

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NOS. 3620-3621 OF 2025

**THE OFFICIAL LIQUIDATOR OF THE AHMEDABAD
JUBILEE MILLS LIMITED (IN LIQUIDATION) APPELLANT(S)**

VERSUS

**ANIL KUMAR VAIKUNTHLAL PATEL SINCE
DECEASED THROUGH HIS LEGAL HEIRS & ORS. RESPONDENT(S)**

WITH

CIVIL APPEAL NOS. 3622-3623 OF 2025

ORDER

1. These appeals arise from the judgment and order passed by the High Court of Gujarat at Ahmedabad dated 26th March, 2020 in R/O.J.Appeal No. 1 of 2003 in R/Company Application No.16 of 1999 with Original Civil Application (O.J.) No. 358 of 2016 by which the High Court disposed of original jurisdiction appeals holding as under:-

"99. To summarise:

- While the duration of the lease deed dated 4th August, 1911 is indefinite, it is not permanent in nature.
- The lease of 1911 cannot be said to be a periodic lease inasmuch as in case of a periodic lease the contract is determinable by notice to quit on the part of either lessor or lessee, whereas in the facts of the present case, the lessor has no right to issue a notice to quit except in the case of non-payment of rent.
- The agreement of 1983 being an unregistered document, cannot be considered to be valid for a lease exceeding one year and has to be considered to be for a lease for a period less than one year as contemplated under second part of Section 107 of the Transfer of Property Act. The agreement of 1983 is, therefore, deemed to create a month-to-month tenancy, termination whereof is governed by section 106 of the Transfer of Property Act.
- The unregistered agreement dated 26th April, 1983 is not a valid document and none of its clauses, including the clause whereby the leasehold rights of Calico Limited are transferred to it can be read in evidence.
- Once the agreement of 1983 cannot be admitted in evidence, the lease deed of 1911 cannot be looked into as the rights under the lease deed of 1911 are claimed by the Official Liquidator under the agreement of 1983. Hence, neither can the agreement of 1983 nor the lease deed of 1911 be read in evidence.
- Since the document of transfer of leasehold rights exceeding one year requires a document to be registered, the agreement of 1983 cannot be looked into for the purpose of establishing such right inasmuch as it cannot be said to be a collateral transaction.
- In the absence of the tenancy being governed by the conditions of any contract, the tenancy is a statutory one and would be solely governed by the provisions of the Rent Act.
- The controversy involved in the case of ICICI Limited v. Official Liquidator (supra) is confined to the parties to the said dispute and is not a judgment in rem. The rights decided in that case were between ICICI Limited claiming through Calico Limited and Jubilee Mills and hence, the said decision does not in any manner affect the rights of the applicant.
- The doctrine of part performance under section 53A of the Transfer of Property Act would be applicable to the parties to the agreement and those claiming under them. In the present case, the applicant does not claim any right in the

subject property through either the transferor or transferee, and hence, the provisions of section 53A would not be applicable. The Official Liquidator, therefore, cannot press into service the right to protect possession against Calico Limited against the applicant herein.

- Sub-section (1) section 13 of the Rent Act does not employ the expression 'only' and therefore, does not limit eviction under the said Act to the grounds mentioned thereunder. Therefore, sub-section (1) of section 13 cannot be read to mean that eviction under the Rent Act can be only on the grounds stated down therein. While invocation of section 13 of the Rent Act may be restricted to the grounds specifically provided thereunder, it would still be permissible for a landlord to seek eviction of the tenant under section 12 of the Rent Act, if the requirements of sub-section (2) thereof are satisfied.

- Calico Limited falls within the ambit of the expression "tenant" as defined in section 5(11) of the Rent Act.

- Since under the agreement of 1941, Calico Limited was assigned the leasehold rights over the subject property under the lease deed of 1911, which contained a clause permitting transfer of the subject property, the transfer from Calico Limited to Jubilee Mills, is not violative of the provisions of sub-section (1) of section 15 of the Rent Act.

- In the absence of any condition prescribing the purpose for which the premises are to be used or for eviction on the ground of non user, the provisions of clause (k) of section 13 (1) of the Rent Act cannot be invoked.

- No ground for eviction has been made out by the applicant for recovery of possession under any of the grounds envisaged under section 13 of the Bombay Rent Act.

- In this case no notice under sub-section (2) of section 12 of the Rent Act has been issued by the applicant to the Official Liquidator of Jubilee Mills prior to filing either of the two applications. Consequently, in the absence of the requirements of sub-section (2) of section 12 of the Rent Act being satisfied, the applicant is not entitled to seek eviction of the Official Liquidator by taking recourse to the said sub-section.

- In the present case there is no contract to the contrary as envisaged under section (1) of section 15 of the Rent Act. Consequently, in view of the provisions of sub-section (1) of section 15 of the Rent Act, it shall not be lawful for the Official Liquidator to sublet the whole or any part of the premises let to the company in liquidation or to assign or transfer in any manner his interest therein;

- In terms of the notification issued under the proviso to

sub-section (1) of section 15 of the Rent Act, the leasehold premises can be sold as a going concern; whereas in the facts of the present case, the buildings and plant and machinery have been removed from the subject property which is now comprised of vacant lands, therefore, the said notification would have no applicability to the facts of the present case.

- In the absence of a contract to the contrary, subletting of the subject property is barred by sub-section (1) of section 15 of the Rent Act; sub-letting of any premises in violation of section 15(1) of the Rent Act is unlawful under sub-section (1) of section 19 and is an offence punishable with imprisonment and fine under sub-section (2) thereof. Therefore, in any event, the Official Liquidator cannot sublet or transfer the tenancy rights in the subject property for a consideration as a condition of such transfer of the tenancy rights of Jubilee Mills in the subject property.

- Since it is not permissible for the Official Liquidator to sublet or assign the leasehold land, any direction issued by this court empowering the Official Liquidator to transfer the leasehold rights for consideration and comply with the provisions of section 529 of 529A of the Companies Act would be in violation of the provisions of sub-section (1) of section 15 and sub-section (1) of section 19 of the Rent Act, which is also an offence under punishable under sub-section (2) of section 19.

- Since the Official Liquidator neither needs the subject property for efficiently carrying on winding-up proceedings, nor is he in a position to sub-let or transfer the subject property for consideration, as held by the Supreme Court in *Rajendra Ishwardas Sethna v. Official Liquidator* (supra), the only course open to this court is to direct the Official Liquidator to surrender possession of the subject property to the applicant and save recurring liability to pay rent."

2. It appears from the materials on record that the High Court looked into the judgment and order passed by this Court in "*Jabal C. Lashkari and Ors. v. Official Liquidator and Ors.*" reported in (2016) 12 SCC 44 reported. The decision in *Jabal*(supra) also takes care of the other appeals which were

tagged.

3. One of the appeals arising from this litigation was also tagged with the appeal filed by Jabal. In *Jabal(supra)*, this Court issued certain directions and remanded the matter to the High Court. The relevant observations are thus:-

"24. Though we have affirmed the order dated 17-10-2008 of the Gujarat High Court passed in Jabal C. Lashkari v. Official Liquidator and dismissed the civil appeals arising out of SLPs (C) Nos. 29282-84 of 2008 (Jabal C. Lashkari v. Official Liquidator), our decision to affirm the said judgment of the High Court is based on a consideration of the specific clauses in the lease deed between the parties to the case. What would be the effect of the principles of law underlying the present order vis-à-vis the specific clauses of the lease deed between the parties in the other cases is a question that has to be considered by the High Court in each of the cases. That apart, whether the order dated 17-7-2006 passed in State of Gujarat v. Official Liquidator has attained finality in law and forecloses the question raised and further whether constructions have been raised on such land by the State Government for the benefit of the general public, as has been submitted to dissuade us from interfering with the order of the High Court, are questions that would require a full and complete consideration by the High Court on the materials available. To enable the said exercise to be duly performed, we set aside the orders of the High Court impugned in each of the aforesaid civil appeals and remit all the matters to the High Court for a fresh consideration in accordance with the observations and principles of law contained in the present order."

4. In pursuance of the remand, the matter was heard by the High Court and the impugned judgment came to be passed.

5. The High Court recorded a finding that the duration of the lease deed dated 4th August, 1911 although being indefinite, yet was not permanent in nature. The High Court proceeded to record a finding that the agreement of 1983 being an unregistered document, could not have been considered to be valid for a lease exceeding one year and necessarily should be considered to be a lease for a period less than one year as contemplated under the second part of Section 107 of the Transfer of Property Act.

6. The ultimate finding recorded by the High Court is that once the unregistered agreement of 1983 cannot be admitted in evidence, the lease deed of 1911 cannot be looked into as the rights under the lease deed of 1911 are claimed by the Official Liquidator under the agreement of 1983. In such circumstances, the High Court rightly took the view that neither can the agreement of 1983 nor the lease deed of 1911 be read in evidence.

7. To the aforesaid extent, Mr. Dhruv Mehta, the learned senior counsel appearing for the appellant with his usual fairness submitted that the High Court cannot be faulted in recording such finding on the position of law.

8. However, Mr. Mehta has an argument to canvass. His argument is that this Court in *Jabal* (supra) remanded the matter for a very specific purpose and in such circumstances, the High Court could not have gone into the issue whether the agreement dated 26th April, 1983 being an unregistered could be termed as a valid document or not.

9. His argument proceeds further that the 1983 agreement being unregistered cannot be looked into was not argued even in the first round of litigation before the High Court and therefore it is hit by the principle or doctrine of *res judicata* as well as *constructive res judicata*.

10. In the aforesaid context, Mr. Pahwa, the learned senior counsel appearing for the respondent invited our attention to the last paragraph of the decision in *Jabal* (supra). We once again look into the same. This Court observed thus:

"... To enable the said exercise to be duly performed, we set aside the orders of the High Court impugned in each of the aforesaid civil appeals and remit all the matters to the High Court for a fresh consideration in accordance with the observations and principles of law contained in the present order."

11. Having heard the learned counsel appearing for the parties and having gone through the materials on record, we

are of the view that no error not to speak of any error of law could be said to have been committed by the High Court in passing the impugned order.

12. In the result, the appeals fail and are hereby dismissed.

13. Pending application(s), if any, stands disposed of.

CIVIL APPEAL NOS.3622-3623 OF 2025

1. The said appeals are also dismissed in terms of order passed in Civil Appeal Nos. 3620-3621/2025.

2. Pending application(s), if any, stand disposed of.

.....J.
[J.B.PARDIWALA]

.....J.
[R. MAHADEVAN]

New Delhi
24th April, 2025.

cd

ITEM NO.101

COURT NO.13

SECTION III

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 3620-3621/2025

**THE OFFICIAL LIQUIDATOR OF THE AHMEDABAD
JUBILEE MILLS LIMITED (IN LIQUIDATION)**

Appellant(s)

VERSUS

**ANIL KUMAR VAIKUNTHLAL PATEL SINCE DECEASED
THROUGH HIS LEGAL HEIRS & ORS.**

Respondent(s)

[TOP OF THE BOARD]

**IA No. 96116/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT**

IA No. 96117/2020 - EXEMPTION FROM FILING O.T.

WITH

C.A. No. 3622-3623/2025 (III)

FOR

FOR EXEMPTION FROM FILING O.T. ON IA 105945/2020

**FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA
105948/2020**

**IA No. 105948/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT**

IA No. 105945/2020 - EXEMPTION FROM FILING O.T.

Date : 24-04-2025 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA

HON'BLE MR. JUSTICE R. MAHADEVAN

**For Appellant(s) : Mr. Dhruv Mehta, Sr. Adv.
Mr. Aditya Kr. Choudhary, Adv.
Mr. Sandeep Pandey, Adv.
Mr. Aditya Anand Singh, Adv.
Mr. Anurag Yadav, Adv.
Mr. Ankur, Adv.
Mr. Rajesh Singh Chauhan, AOR**

Mr. Prabhat Kumar, AOR
Mr. Pulkit Tare, Adv.
Ms. Anupama Dhruve, Adv.

For Respondent(s) : Mr. Navin Pahwa, Sr. Adv.
Mr. M.I. Hava, Adv.
Mr. Mohit D. Ram, AOR
Ms. Monisha Handa, Adv.
Mr. Rajul Shrivastav, Adv.
Mr. Anubhav Sharma, Adv.
Ms. Nayan Gupta, Adv.

Ms. Anita Kanungo, AOR
Ms. Ekta Choudhary, AOR
Mr. Anand Krishna, Adv.
Mr. Ayush Kumar, Adv.
Ms. Rushali Sikand, Adv.

Mr. Satyendra Kumar, AOR
Dr. Sudhir Bisla, Adv.
Ms. Sumitra, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. The appeals are dismissed in terms of the signed order.
2. Pending application(s), if any, stands disposed of.

CIVIL APPEAL NOS.3622-3623 OF 2025

1. The said appeals are also dismissed in terms of order passed in Civil Appeal Nos. 3620-3621/2025.
2. Pending application(s), if any, stands disposed of.

(CHANDRESH)
ASST.REG-CUM-P.S.

(POOJA SHARMA)
COURT MASTER (NSH)

(Signed order is placed on the file)