos.340/2 and 340/3, which are admitted in the properties of the ownership of the present deponent and therefore, the superstructure built on the Survey No.340/2 and 340/3 be directed to be removed by the respondent No.3 or in the alternative the Official Liquidator be directed to remove the superstructure and make the property of the present petitioner free from any liability, encumbrances, encroachment or any type of superstructure or in the alternative, the respondent No.3 may vacate the superstructure over the Survey No.340/2 and 340/3 and then the Official Liquidator be directed to return the physical possession of Survey Nos.340/2 and 340/3 of Village Nandasan, Taluka Kadi, District Mehsana.

(d) Pending admission, hearing and/or final disposal of this application, this Hon'ble Court be pleased to restrain the Official Liquidator from effecting any sale of the properties which do not belong to M/s.Minal Oil & Agro Industries Private Limited, the company in liquidation."

2 Heard learned advocate Mr. M.B.Gandhi with learned advocate Mr. Chinmay M. Gandhi for the applicant, learned advocate Ms. Ameer Yajnik for respondent

No.1 - Official Liquidator, learned Senior Counsel Mr. Devan Parikh with learned advocate Mr. Nirav P. Shah for respondent No.3 and learned advocate Mr. Nandish Chudgar for Nanavati Associates, for respondent No.4.

3 Learned advocate Mr. Gandhi appearing for the applicant submitted that applicant has filed this application in his individual capacity as well as one of the trustees of Janak Specific Family Trust. Applicant was also Director of M/s. Minal Oil and Agro Industries Pvt. Ltd. The said company i.e. M/s. Minal Oil and Agro Industries Pvt. Ltd. was ordered to be wound up by an order of this Court passed on 04.12.2001. The Official Liquidator attached to this Court has been appointed as Liquidator of the said company with a direction to take the possession of the assets and properties of the said company. Accordingly, the Official Liquidator had taken over the possession of assets and properties of the company in liquidation. It is submitted that the company in liquidation mortgaged several lands together with hypothecated machineries to the Export - Import Bank ('EXIM Bank' for short). The said bank submitted an application to this Court for sale of the securities. This Court permitted the said bank to auction the properties of the company in liquidation. In pursuant to the sale process undertaken by the said bank with the assistance of the Official Liquidator, certain properties of the company in liquidation were auctioned and purchased by the respondent No.3.

4 It is the case of the applicant that he is the owner of parcels of land bearing survey Nos. 167/1, 167/2, 168/1, 168/2, 169/1, 170, 171, 340/3, 340/2, situated at Village Nandasan, Taluka Kadi, District Mehsana, total admeasuring 23,873 sq. mtrs, the description of which is given in para 3 of the affidavit filed in support of the Judge's Summons. It is further the case of the applicant that the said properties are private properties of the applicant and his name is reflected in the Village Form No.7/12. Thus, on the basis of the said Village Form No.7/12, learned advocate Mr. Gandhi contended that the Official Liquidator has wrongly taken over the possession of the said lands and since the said lands are agricultural lands and personal properties of the applicant, the Official Liquidator ought not to have taken the possession of the same and sold it to the respondent No.3.

5 Learned advocate Mr. Gandhi further contended that the company in liquidation was in need of the funds and therefore financial assistance of Rs.250 lakh was taken from the respondent No.4 - Kalupur Commercial Cooperative Bank Ltd. The company in liquidation, therefore, executed an agreement of hypothecation/pledge of movable machineries. The said machineries are commonly known as Sodium Salt Purification Plant Machineries. Thereafter, respondent No.4 wanted further security from the company in liquidation and therefore Memorandum of Deposit of Title Deeds was entered into on 15.10.2001 between the applicant in his personal capacity as well as on behalf of Janak Specific Family Trust and respondent No.4. It is pointed out at this stage that in the agreement, the immovable properties,

description of which is given in para 3 of the affidavit in support of the Judge's Summons, were shown in the first schedule and the original documents of the said lands were handed over to the respondent No.4 for creating the mortgage by deposit of title deeds. Thus, on the basis of the aforesaid documentary evidence, learned advocate Mr. Gandhi contended that the aforesaid properties are the personal properties of the applicant and the company in liquidation has nothing to do with the same. However, in spite of the aforesaid factual position, in 2007 an advertisement was published by the Official Liquidator for sale of the office premises bearing No.802, 8th floor, Popular House, Ashram Road, Ahmedabad and along with the said office premises advertisement was also issued for sale of the lands admeasuring 24427 sq. mtrs. of different survey numbers which are stated in the advertisement. The said advertisement was issued on 30.05.2007. At this stage, learned advocate has submitted that no sale has taken place with regard to the aforesaid lands nor office premises is sold. However, on inquiry, it was revealed that after the advertisement one purchaser for the office premises had come forward and offered Rs.58 lakhs. Therefore, Official Liquidator submitted a report being O.L.R. No.35 of 2009 and requested this Court to confirm the sale in favour of said purchaser so far as office premises No.802 of Popular House, Ashram Road, Ahmedabad, is concerned. Learned advocate Mr. Gandhi submitted that this Court passed an order to inquire about the ownership of the property and the report is filed and so far as office premises is concerned, it is of Janak Specific Family Trust. However, with regard to the other lands no inquiry is made and no report is filed. Thus, it is the case of the applicant that the different parcels of land, description of which is given in para 3 of the application, are personal properties of the applicant, whereas, office premises No.802, Popular House, belongs to Janak Specific Family Trust and therefore the said properties be returned to the applicant. These properties are not the properties of the company in liquidation.

6 It is further contended by learned advocate for the applicant that the lands, which belong to the company in liquidation, have already been sold because they were the properties mortgaged to EXIM Bank and the said bank effected the sale and realized Rs.23.80 crores which has been paid by respondent No.3. It is further submitted that though advertisement was given in the newspaper on 30.05.2007, no sale has been effected qua the private properties of the applicant and therefore it escaped the attention of the applicant to object when the advertisement was issued.

7 Learned advocate Mr. Gandhi appearing for the applicant thereafter contended that so far as the land bearing Survey No.340/1 situated at Mouje Nandasan, Taluka: Kadi, District: Mehsana is concerned, the company in liquidation constructed residential quarters of certain employees of the company in the year 1996. However, the said property is personal property of the applicant and on the said property the applicant permitted the company in liquidation to construct the residential quarters. Thus, the residential quarters

which have been sold by the Official Liquidator to the respondent No.3 is illegal and sale to that extent which has been effected by EMIM Bank in favour of respondent No.3 is required to be set at naught. However, at this stage, learned advocate Mr. Gandhi has drawn attention of this Court to the order dated 26.09.2006 passed by this Court, wherein it has been observed that the applicant does not press the prayer insofar as survey No.340/1 is concerned. Thus, learned advocate has not further submitted on merits with regard to land bearing Survey No.340/1 and addressed this Court on the other parcels of land of the ownership of the applicant.

8 It is further contended by learned advocate Mr. Gandhi for the applicant that land bearing Survey Nos. 340/2 and 340/3 are also of the ownership of the applicant, where the applicant constructed certain quarters in the year 1996. The said construction is also illegally sold by the Official Liquidator and the sale effected by EXIM Bank in favour of the respondent No.3.

9 Learned advocate Mr. Chudgar for respondent No.4 has mainly submitted that the company in liquidation had borrowed certain funds from respondent No.4 on behalf of the said company. The applicant remained one of the guarantors and also mortgaged certain lands situated at Mouje Nandasan, Taluka: Kadi, District: Mehsana. Said properties have been mortgaged by way of deposit of title deeds. The company in liquidation has not repaid the outstanding dues to respondent No.4. Therefore, recovery proceedings were initiated against the principal borrower as well as the guarantors by filing Arbitration Suit No.1886 of 2002 before the Registrar of Nominee. Final award and order dated 30.06.2003 was passed in favour of respondent No.4. It is contended that land in question has not been sold by the Official Liquidator though the said land in question was offered for sale by public auction. It is contended that the respondent No.4 is entitled to enforce its security and recover its outstanding dues by sale of the property in question and therefore learned advocate for respondent No.4 requested that Official Liquidator be directed to hand over the possession of the land in question directly to respondent No.4 for avoiding multiplicity of proceedings.

10 Learned Senior Counsel Mr. Deven Parikh appearing for respondent No.3 contended that respondent No.3 is not concerned with other piece and parcels of land except Survey Nos. 340/1, 340/2 and 340/3. So far as land bearing Survey No.340/1 is concerned, it is submitted that from Village Form No.7/12 produced by the applicant himself, the said land does not stand in the name of the applicant. Therefore, the applicant has rightly not pressed his application qua the said parcel of land. It is contended that Survey No.340/1 is of the sole and absolute ownership of the company in liquidation. Respondent No.3 has purchased the property in the auction proceedings held in pursuant to order passed by this Court. Sale was also confirmed in favour of respondent No.3. Sale deed is also executed and the name of respondent No.3 is also entered into the revenue record. However, with regard to the residential quarters

constructed at Survey No.340/1, 340/2 and 340/3 are concerned, it is submitted that the entire bidding process, auction process, etc., were carried out in pursuant to the order passed by this Court. The bids and their acceptance were kept in mind keeping in view the substantial number of quarters of employees who were using them at the relevant point of time. These quarters have been built by the company in liquidation at their own expenses and said quarters were constructed in the year 1996. Learned Counsel Mr. Parikh would further contend that right to use the quarters and to use the land independently in this regard is of the respondent No.3 even if one looks at the period of adverse possession. The said quarters have regularly been used by the employees and labour of respondent No.3 company. Thus, any claim with regard to the structure and right to use the land is barred by limitation as well as by principle of adverse possession.

11 Learned advocate Ms. Ameer Yajnik appearing for respondent No.1 - Official Liquidator submitted that the aforesaid company was ordered to be wound up by an order dated 04.12.2001 passed by this Court in Company Petition No.207 of 2001, whereby the Official Liquidator attached to this Court was appointed as Provisional Liquidator. Thereafter, by an order dated 15.01.2003, the Official Liquidator has been appointed as Liquidator of the aforesaid company. The Official Liquidator had taken over the possession of the properties and assets in question on 06.05.2002 in presence of the secured creditors and ex-directors. Minutes were also prepared. Thereafter, this Court passed an order on 20.02.2004 in O.L.R. No.46 of 2002 and sale was confirmed in favour of respondent No.3 so far as lands bearing Survey Nos. 173, 176/1, 176/2, 176/3, 177/1, 177/2, 178/2, 179/3, 179/4, 188, 189/2 and 340/1 of Mouje Nandasan, Taluka Kadi, District Mehsana. In the meantime, respondent No.4 informed the office of Official Liquidator about the award dated 30.06.2003 passed by the Board of Nominee in favour of respondent No.4. It was also informed that the respondent No.4 is having exclusive charge over certain assets of the company in liquidation. It is further submitted that respondent No.3, vide its letter dated 20.04.2007, informed that company in liquidation has constructed quarters for workers on survey No.340/2 and 340/3 and the ex-director had given land in question to company to construct quarters. Respondent No.3 had purchased the entire assets of the company in liquidation including the quarters constructed on the land in question. Therefore, the Official Liquidator forwarded the said letter to the secured creditors. Thereafter, the Official Liquidator also convened the meeting of the sale committee wherein it was informed to the secured creditors about the charge of respondent No.4 on certain properties of the company.

12 At this stage, learned advocate Ms. Yajnik submitted that company in liquidation has mortgaged various properties including the land, building, plant and machineries to Exim Bank including land bearing Survey No.340/1, admeasuring about 3541 sq. mtrs. Due to non- payment of the outstanding dues, Exim bank issued the notice under Section 13(2) of Securitization and

Reconstruction of Financial Assets and Enforcement of Security Interest Act and Rule 3 of Security Interest (Enforcement) Rules, 2002 on 23.03.2003. The company was in liquidation and therefore notice has been issued to the Official Liquidator and demand of Rs.33,31,41,185/- has been made. Possession notice was also issued. In auction process, sale was confirmed by this Court in favour of respondent No.3 i.e. M/s. Kanak Castor Products Pvt. Ltd. Possession was taken by Exim Bank under the SARFAESI Act. The applicant has, thus, raised the dispute after lapse of 7 years.

13 Learned advocate Ms. Yajnik thereafter contended that properties of Minal Oil Industries, partnership firm, have been taken over and stood transferred to and vested in the company in liquidation pursuant to the incorporation of the company by virtue of Sections 566 and 567 of the Companies Act, 1956 and under the provisions of part IX of the Companies Act.

14 It is further contended that another secured creditor viz. Indusind Bank has filed its affidavit in C.A.No.425 of 2003 in which it is mentioned that Exim Bank is having first charge over the entire assets of the company in liquidation and the said bank is having second charge over the entire fixed assets of the company. Bank also annexed search report obtained from M/s. Lunia & Co., Chartered Accountant. The assets of Minal Oil and Agro Industries, a proprietorship firm, were taken over and transferred to partnership firm on 01.11.1998.

Thereafter, these assets of the partnership firm have vested in to Shree Minal Oil and Agro Industries Pvt. Ltd. (in liquidation), which was registered on 21.01.1999 under the provisions of Part-IX of the Companies Act and under Section 566 of the said Act. Accordingly, the said company in liquidation was entitled to create charge in favour of the banks including the immovable properties which have been mortgaged with Exim Bank. Learned advocate Ms. Yajnik referred to the copy of Form No.8 obtained from Registrar of Companies showing charge on immovable property in favour of Exim Bank, which is produced alongwith the compilation.

15 It is further contended that similarly the Centurion Bank has also filed an affidavit wherein the bank has stated that the said bank is having second charge over the fixed assets for various credit facilities advanced to the company in liquidation.

16 Learned advocate Ms. Yajnik further submitted that charge in favour of Exim Bank, Indusind Bank and Centurion Bank has been created by the company in liquidation in which the applicant has signed the documents. Thus, after mortgaging the said properties showing the same in the name of the company, the applicant has now changed the stand.

17 Learned advocate Ms. Yajnik submitted that in terms of the order dated 24.07.2015, respondent No.4 - Kalupur Commercial Cooperative Bank Ltd. has furnished the documents relating to the land of the company in liquidation to the office of Official Liquidator. After receiving the said documents, the Official Liquidator forwarded the copy of the said documents along with company incorporation documents, which were collected from Registrar of Companies to the concerned advocate for verification. The concerned advocate for the Official Liquidator submitted his additional report on 10th August 2015. Learned advocate Ms. Yajnik referred to relevant part of the said report and submitted that the concerned advocate has stated that in the Memorandum of Association of the company in liquidation it is stated that M/s. Shree Minal Oil and Agro Industries Pvt. Ltd., a Joint Stock Company under Section 566 of the Companies Act, 1956 be registered as Private Limited Company under the provisions of Part IX of the Companies Act, 1956. Therefore, in light of provisions of Part IX of the Companies Act and more particularly in light of provisions of Sections 565, 566 and 575 all the properties whether movable or immovable under the ownership of the erstwhile firm would after the incorporation of the company vest with the company exclusively. She further contended that though in certain survey numbers names of individual persons have been mentioned, however, mere entry in the revenue record would not confer title on any person as per the various decisions rendered by the Hon'ble Supreme Court as well as this Court.

18 Learned advocate Ms. Yajnik thereafter contended that at the time of incorporation of company from partnership organization, an amount of Rs.40.39 crores towards the fixed assets has been transferred to the company. However, details of the said assets are not submitted by the ex- management at the time of incorporation of the company in the office of the Registrar of Companies. The ex-management has not taken any steps to enter the name of company in revenue records after creating Part IX company from partnership firm. In view of these submissions, learned advocate Ms. Yajnik submitted that present application be dismissed.

19 I have considered the rival submissions canvassed on behalf of learned advocate for the parties. I have also gone through the material produced on record.

20 The contention raised by learned advocate Ms. Yajnik for the Official Liquidator that properties of Minal Oil Industries, partnership firm, have been taken over and stood transferred to and vested in the company in liquidation pursuant to the incorporation of the company by virtue of Sections 566 and 567 of the Companies Act, 1956 and under the provisions of Part IX of the Companies Act, 1956 is not required to be accepted since it is clear from the record that the properties in question are private properties of the applicant himself and he had pledged the said properties by way of additional security with respondent No.4 bank when the company in liquidation had borrowed

funds from the said bank. The said contention of learned advocate Ms. Yajnik is also not required to be accepted in view of the report dated 12.12.2014 filed by the Official Liquidator in the present proceedings pursuant to the final report given by the concerned advocate of the Official Liquidator with regard to the title search of the lands in question. In paragraph Nos. 4 and 5 of the said report, the Official Liquidator has submitted as under:

"a) Property situated at Moje: Nandasana, Taluka: Kadi, Sub-District: Kadi, District: Mehsana bearing Survey Nos. 173, 176/1, 176/2, 176/3, 177/1, 177/2, 178/2, 179/3, 179/4, 188, 189/2, 340/1 in all admeasuring about 31,719 Sq. Mtrs. was property owned by company in liquidation and accordingly after the auction purchase they are under the legal ownership of Kanak Castor Products Pvt. Ltd.

b) Property situated at Moje: Nandasana, Taluka: Kadi, Sub-District: Kadi, District: Mehsana bearing Survey Nos. 340/2 and 340/3 are under individual ownership of Shri Pramodbhai Kanjibhai Patel. Though it appears that some servant quarters are constructed thereon of the Company in liquidation however that in itself would not confer any right title or interest in the land as such.

c) Property situated at Moje: Nandasana, Taluka: Kadi, Sub-District: Kadi, District: Mehsana bearing Survey Nos. 167/1, 167/2, 168/1, 168/2, 169/1, 170, 171, 340/2 and 340/3 in all admeasuring about 20,332 sq. mtrs is property in the individual ownership of Shri Pramodbhai Kanjibhai Patel. Hence, the company in liquidation i.e. M/s. Minal Oil and Agro Industries Pvt. Ltd. (in liquidation) has no rights, interests or title in the said property.

5. In view of the above facts and circumstances, the land situate at Survey Nos. 167/1, 167/2, 168/1, 168/2, 169/1, 170, 171, 340/2 and 340/3 in all admeasuring about 20,332 sq. mtrs is property in the individual ownership of Shri Pramodbhai Kanjibhai Patel and not of company in liquidation i.e. M/s. Minal Oil and Agro Industries Pvt. Ltd. (in liquidation)"

21 Thus, the Official Liquidator has specifically stated on the basis of the report of the concerned advocate that the lands in question in the present proceedings are the properties in the individual ownership of the applicant and not of the company in liquidation.

22 In view of the aforesaid discussion, this Court is of the opinion that land bearing Survey Nos. 167/1, 167/2, 168/1, 168/2, 169/1, 169/2, 170, 171, 340/2 and 340/3 are the private and personal properties of the applicant and therefore the Official Liquidator is required to handover the possession of the land bearing survey Nos. 167/1, 167/2, 168/1, 168/2, 169/1, 169/2, 170 and

171 to the applicant. However, so far as the parcels of land bearing Survey Nos. 340/2 and 340/3 are concerned, it is clear from the record that the applicant himself has permitted the company in liquidation to construct the residential quarters of the workers on the land bearing survey Nos. 340/1 i.e. the property of the company in liquidation as well as land bearing survey Nos. 340/2 and 340/3 i.e. the properties of the applicant. The said quarters are constructed in the year 1996. Respondent No.3 herein - Kanak Castors Products Private Limited purchased the property of the company in liquidation in pursuance of the advertisement issued in the newspaper. The terms and conditions of the said advertisement reads as under:

"The sale is of pieces or parcels of free hold non-agricultural Lands situate, lying and being at Village Nandasan, bearing Survey Nos. 173, 176/1, 176/2, 176/3, 177/1, 177/2, 178/2, 179/3, 179/4, 188, 189/2 and 340/1 of Moje Nandasan of Kadi Taluka, in the registration sub-district Kadi, and registration district Mehsana, admeasuring 31719 sq. mtrs or thereabout together with the buildings and other structures, erections and godowns and movable plant and machinery, equipments, appliances, furniture, machinery, spares and stores, tools and accessories."

23 Thus, respondent No.3 had purchased the aforesaid land together with the buildings and other superstructures, erections and godowns and this Court had confirmed the sale in favour of respondent No.3. The respondent No.3 is also using the said quarters constructed on the land bearing survey No.340/1, 340/2 and 340/3 since long. This Court had confirmed the sale in favour of respondent No.3 in the year 2004 and respondent No.3 is using the said quarters for its workers since then. This application is filed in the year 2010 i.e. after 6 years since the date of confirmation of sale. Thus, this Court is of the opinion that respondent No.3 is required to be permitted to use the quarters constructed on land bearing Survey Nos. 340/2 and 340/3. Applicant is, therefore, not entitled to get back the possession of Survey Nos. 340/2 and 340/3 situated at village Nandasan, Taluka: Kadi, District: Mehsana, from respondent No.3.

24 Moreover, the request made by learned advocate for the respondent bank that the respondent bank is having decree in its favour against the applicant and therefore the possession of the lands in dispute be handed over to the respondent bank is not accepted. The said relief cannot be granted in the application filed by the applicant. If the respondent bank is of the opinion that the bank is entitled to get the possession of the lands in question, it is open for the respondent bank to file appropriate proceedings before appropriate Court and as and when such proceedings are filed, it is open for the applicant to take all available contentions and to object such request. If the proceedings are initiated by the respondent bank, the same shall be decided in accordance with law without being influenced by the present order.

25 Thus, in the facts and circumstances of the present case, this application is partly allowed. The Official Liquidator is hereby directed to handover the possession of the land bearing survey Nos. 167/1, 167/2, 168/1, 168/2, 169/1, 169/2, 170 and 171, situated at village Nandasan, Taluka: Kadi, District: Mehsana, to the applicant within a period of six weeks from the date of receipt of this order. However, so far as lands bearing survey nos. 340/2 and 340/3 with construction made thereon are concerned, as observed earlier, the same are in possession of respondent No.3 since 2004 and the present application is filed in the year 2010. In fact, as observed hereinabove, the applicant himself has constructed the quarters of workers in land bearing Survey Nos. 340/1 as well as survey nos. 340/2 and 340/3. Therefore, when the respondent No.3 had purchased the land bearing survey No.340/1 with superstructure thereon and when the superstructure made on survey nos. 340/2 and 340/3 is made in such a manner that it would be difficult to separate it, now the applicant at this belated stage cannot claim and is not entitled to get back the possession of land bearing survey Nos. 340/2 and 340/3. Therefore, the relief prayed for in prayer clause (c) and (cc) of the Judges' Summons are not granted.

