

(2015) 08 GUJ CK 0013
In the Gujarat High Court

Case No : Company Application No. 437 of 2009 in Company Petition No. 147 of 2000

Official Liquidator of Piramal Financial Services Ltd.

APPELLANT

Vs

Diljit Builders and Associates P. Ltd. and Others

RESPONDENT

Date of Decision : 31-08-2015

Acts Referred:

Registration Act, 1908 — Section 17, 17(1)(b), 17(2), 17(2)(vi)
Reserve Bank of India Act, 1934 — Section 45
Stamp Act, 1899 — Section 35
Transfer of Property Act, 1882 — Section 100, 58

Citation : (2015) 193 CompCas 482

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

Bench : Single Bench

Advocate : R.M. Desai, for the Appellant; Mihir Thakore Advocate Advocate, Bijal Chhatrapati and A.M. Hava for J. Sagar Associates, for the Respondent

Final Decision : Disposed Off

Judgement

V.M. Pancholi, J.—The applicant, official liquidator, has taken out the judge's summons, in which, the applicant has prayed for the following reliefs:

"(A) The hon"ble court be pleased to direct respondents and each of them and permit and direct liquidator to take possession of Office Nos. 401, 402, 403 and 404, each office admeasuring 875 sq.ft., aggregating to 3,500 sq.ft. on 4th floor of the building known as "Devashish", Sardar Patel Colony, Off C.G. Road, Ahmedabad-380006.

(B) To direct the respondent, and each of them, to pay to the liquidator by way of mesne profit and/or compensation, calculated at the rate of Rs. 30 per sq.ft. per month from March 1, 2000, till quiet, vacant and peaceful possession is handed over to the liquidator.

(C) To permit and direct sale committee constituted by the hon"ble court to sell said property described in prayer clause (A) hereinabove."

Heard the learned advocate Mr. R.M. Desai for the official liquidator, learned senior counsel Mr. Mihir Thakore with the learned advocate Mr. Bijal Chhatrapati for J. Sagar Associates for the respondents.

2. The learned advocate Mr. R.M. Desai for the official liquidator submitted that the Reserve Bank of India preferred Company Petition No. 147 of 2000, wherein, it was prayed that Piramal Financial Services Ltd., be wound up under the provisions of section 45 of the Reserve Bank of India Act, 1934. This court admitted the said petition on October 20, 2000 and appointed the official liquidator attached to this court as the provisional liquidator of the said company. Thereafter, this court passed an order on March 20, 2001, by which, the said company was ordered to be wound up by and under the supervision of this court, and the official liquidator, who was appointed as the provisional liquidator by the earlier order, was appointed as the liquidator of the said company, with a direction to exercise the powers under the provisions of the Companies Act of 1956.

3. The learned advocate Mr. Desai, thereafter, submitted that this court passed an order on July 20, 2001, in Company Application No. 44 of 2000, whereby the official liquidator was directed to take possession of the properties and assets as mentioned in Schedule "A" of the report of the official liquidator dated July 12, 2001, filed by him in Company Application No. 44 of 2001. At this stage, the learned advocate pointed out that several creditors had also filed the winding up petition before this court against the said company. This court passed a common order on October 19, 2005, in Company Petition No. 296 of 1999 and other petitions.

4. The learned advocate Mr. Desai for the applicant, thereafter submitted that one Shri Sanjay Chandrakant Amin, Devland Developers P. Ltd., and Devashish group of companies, managed and represented by Shri Sanjay Amin, approached and requested the company in liquidation for providing financial assistance for their business. The company in liquidation, therefore, provided financial assistance to Shri Sanjay Amin and Devashish group of companies. Said Mr. Amin and Devashish group of companies committed default in repayment of the amount advanced by the company in liquidation. Therefore, the company in liquidation, as plaintiff, filed nine suits in City Civil Court at Ahmedabad for judgment and decree for the amount mentioned in each of the suit. He further submitted that after filing of the suit, the parties to the said suit entered into settlement, by which, a compromise and composite agreement was executed between the company in liquidation of one part, Dev Enterprise, defendant No. 1, Parth Developers, sole proprietary concern of defendant No. 2, Shri Sanjay Amin and three private limited companies, namely, (1) Devland Developers P. Ltd., (2) Devashish Developers P. Ltd., and (3) Devashish Construction P. Ltd., of the other part. On the basis of the said agreement, consent terms were arrived at and filed before the city civil court. The details of the suit, name of the defendant and the amount recoverable are given in paragraph No. 7 of the report.

5. The learned advocate Mr. Desai, therefore, submitted that as per the terms of settlement, decree was passed by the civil court on August 18, 1999, in each of the suits for the amount as agreed upon between the parties. Shri Sanjay Amin and his group of companies agreed to pay interest at the rate of 24 per cent per annum from the date of suit till payment or realisation. Thus, the decree for an aggregate amount of Rs. 6,98,11,497 was passed.

6. At this stage, the learned advocate Mr. Desai would contend that because of the said consent decree passed by the competent court in nine suits, charge was created on the properties as mentioned in paragraphs Nos. 12 and 13 of the consent decree, and permanent injunction was granted. The company in liquidation was entitled to sell the properties given in security for realising the decretal dues. Charge was created in respect of office premises Nos. 401, 402, 403 and 404 in pursuance to the consent decree passed by the concerned court. The learned advocate Mr. Desai, at this stage, has referred to the decree, which is produced at exhibit "B" with the compilation passed in Civil Suit No. 2142 of 1998 by the city civil court.

7. The learned advocate Mr. Desai, thereafter contended that as per the order passed by this court, the liquidator took the possession and custody of the assets of the company in liquidation. The learned advocate submitted that the liquidator deputed a representative to ascertain the status of the office premises, which is given as security to the company in liquidation by way of the compromise decree passed by the City Civil Court at Ahmedabad. The person, who was present in the premises, was not willing to co-operate and furnish the details. However, the office of the official liquidator collected copies of the sale deed dated March, 13, 2000 and the memorandum of understanding dated September 16, 2002. It was revealed that by a sale deed dated March 13, 2000, executed between Devland Developers P. Ltd., as a vendor and Diljit Builders and Associates P. Ltd., i.e., respondent No. 1 of the other part, i.e., the purchaser, it was agreed that an amount of consideration of Rs. 4,50,000 is paid for the office premises bearing No. 401 admeasuring 875 sq.mts. on the 4th floor of the building known as Devashish situated at Sardar Patel Colony, Off. C.G. Road, Ahmedabad. Similarly, different sale deeds were executed between the parties for the office premises Nos. 402, 403 and 404.

8. The learned advocate Mr. Desai appearing for the official liquidator thereafter pointed out that a memorandum of understanding dated September 16, 2002, was executed between Diljit Builders and Associates, i.e., respondents Nos. 1 and 2. Pursuant to the said understanding, possession of the office premises of Flats Nos. 401 to 404 was handed over to the present respondent No. 2. After reading the contents of the said memorandum of understanding, it is submitted by the learned advocate Mr. Desai that it cannot be said that it is a tenancy agreement or a lease agreement entered into between the parties. The possession of the office premises is handed over to respondent No. 2 without any consideration. Thus, the said memorandum of understanding does not create any right in favour

of respondent No. 2 also. In fact, respondent No. 1 was not having any right, title or interest in respect of the aforesaid office premises, which can be conveyed in favour of respondent.

9. Thereafter, the learned advocate Mr. Desai contended that as per the understanding, it was the company in liquidation, which has to convey the said offices. However, the company in liquidation has not executed the documents, and therefore, the same are void ab initio. In fact, Devland Developers have no interest in the office, except right of equity redemption. Thus, as per the contention of the learned advocate, the sale deeds are void.

10. Another contention of the learned advocate Mr. Desai is that as per the provisions contained in sections 531 and 531A of the Companies Act, 1956, transaction entered into within six months or one year, as the case may be, from the date of presentation of the winding up petition, is void against the liquidator. He pointed out that the winding up petition was presented on October 18, 1999 and registered on October 21, 1999. The memorandum of understanding was executed on September 1, 1999. Thus, the transaction being hit by the provisions of sections 531 and 531A of the Companies Act, 1956, sale of the aforesaid offices is void ab initio and invalid. Thereafter, the learned advocate has referred to the provisions contained in section 536 of the Companies Act, 1956, and pointed out that any disposition of the property of the company made after the commencement of winding up proceedings shall, unless the court otherwise orders, be void. Therefore, in view of the said provision, the disposition of the property by the sale deed, which was executed in the year 2000 in favour of respondent No. 1, is void.

11. The learned advocate Mr. Desai thereafter contended that transaction of disposition of the office premises Nos. 401 to 404 in the aforesaid complex is a fraudulent preference in favour of the creditor Maruti Century Finance Ltd. The learned advocate pointed out that several other depositors had approached the Company Law Board for a direction that the company be directed to refund the deposit with interest. Details of the proceedings before the Company Law Board, and the reply of the companies referred in detail as per the submission of the learned advocate, are in the decision rendered in the case of Official Liquidator of Piramal Financial Services Ltd. Vs. Reserve Bank of India, . He, therefore, submitted that the registered document was executed not by the company in liquidation but by a person who had given the said offices by way of a security for payment of the decretal dues, and therefore, it is a fraudulent preference. Thus, the disposition of the office premises by way of the aforesaid sale deed is void, illegal, and therefore, not binding to the official liquidator. The learned advocate Mr. Desai has placed reliance upon the decision rendered by the Madras High Court in the case of Administrator, MCC Finance Ltd. Vs. Ramesh Gandhi, , wherein the Madras High Court held that when two petitions are filed for winding up, the commencement of winding up can commence from the date of earlier petition. It is also held that, even if the application is filed under a particular

section, if the court finds the transaction void qua other section, the respondent cannot claim that the petitioner has not quoted that section in the application. It is pointed out that the Reserve Bank of India filed a petition on May 9, 2000, then also, the transaction is invalid, since it has been entered into within 6 months before the commencement of winding up.

12. The learned advocate has thereafter placed reliance upon the decision rendered by this court in the case of Official Liquidator of Piramal Financial Services Ltd. Vs. Reserve Bank of India, . In the said decision, this court has explained about a fraudulent preference to the effect that discharge of an existing liability or an act on the part of the insolvent which may result in a discharge of one liability over others to give the former a favourable treatment, which under the provisions of law is considered a fraudulent preference. It is well settled that to establish fraudulent preference under section 531 of the Companies Act, 1956, it is enough to show that preference is given to a particular creditor. The learned advocate submitted that the present case is squarely covered by the decision rendered by this court.

13. The learned advocate thereafter placed reliance upon the order dated May 4, 2007, passed by this court in Company Application No. 117 of 2007 wherein this court has held that:

"Now considering the above and the entire transaction and considering the fact that the main company petition for winding up of Piramal Financial Services Ltd., was filed in the year 1998 and the order of winding up was passed by this court on October 21, 2000 and all the alleged transactions referred to in the affidavit-in-reply on behalf of the respondent are after filing of the company petition, all such transactions are nullity and prima facie are against the provisions of the Companies Act, 1956, more particularly, sections 531 and 536."

14. The learned advocate Mr. Desai thereafter referred to and relied upon the order dated January 12, 2009 (O.L. of Piramal Financial Services Ltd. Vs. Decimal Systems Pvt. Ltd.,), passed by this court in Company Application No. 172 of 2008 and Company Application No. 582 of 2008, wherein this court has held that the issue, whether it is a fraudulent preference or not, is decided by this court in the judgment, which is reported in Official Liquidator of Piramal Financial Services Ltd. Vs. Reserve Bank of India, , wherein it has been held that the transaction has taken place on May 7, 1999, i.e., within a period of six months previous to the presentation of the first petition on October 21, 1999 and therefore, in view of section 441(2) of the Companies Act, 1956, the winding up of the company shall be due to commence at the time of presentation of the petition of winding up, and therefore, the said transaction is clearly hit by the provision of section 531 of the Companies Act, and hence, it amounts to a fraudulent transfer. The learned advocate Mr. Desai for the applicant thereafter placed reliance upon the order dated August 6, 2009, passed by this court in Company Application No. 582 of 2008 and allied matters. This court observed in paragraph No. 10 as under:

"10. The contention that the right as per the consent decree which creates charge over the property cannot be termed as the property of the company in liquidation because it was not registered under the Indian Registration Act by documents or by registration of the decree, even if to be examined, it does appear that as per the consent decree the charge is created over the property and the right expressly provided enabling the realisation of the dues of the plaintiff. The said aspect is apparent from clause No. 12C as referred to herein above. Therefore two things are admittedly undertaken; one is creation of charge as per the consent decree and second is the order passed by the court based on such consent decree. It is true that had it been a case where a charge over the property is created without intervention of the court, in absence of any registration, it may not be termed as valid. But, if the declaration made before the court is further endorsed by the court as made enforceable under the consent decree which is otherwise executable as per law, it cannot be said that no interest whatsoever is created of the company in liquidation over the property. Once the interest is created and such interest is enforceable, it can be said that the rights accrued as per the consent decree in the property were assets of the company and such rights were for disposal of the property acquired by the company."

15. The learned advocate Mr. Desai thereafter placed reliance upon a decision rendered by the Kerala High Court in the case of Smt. Jayanthi Bai and Others Vs. Popular Bank Ltd., , wherein Kerala High Court held that not only payment by cash, but even payment by transfer or adjustment in accounts or any other act relating to property may be impugned as fraudulent preference, if the other condition is fulfilled. It was also held that once it is seen that what was achieved was preferring of one creditor over the others with a dominant so to do, provisions of section 531 of the Companies Act are attracted and the transaction is in fact a fraudulent preference. The existence of legal right is not conclusive that what is done was in the exercise of such right, though in normal circumstance, the action would be referable to it.

16. The learned advocate Mr. Desai placed reliance upon the provisions contained in section 35 of the Stamp Act and submitted that stamp duty is not paid on the document on which respondent No. 1 has placed reliance. Therefore, such document is not admissible in evidence. Such type of document would not be admissible for collateral purpose. In support of his contention, the learned advocate has placed reliance upon the decision rendered by the honourable Supreme Court in the case of Avinash Kumar Chauhan Vs. Vijay Krishna Mishra, .

17. The learned advocate Mr. Desai once again submitted that respondent No. 1 has paid the amount to MCFL, creditor of the company in liquidation at the instance of the company in liquidation, therefore, the transaction is void as per the provisions of section 536(2) of the Companies Act, 1956. In fact, there is no agreement between the company in liquidation and respondent No. 1 and the

conveyance deed was executed by a party, who is not authorised to dispose of the property in view of the prohibition order by decree of the competent court, and therefore, the said transaction is void ab initio and even void as per section 536(2) of the Companies Act, 1956.

18. On the other hand, learned senior counsel Mr. Mihir Thakore appearing with the learned advocate Mr. Bijal Chhatrapati for the respondents submitted that this application is misconceived, and the reliefs prayed for in this application may not be granted. The applicant has not challenged the execution of the sale deed between Devland Developers P. Ltd., and respondent No. 1 Diljit Builders. Learned counsel referred to the averments made in Civil Suit No. 2142 of 1998 filed by Piramal Financial Services Ltd., against Devashish Construction P. Ltd., and others, and submitted that Piramal Financial Services P. Ltd., has granted the financial assistance to the original defendant No. 2, and advanced various amounts. M/s. Devland Developers, therefore, issued a letter of guarantee on November 28, 1996 and the guarantor has undertaken that charge would not be created on the premises in question without the consent of the company. Learned senior counsel referred to the undertaking given by the concerned parties to Piramal Financial Services P. Ltd. The said undertaking is produced at page 145 of the compilation. It is the submission of learned counsel that the property in question has not been reflected in the said undertaking. Learned counsel thereafter referred to the consent decree passed by the civil court, which is produced at page 21 of the compilation. Learned senior counsel Mr. Thakore submitted that the contentions of the applicant are not required to be accepted. He has contended that conveyance to office premises in question is not void against the official liquidator under section 531A of the Companies Act, 1956. Learned counsel referred to the provisions contained in section 531A of the said Act, and submitted that it refers to transfer within a period of one year before the presentation of a petition for winding up. The first winding up petition was presented on October 18, 1999, whereas the conveyance deeds for the offices in dispute were executed on March 13, 14, 15 and 16, 2000, which is subsequent to the commencement of winding up. Thus, the said transactions are not void. It is submitted that the transfer was effected by Devland Developers P. Ltd., in good faith. Moreover, no property of the company in liquidation is transferred.

19. The learned advocate Mr. Thakore would contend that the charge on the offices in dispute is not the property of the company in liquidation, and therefore, its disposition by Devland Developers P. Ltd., is not void under section 531(2) of the Companies Act, 1956. Learned counsel has submitted that it is the case of the applicant that it had a charge over the offices in dispute by virtue of the consent decree, and the consent decree entitled the company in liquidation to sell any property or portion thereof, which have been given as a security, and adjust the amount realised from such transactions towards the decretal dues of the company in liquidation. It is the case of the applicant that by virtue of the consent decree a charge was created in favour of the company in liquidation, hence, said property can be sold. However, learned counsel submitted that no

charge was created, and the suit was for recovery. Consent decree was not registered, and charge is not a property right. Learned counsel referred to provision contained in section 100 of the Transfer of Property Act, 1882, which provides as under:

"100. Charges.--Where immoveable property of one person is by act of parties or operation of law made security for the payment of money to another, and the transaction does not amount to a mortgage, the latter person is said to have a charge on the property; and all the provisions hereinbefore contained which apply to a simple mortgage shall, so far as may be, apply to such charge.

Nothing in this section applies to the charge of a trustee on the trust-property for expenses properly incurred in the execution of his trust, and, save as otherwise expressly provided by any law for the time being in force, no charge shall be enforced against any property in the hands of a person to whom such property has been transferred for consideration and without notice of the charge."

20. Learned senior counsel, therefore, submitted that charge is a security for the payment of money not amounting to a mortgage. Section 58 of the Transfer of Property Act defines the term "mortgage" as under:

"58. "Mortgage", "mortgagor", "mortgagee", "mortgage-money" and "mortgage-deed" defined.--(a) A mortgage is the transfer of an interest in specific immoveable property for the purpose of securing the payment of money advanced or to be advanced by way of loan, an existing or future debt, or the performance of an engagement which may give rise to a pecuniary liability.

The transferor is called a mortgagor, the transferee a mortgagee; the principal money and interest of which payment is secured for the time being are called the mortgage-money, and the instrument (if any) by which the transfer is effected is called a mortgage-deed.

(b) Simple mortgage.--Where, without delivering possession of the mortgaged property, the mortgagor binds himself personally to pay the mortgage-money, and agrees, expressly or impliedly, that, in the event of his failing to pay according to his contract, the mortgagee shall have a right to cause the mortgaged property to be sold and the proceeds of sale to be applied, so far as may be necessary, in payment of the mortgage-money, the transaction is called a simple mortgage and the mortgagee a simple mortgagee.

(c) Mortgage by conditional sale.--Where, the mortgagor ostensibly sells the mortgaged property--

on condition that on default of payment of the mortgage-money on a certain date the sale shall become absolute, or

on condition that on such payment being made the sale shall become void, or

on condition that on such payment being made the buyer shall transfer the property to the seller,

the transaction is called mortgage by conditional sale and the mortgagee a mortgagee by conditional sale:

Provided that no such transaction shall be deemed to be a mortgage, unless the condition is embodied in the document which effects or purports to effect the sale.

(d) Usufructuary mortgage.--Where the mortgagor delivers possession or expressly or by implication binds himself to deliver possession of the mortgaged property to the mortgagee, and authorises him to retain such possession until payment of the mortgage-money, and to receive the rents and profits accruing from the property or any part of such rents and profits and to appropriate the same in lieu of interest, or in payment of the mortgage-money, or partly in lieu of interest or partly in payment of the mortgage-money, the transaction is called an usufructuary mortgage and the mortgagee an usufructuary mortgage.

(e) English mortgage.--Where the mortgagor binds himself to repay the mortgage-money on a certain date, and transfers the mortgaged property absolutely to the mortgagee, but subject to a proviso that he will re-transfer it to the mortgagor upon payment of the mortgage-money as agreed, the transaction is called an English mortgage.

(f) Mortgage by deposit of title-deeds.--Where a person in any of the following towns, namely, the towns of Calcutta, Madras, and Bombay, and in any other town which the State Government concerned may, by notification in the Official Gazette, specify in this behalf, delivers to a creditor or his agent documents of title to immoveable property, with intent to create a security thereon, the transaction is called a mortgage by deposit of title-deeds.

(g) Anomalous mortgage.--A mortgage which is not a simple mortgage, a mortgage by conditional sale, an usufructuary mortgage, an English mortgage or a mortgage by deposit of title-deeds within the meaning of this section is called an anomalous mortgage."

21. Thus, after referring to the aforesaid definitions, learned senior counsel submitted that a mortgage creates an interest in the property whereas charge is only a right to sell the property and recover the money and does not create any interest in the property in favour of a company or person in whose favour the charge is created. The material difference between the two is that while right in property such as rights of a mortgagee or a buyer is a right in rem available against the whole world at large, whereas mere charge created as in the present facts of the case, cannot be said to be a property of the company in liquidation.

22. In support of the aforesaid contention, learned senior counsel Mr. Thakore has placed reliance upon the decision rendered by the honourable Supreme Court in the case of J.K. (Bombay) P. Ltd. Vs. New Kaiser-I-Hind Spg. and Wvg. Co. Ltd. and Others, , wherein the honourable Supreme Court has observed in paragraph No. 33 as under (page 708 of 40 Comp Cas):

"But it was urged that assuming that a winding up order in these circumstances could be passed it had to be subject to the rights and obligations of the parties. The contention was that irrespective of the second mortgage which the company had to execute, Schedule "B" creditors had already become entitled to a charge on the company's assets. It was argued that where an agreement specifies a property out of which a debt is to be payable and is coupled with an intention to subject such property to a charge, the property becomes subject to a charge in praesenti even though a regular mortgage is to be executed at some future date. Such an intention, the learned Attorney-General argued, was demonstrated by the agreement that (1) the debts were to be paid out of profits and (2) the engagement by the company not to deal with its assets. The distinction between a charge and a mortgage is clear. While in the case of a charge there is no transfer of property or any interest therein, but only the creation of a right of payment out of the specified property, a mortgage effectuates transfer of property or an interest therein. No particular form of words is necessary to create a charge and all that is necessary is that there must be a clear intention to make a property security for payment of money in praesenti. In *Jewan Lal Daga v. Nilmani Chaudhuri*, , AIR 1928 PC 80 , a case relied on by him, the question was one relating to an agreement to mortgage. Following on the agreement, a draft mortgage was prepared which was approved by the respondent's, solicitors, the mortgage deed was engrossed and even the stamp for it was paid by the respondent. The question was whether specific performance of the agreement compelling the respondent to execute the mortgage could be granted before accounts between the parties were made up and the amount due thereunder was ascertained. The Privy Council disagreeing with the High Court held that that could be done and observed that "there was a valid agreement charging the property with whatever sum was actually due...and that a proper mortgage ought to be executed to carry out these terms". In *Khajeh Suleman Quadir v. Salimullah*, AIR 1922 PC 107, certain deeds were executed purporting to make wakfs of certain properties in favour of the members of a Mahomedan family and then for charitable purposes. Later on, agreements were executed, under one of which the members of the family agreed that allowances fixed under the wakfs should be paid out of the income to named persons of the family and upon their death to their heirs, and under the other agreement the mutawalli agreed that he and the future mutawallis would pay the said allowances. The wakfs were held invalid as creating a perpetual succession of estates. The question was whether the agreements to pay allowances also fell along with them. The Privy Council held that they did not, that they were valid and enforceable and that the direction in the agreements to pay the allowances out of the income of the settled properties showed an intention to create a charge. In both these decisions the Board came to the conclusion that there was a clear intention on the part of the parties to create a charge in praesenti. The argument of the learned Attorney-General was that if an agreement indicated a property out of which a debt is to be paid and an intention to subject it to a charge in praesenti, the court must find the charge. Certain

other decisions were also brought to our notice but it is not necessary to burden this judgment with them because in each case the question which the court would have to decide would be whether the agreement in question creates a charge in praesenti."

23. Learned senior counsel Mr. Thakore would contend that there is no transfer of property or interest in the property in case of a charge, therefore, the consent decree dated October 16/18, 1998, does not make the offices in question the property or asset of the company in liquidation. In support of the said contention, learned senior counsel has placed reliance upon the decision rendered by the honourable Supreme Court in the case of the Dattatreya Shanker Mote and Others Vs. Anand Chintaman Datar and Others, . The honourable Supreme Court has held in paragraph No. 14 as under (page 810):

"A charge on the other hand under section 100 of the Act is neither a sale nor a mortgage because it creates no interest in or over a specific immovable property but is only a security for the payment of money."

24. Learned senior counsel Mr. Thakore has referred to and relied upon the provision of sections 17(1)(b) and 17(2)(vi) of the Registration Act, which provides as under:

"17. Documents of which registration is compulsory.--(1) The following documents shall be registered, if the property to which they relate is situate in a district in which, and if they have been executed on or after the date on which, Act No. XVI of 1864, or the Indian Registration Act, 1866 (20 of 1866), or the Indian Registration Act, 1871 (8 of 1871), or the Indian Registration Act, 1877 (3 of 1877), or this Act came or comes into force, namely:--...

(b) other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees, and upwards, to or in immovable property;...

(2) Nothing in clauses (b) and (c) of sub-section (1) applies to--...

(vi) any decree or order of a court except a decree or order expressed to be made on a compromise and comprising immovable property other than that which is the subject-matter of the suit or proceeding."

25. At this stage, learned senior counsel Mr. Thakore has placed reliance upon the decision rendered by the honourable Supreme Court of India in the case of Bhoop Singh Vs. Ram Singh Major and others, . The honourable Supreme Court observed and held in paragraphs Nos. 16 to 19 as under (page 200):

"16. We have to view the reach of clause (vi), which is an exception to sub-section (1), bearing all the aforesaid in mind. We would think that the exception engrafted is meant to cover that decree or order of a court, including a decree or order expressed to be made on a compromise, which declares the pre-existing

right and does not by itself create new right, title or interest in praesenti in immovable property of the value of Rs. 100 or upwards. Any other view would find the mischief of avoidance of registration, which requires payment of stamp duty, embedded in the decree or order.

17. It would, therefore, be the duty of the court to examine in each case whether the parties have pre-existing right to the immovable property, or whether under the order or decree of the court one party having right, title or interest therein agreed or suffered to extinguish the same and created right, title or interest in praesenti in immovable property of the value of Rs. 100 or upwards in favour of other party for the first time, either by compromise or presented consent. If latter be the position, the document is compulsorily registrable.

18. The legal position qua clause (vi) of section 17(2) can, on the basis of the aforesaid discussion, be summarised as below:

(1) Compromise decree if bona fide, in the sense that the compromise is not a device to obviate payment of stamp duty and frustrate the law relating to registration, would not require registration. In a converse situation, it would require registration.

(2) If the compromise decree were to create for the first time right, title or interest in immovable property of the value of Rs. 100 or upwards in favour of any party to the suit, the decree or order would require registration.

(3) If the decree were not to attract any of the clauses of sub-section (1) of section 17, as was the position in the aforesaid Privy Council and this court's cases, it is apparent that the decree would not require registration.

(4) If the decree were not to embody the terms of compromise, as was the position in Lahore case, benefit from the terms of compromise cannot be derived, even if a suit were to be disposed of because of the compromise in question.

(5) If the property dealt with by the decree be not the "subject matter of the suit or proceeding", clause (vi) of sub-section (2) would not operate, because of the amendment of this clause by Act 21 of 1929, which has its origin in the aforesaid decision of the Privy Council, according to which the original clause would have been attracted, even if it were to encompass property not litigated.

19. Now, let us see whether on the strength of the decree passed in Suit No. 215 of 1973, the petitioner could sustain his case as put up in his written statement in the present suit, despite the decree not having been registered. According to us, it cannot for two reasons: (1) The decree having purported to create right or title in the plaintiff for the first time that is not being a declaration of pre-existing right, did require registration. It may also be pointed out that the first suit cannot really be said to have been decreed on the basis of compromise, as the suit was decreed "in view of the written statement filed by the defendant admitting the claim of the plaintiff to be correct". Decreeing of suit in such a situation is covered by Order 12, rule 6, and not by Order 23, rule 3, which deals

with compromise of suit, whereas the former is on the subject of judgment on admissions. (2) A perusal of the impugned judgment shows that the first appellate court held the decree in question as "collusive" as it was with a view to defeat the right of others who had bona fide claim over the property of Ganpat. The learned judge of the High Court also took the same view."

26. Thus, learned senior counsel Mr. Thakore submitted that the decree of compromise was not registered as per the provisions of the aforesaid Act, and therefore also, the applicant official liquidator has no right to claim property right in the offices in question.

27. At this stage, learned senior counsel submitted that this court in the order dated August 6, 2009, passed in Company Application No. 582 of 2008 and allied matters relied upon by the learned advocate for the applicant is not applicable to the facts of the present case because this court has not made any reference to section 17 of the Registration Act or decision rendered by the honourable Supreme Court in Bhoop Singh Vs. Ram Singh Major and others, .

28. Learned senior counsel Mr. Thakore would thereafter contend that the transaction of sale by Devland Developers P. Ltd., in favour of respondent though entered into subsequent to commencement of winding up of the company in liquidation would not be covered under the provisions of section 536(2) of the Companies Act, 1956. After referring to the said provision, learned counsel submitted that this provision is applicable if there is any disposition of the property of the company in liquidation. In the present case, a charge simplicitor is created over the properties, thereby right was given to the company in liquidation to sell the property and recover its decretal dues. However, the same is not the property of the company in liquidation. Therefore, the said transaction is not void, and therefore, it does not require validation from this court under the provisions of section 536(2) of the Companies Act, 1956.

29. Learned senior counsel Mr. Thakore would thereafter submit that respondent No. 1 is a bona fide purchaser, who was brought in the transaction so as to enable the company in liquidation to discharge the debts due to Maruti Century Finance Ltd. (MCFL). It is submitted that the applicant official liquidator has wrongly placed reliance upon the letter of undertaking dated December 2, 1996, given by Devland Developers P. Ltd., wherein the offices in question have been charged as a collateral security and it has been stated that the market value of the said offices, including furniture and fixtures, aggregating to Rs. 200 lakhs. It is submitted by learned senior counsel that the value stated in the document is not on the basis of market value of the said property. He pointed out that respondent No. 1 has paid total consideration of Rs. 43,05,535 which was the best rate that could have been fetched towards the said offices. He contended that respondent No. 1 had paid the amount to the creditor of the company in liquidation, i.e., MCFL, on behalf of the company in liquidation.

30. Learned senior counsel Mr. Thakore thereafter referred to and relied upon the

decision rendered by Maneckchowk and Ahmedabad Manufacturing Co. Ltd., In Re: Maneckchowk and Ahmedabad Manufacturing Co. Ltd., , wherein it has been held that if the transfer has been made under compulsion, i.e., not because of free volition, it cannot be termed as fraudulent preference. Learned counsel therefore submitted that in the present case it was done in pursuance of criminal proceedings filed by MCFL against the company in liquidation. Therefore, under compulsion the company in liquidation agreed to transfer the offices in question through Devland Developers P. Ltd., in favour of respondent No. 1, and therefore, it cannot be termed as fraudulent preference as alleged by the applicant.

31. Learned senior counsel Mr. Thakore thereafter placed reliance upon the decision rendered by Punjab High Court in the case of Estates Development Ltd., In re reported in [1957] 27 Comp Cas 581 (Punjab). The Punjab High Court has observed as under (page 588):

""Fraudulent preference" imports and involves freedom of choice, and a transfer, which is not voluntary in the sense that it is not a free act of insolvent, cannot be deemed to be fraudulent and void against the liquidator. The bankruptcy or insolvency of a party does not by itself put an end to the contract or render the party incapable of performing its part of the contract. A contract for sale entered into by a company before presentation of the winding up petition continues to be valid and enforceable. The company, before it is ordered to be wound up, and the company's representatives, after it is wound up, would be well within their right to complete the contract."

32. Learned senior counsel Mr. Thakore would alternatively contend that if this court comes to the conclusion that the offices in question are property of the company in liquidation or the transaction is void under the provisions of the Companies Act, 1956, respondent No. 1 being the bona fide purchaser, action should be taken against the creditor, namely, MCFL, which has been given the alleged preference. Learned senior counsel has relied upon the decision reported in Smt. Jayanthi Bai and Others Vs. Popular Bank Ltd., , wherein it has been held that even if it is found that a fraudulent preference has been given under section 531 of the Companies Act, 1956, court can direct a reversal of entries.

33. It is the contention of learned senior counsel Mr. Thakore that if any preferential payments have been made by the company in liquidation, as alleged, the same should be called for by impleading MCFL as a party in the present proceedings. Thus, when the sale effected by Devland Developers P. Ltd., in favour of respondent No. 1 is for adequate consideration, it would be inequitable to seek possession of the offices in question from the respondents. Instead of that, after joining MCFL, as a party in this proceeding, it can be directed to refund the money with interest to the applicant official liquidator.

34. Learned senior counsel Mr. Thakore thereafter referred to page Nos. 264 and 281 of the compilation and pointed out that while executing the sale deed and while registering the same, proper stamp duty has been paid, and therefore, the

submission canvassed on behalf of the learned advocate for the applicant is misconceived.

35. Learned senior counsel Mr. Thakore has placed reliance upon the decision rendered by the Supreme Court of India in the case of Thomson Press (India) Ltd. Vs. Nanak Builders and Investors P. Ltd. and Others, , wherein it is observed in paragraphs Nos. 51 and 52 as under (page 2405):

"51. We may finally refer to the decision of this court in Jayaram Mudaliar Vs. Ayyaswami and Others, in which were extracted with approval observations made on the doctrine of *lis pendens* in Commentaries of Laws of Scotland, by Bell". This court said:

"43....Bell, in his commentaries on the Laws of Scotland said that it was grounded on the maxim: "*Pendente lite nihil innovando*". He observed:

It is a general rule which seems to have been recognised in all regular systems of jurisprudence, that during the pendency of an action, of which the object is to vest the property or obtain the possession of real estate, a purchaser shall be held to take that estate as it stands in the person of the seller, and to be bound by the claims which shall ultimately be pronounced."

52. There is, therefore, little room for any doubt that the transfer of the suit property *pendente lite* is not void *ab initio* and that the purchaser of any such property takes the bargain subject to the rights of the plaintiff in the pending suit. Although the above decisions do not deal with a fact situation where the sale deed is executed in breach of an injunction issued by a competent court, we do not see any reason why the breach of any such injunction should render the transfer whether by way of an absolute sale or otherwise ineffective. The party committing the breach may doubtless incur the liability to be punished for the breach committed by it but the sale by itself may remain valid as between the parties to the transaction subject only to any directions which the competent court may issue in the suit against the vendor."

36. The learned advocate Mr. R.M. Desai for the applicant in rejoinder has submitted that by way of a decree Devland Developers P. Ltd., was prohibited to execute the conveyance. However, in spite of such prohibition order, Devland Developers P. Ltd., has executed the conveyance deed in favour of respondent No. 2, and therefore, the said transaction is void *ab initio*. He submitted that respondent No. 1 paid an amount of Rs. 20 lakhs to MCFL. However, no memorandum of understanding between the parties is on the record. The civil suit was filed on January 27, 2000. Before that Reserve Bank of India and others have filed the winding up petition in October 1999 before this court. Sale deed is executed between Devland Developers P. Ltd., and respondent No. 1 on March 13, 2000, to March 16, 2000, for four different offices in question. Thus, as per the orders passed by this court in Company Applications Nos. 172 of 2002 and 582 of 2002, the said conveyance deed are void *ab initio*, and therefore, the possession of respondent No. 1 and thereafter respondent No. 2 with regard to

four offices in question is illegal possession.

37. I have considered the rival submissions advanced on behalf of the learned advocates for the parties. I have also gone through the documents produced on record and the decisions cited and relied upon by the learned advocates for the parties. From the record following broad facts have emerged:

(i) Piramal Financial Services (company in liquidation) was a non-banking finance company. Devashish group of companies requested for financial assistance from the company in liquidation. Therefore, various financial assistance was given by the company in liquidation to the said group of companies. When Mr. Sanjay Amin, director of Devland Developers P. Ltd., executed a letter of guarantee, he also executed an undertaking dated March 26, 1997, in favour of the company in liquidation. However, Devashish group of companies failed to make payment to the company in liquidation on the due dates. Therefore, the company in liquidation filed Civil Suit No. 2142 of 1998 before the learned City Civil Court at Ahmedabad on April 28, 1998, for recovery of the outstanding dues against Devashish and Devland Developers P. Ltd., and also asked for injunction on the property given in security to the company in liquidation.

(ii) The dispute was settled between the parties. Therefore, consent terms have been executed between them. As per the said consent terms, it was agreed that the court may execute a decree for a sum of Rs. 68,65,775 in favour of company in liquidation and against the defendants of the suit. The learned City Civil Court, Ahmedabad therefore passed a decree in view of the consent terms on August 18, 1999.

(iii) In the meantime in October 1998, company in liquidation availed of financial assistance from MCFL. The company in liquidation executed a promissory note in favour of MCFL for an amount of Rs. 50 lakhs and assurance was given to pay as per the terms of the loan agreement. The company in liquidation failed to make payment on due date. MCFL therefore filed a Criminal Case No. 2307 of 1999 against the company in liquidation and others on May 25, 1999.

(iv) The company in liquidation approached respondent No. 1 and offered the office premises in question along with furniture and fixtures for a consideration of Rs. 40 lakhs. It was agreed that company in liquidation will convey the offices in question in favour of respondent No. 1 and in turn respondent No. 1 shall pay the outstanding dues of MCFL and shall discharge the obligation of the company in liquidation towards MCFL.

(v) Respondent No. 1 made part payment of Rs. 20 lakhs to MCFL and also agreed to pay balance amount of Rs. 20 lakhs in October 1999.

(vi) The management of company in liquidation refused to execute the conveyance deed for the offices in question in favour of respondent No. 1 because MCFL has failed in discharging its obligation, respondent No. 1 informed MCFL calling upon it to refund the amount already paid along with interest and

also to return the cheques given towards future payment of consideration. No response was given by the MCFL.

(vii) Respondent No. 1 therefore filed Civil Suit No. 532 of 2002 before learned city civil court against the company in liquidation and MCFL for specific performance of agreement and other reliefs. The dispute was amicably settled between the parties. Respondent No. 1 made payment of balance amount of Rs. 20 lakhs to MCFL. Therefore, four separate sale deeds were executed by Devland in favour of respondent No. 1 for the office premises in question. Respondent No. 1 has therefore withdrawn the said suit.

38. Thus, in view of the aforesaid factual matrix of the present case, following questions arise for consideration of this court:

(1) Whether the sale deed executed by Devland in favour of respondent No. 1 is void in view of provisions of section 536(2) of the Companies Act, 1956?

(2) Whether the transaction of disposing of the office premises in question can be said to be fraudulent preference in favour of creditor MCFL or not?

39. Thus, in view of the factual matrix of the present case, the issues involved in the present matter are required to be considered. For deciding the issues involved in the petition, certain provisions of the Companies Act of 1956 are required to be referred.

40. Section 531 of the Companies Act provides as under:

"531. Fraudulent preference.--(1) Any transfer of property, movable or immovable, delivery of goods, payment, execution or other act relating to property made, taken or done by or against a company within six months before the commencement of its winding up which, had it been made, taken or done by or against an individual within three months before the presentation of an insolvency petition on which he is adjudged insolvent, would be deemed in his insolvency a fraudulent preference, shall in the event of the company being wound up, be deemed a fraudulent preference of its creditors and be invalid accordingly:

Provided that, in relation to things made, taken or done before the commencement of this Act, this sub-section shall have effect with the substitution, for the references to six months, of a reference to three months.

(2) For the purposes of sub-section (1), the presentation of a petition for winding up in the case of a winding up by the Tribunal, and the passing of a resolution for winding up in the case of a voluntary winding up, shall be deemed to correspond to the act of insolvency in the case of an individual."

41. Section 531A of the Companies Act provides as under:

"531A. Avoidance of voluntary transfer.--Any transfer of property movable or immovable, or any delivery of goods, made by a company, not being a transfer

or delivery made in the ordinary course of its business or in favour of a purchaser or encumbrancer in good faith and for valuable consideration, if made within a period of one year before the presentation of a petition for winding up by the Tribunal or the passing of a resolution for voluntary winding up of the company, shall be void against the liquidator."

42. Section 536 of the Companies Act provides as under:

"536. Avoidance of transfers, etc., after commencement of winding up.--(1) In the case of a voluntary winding up, any transfer of shares in the company, not being a transfer made to or with the sanction of the liquidator and any alteration in the status of the members of the company made after the commencement of the winding up, shall be void.

(2) In the case of a winding up by the Tribunal, any disposition of the property (including actionable claims) of the company, and any transfer of shares in the company or alteration in the status of its members, made after the commencement of the winding up, shall unless the Tribunal otherwise orders, be void."

43. In the present case, as observed hereinabove, Devashish group of companies had taken financial assistance from the company in liquidation. The outstanding amount was not paid by Devashish group of companies and, therefore, the company in liquidation filed Civil Suit No. 2142 of 1998 before the learned City Civil Court at Ahmedabad on April 28, 1998, for recovery of outstanding amount. The dispute between the parties was settled and, therefore, consent terms have been executed between them. The consent decree was passed in view of the consent terms by the concerned civil court on August 18, 1999. By way of the said decree, even permanent injunction was granted against Devashish and Devland group of companies. By way of the said decree, the company in liquidation was entitled to sell the properties given in security by Devashish and Devland group of companies for realising the decretal dues. It is also clear that the charge was created in respect of office premises numbers 401, 402, 403 and 404 in pursuance to the consent decree passed by the concerned civil court.

44. In October, 1998, the company in liquidation availed of financial assistance from MCFL and executed a promissory note in favour of MCFL for an amount of Rs. 50 lakhs. Assurance was also given to pay as per the terms of the loan agreement. However, the company in liquidation failed to make payment on due date. In the meantime, winding up petition being Company Petition No. 147 of 2000 was filed by RBI against the company in liquidation. This court admitted the petition in October, 2000 and thereafter passed an order of winding up on March 20, 2001. Before that, Company Petition No. 296 of 1999 was also filed by one of the creditors. Thus, the winding up proceedings commenced in the year 1999 against the company in liquidation. Thus, though the winding up proceedings was commenced in the year 1999, the company in liquidation approached respondent No. 1 and offered the office premises in question along with furniture and

fixtures for a consideration of Rs. 40 lakhs. It was agreed that the company in liquidation will convey the office in question in favour of respondent No. 1 and in turn respondent No. 1 shall pay the outstanding dues of MCFL and shall discharge the obligation of company in liquidation towards MCFL. Ultimately, the sale deeds were executed by Devland Developers P. Ltd., and respondent No. 1 on March 13, 2000 to March 16, 2000, for four different offices. Thus, as per the provision contained in section 536(2) of the Companies Act of 1956, any disposition of the property of the company made after the commencement of the winding up shall be void unless the court otherwise orders.

45. The contention of learned senior counsel Mr. Thakore appearing for the respondents that the right as per the consent decree which creates charge over the property cannot be termed as the property of the company in liquidation because it was not registered under the Indian Registration Act by registration of the decree is not required to be accepted in view of the order dated August 6, 2009, passed by this court in Company Application No. 582 of 2008 and allied matters. This court observed that "two things are admittedly undertaken; one is creation of charge as per the consent decree and second is the order passed by the court based on such consent decree. It is true that had it been a case where a charge over the property is created without intervention of the court, in absence of any registration, it may not be termed as valid. But, if the declaration made before the court is further endorsed by the court as made enforceable under the consent decree which is otherwise executable as per law, it cannot be said that no interest whatsoever is created of the company in liquidation over the property. Once the interest is created and such interest is enforceable, it can be said that the rights accrued as per the consent decree in the property were assets of the company and such rights were for disposal of the property acquired by the company".

46. Thus, the aforesaid observation made by this court is applicable to the facts of the present case. Learned counsel for the respondent has not pointed out that the aforesaid order passed by this court was challenged before the hon''ble Division Bench and the said decision is reversed by the hon''ble Division Bench in appeal.

47. Thus, in view of the aforesaid decision, the contention taken by learned senior counsel for the respondents that the decree of compromise was not registered as per the provisions of the Registration Act and, therefore, the official liquidator has no right to claim property right in the office in question is required to be discarded. Hence, the decision relied upon by learned counsel for the respondents in support of the said contentions are not applicable to the facts of the present case.

48. Another issue which is required to be considered by this court is whether the transaction entered into between respondent No. 1 and MCFL at the instance of the directors of the company in liquidation can be termed as fraudulent preference in favour of creditor MCFL or not. I have already referred to the

provisions contained in sections 531 and 531A of the Companies Act of 1956. For considering this issue, certain decisions rendered by the various High Courts are required to be seen. In the case of Smt. Jayanthi Bai and Others Vs. Popular Bank Ltd., , wherein the Kerala High Court has held that not only payment by cash, even payment by transfer or adjustment of any accounts or any other act relevant to property may be accounted as fraudulent preference if the other condition is fulfilled. The said High Court further held that once it is seen that what was achieved was preferring of one creditor over the others with a dominant intent so to do, the provisions of section 531 of the Companies Act are attracted and transaction is in fact fraudulent preference.

49. In the present case, as observed hereinabove, winding up proceedings were commenced against the company in liquidation in the year 1999. The respondent-company was aware about the initiation of such proceedings. This court admitted one of the winding up petitions in October, 2000. However, in the meantime, with a view to frustrate the claim of the other creditors, the company in liquidation informed respondent No. 1 to settle the claim of MCFL and in turn, it was agreed by the directors of the company in liquidation that Devland Developers P. Ltd., will execute the sale deed of four different offices in question in favour of respondent No. 1 on behalf of the company in liquidation. Thus, in the facts of the present case, it can be said that transaction of disposing off the office premises is a fraudulent preference in favour of creditor MCFL. This transaction cannot be termed as bona fide transaction. The company in liquidation has not executed any sale deed in favour of respondent No. 1 but at the request of company in liquidation, Devland Developers P. Ltd., has executed sale deed. It is further surprising that respondent No. 1 has executed only memorandum of understanding and handed over the possession of offices in question to respondent No. 2, that too, without any consideration. Therefore, this court is of the opinion that the memorandum of understanding dated September 16, 2002, entered into between respondents Nos. 1 and 2 does not create any right in favour of respondent No. 2. This court is also of the opinion that respondent No. 1 was not having any right, title or interest in respect of the office premises in question which can be conveyed in favour of respondent No. 2. As per the understanding between the concerned parties, it was the company in liquidation which was required to be conveyed the office in question. However, the company in liquidation has not executed any conveyance deed in favour of respondent No. 1. Thus, in the opinion of this court, the said transaction is void ab initio. Devland Developers P. Ltd., has no interest in the office except right of equity redemption.

50. As per the provision of sections 531 and 531A of the Companies Act of 1956, the transaction entered into within six months or one year, as the case may be, from the date of presentation of winding up petition is void against the liquidator. As observed hereinabove, winding up petition was presented on October 18, 1999 and in the meantime the memorandum of understanding was executed between the concerned parties on September 1, 1999. Thus, the transaction entered into between the concerned parties is void ab initio and invalid.

51. Thus, in view of the aforesaid discussion, the decisions relied upon by learned senior counsel Mr. Thakore appearing for the respondents are not applicable to the facts of the present case.

52. The decision relied upon by learned senior counsel Mr. Thakore in the case of Thomson Press (India) Ltd. Vs. Nanak Builders and Investors P. Ltd. and Others, , is not applicable to the facts of the present case as, in the said case, the suit was pending before the concerned court and in the meantime, the property in question was disposed off in violation of the injunction granted by the concerned civil court prohibiting the transfer. Thus, the hon"ble Supreme Court held that such transfer cannot be said to be void and the transfer of the suit property pendente lite is not void ab initio. It was held by the hon"ble Supreme Court that party committing a breach may incur the liability to be punished for the breach committed by it but the sale by itself may remain valid between the parties to the transactions subject only to any directions which the competent court may issue in the suit against the vendor. Thus, this decision is not applicable to the facts of the present case. Therefore, reliance placed on the said decision is misconceived.

53. Thus, in view of the aforesaid discussion, this court is of the opinion that transaction of the sale of the office premises in question between Devland Developers P. Ltd., at the behest of the company in liquidation in favour of respondent No. 1 is void ab initio and when respondent No. 1 has made the payment of MCFL (one of the creditors of the company in liquidation), at the request of the company in liquidation can be said to be fraudulent preference within the meaning of sections 531 and 531A of the Companies Act of 1956. Thus, when the transaction itself is void ab initio, the present application is required to be partly allowed. Accordingly, it is allowed. The official liquidator is hereby permitted to take possession of the office Nos. 401, 402, 403 and 404 situated at 4th Floor of "Devashish" Building, Sardar Patel Colony, Off C.G. Road, Ahmedabad from the respondents within a period of eight weeks. The respondents are hereby directed to pay by way of mesne profit at Rs. 5 sq.feet per month to the official liquidator for the use of the office premises in question from March, 2000 till the vacant and peaceful possession is handed over to the liquidator. The official liquidator is also permitted to constitute the sale committee for the sale of the aforesaid office premises.

54. With this direction and observation, this application is disposed of. After the judgment is pronounced, learned advocate Mr. Bijal Chhatrapati appearing for the respondents requested that this judgment be stayed for a period of 30 days. The request is accepted. This judgment is stayed for a period of thirty days.