

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.8437-8438/2013

ASSEST RECONSTRUCTION COMPANY (INDIA) LTD

Appellant(s)

VERSUS

THE STATE OF GUJARAT & ORS.

Respondent(s)

WITH

CIVIL APPEAL NO.8439/2013 (III-B)

CIVIL APPEAL NOS.8435-8436/2013

O R D E R

1. We have heard the learned Senior counsel appearing for the appellant(s) and the learned ASG appearing for the respondent(s).

2. The disputed property originally belonged to Indequip Engineering Company, the appellant in Civil Appeal No. 8439 of 2013 (hereinafter referred to as, "the Company"). Upon the coming into force of the Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter referred to as, "the Act"), the Company filed a statement under Section 6 of the Act declaring its landholding.

3. During the pendency of the proceedings, the Company obtained permission to mortgage the land in favour of the Bank of India, pursuant to which the land was mortgaged. The Bank subsequently instituted a suit for recovery of its dues amounting to ₹11.50 crores. Thereafter, the

Competent Authority passed an order under Section 8(4) of the Act declaring 47,374 square metres of land as excess vacant land. The appeals preferred by the Company and the Bank under Section 33 of the Act were dismissed by the Urban Land Tribunal (hereinafter referred to as, "Tribunal").

4. Subsequently, a notification under Section 10(3) was issued, followed by a notice under Section 10(5) for taking possession of the excess vacant land. As possession was not voluntarily surrendered, the authorities claim to have taken possession by drawing a panchanama.

5. Aggrieved by the Tribunal's order, the Company filed a Special Civil Application before the High Court, wherein an order directing the parties to maintain status quo was passed. During the pendency of the proceedings, the Receiver appointed in the Bank's recovery suit was impleaded as petitioner No.2 in the Special Civil Application.

6. The Special Civil Application was ultimately dismissed by the Learned Single Judge. Challenging the said judgment, the Receiver and the Bank filed intra-court appeals. During the pendency of the appeals, the Bank assigned its rights in favour of Asset Reconstruction Company, the appellant in the main Civil Appeal (hereinafter referred to as, "the main

appellant"). The main appellant was accordingly impleaded as a respondent in the appeal.

7. The intra-court appeals were subsequently dismissed by the Division Bench. Aggrieved thereby, the main appellant, the Company and Mangalkrupa Cooperative Housing Society, the highest bidder in the auction conducted by the Bank, are before us in Civil Appeal Nos. 8437-38/2013, 8439/2013 and 8435-8436/2013, respectively.

8. The learned Senior Counsel appearing for the appellant(s) raised the following submissions:

a) The possession of the land in question has not been taken. The respondent has failed to prove the factum of taking possession, as mandated under law. There has been no due compliance with Section 10(6) of the Act. The materials on record, including the proceedings before the Civil Court, indicates that the possession continued to remain with the Court Receiver.

b) The Panchnama also does not indicate the factum of taking possession. In support of his contention, learned Senior counsel relied upon the following judgments:

(i) *Dalsukhbhai Bachhubhai v. State of Gujarat* - 2026 SCC OnLine 25;

(ii) *AP Electrical Equipment Corp. v. Tehsildar* - 2025 SCC OnLine 447;

(iii) *Gajanan Kamlya Patil v. Addl. Collector & Competent Authority* - (2014) 12 SCC 523;

(iv) *State U.P. v. Hari Ram* (2013) 4 SCC 280;

(v) *Avanti Organisation, Rajkot v. Additional Collector & Competent Authority, Urban Land Ceiling, Rajkot* - 1988 SCC OnLine Guj 107;

(vi) *Katya Co-Operative Building Society Limited & Ors. v. The Government of Andhra Pradesh* - AIR 1985 AP 242.

9. Learned counsel appearing for the respondent(s) on the other hand would submit that the appeals are not maintainable on two grounds. Firstly, the main appellant before us can, at best, claim the status of a mortgagee, being an assignee of the Bank, who was the mortgagee. The fact that permission had earlier been granted by the authorities to create the mortgage does not enure to the benefit of the main appellant. Secondly, the legal possession of the excess vacant land was duly taken. The record pertaining to the building situated on the disputed land was prepared subsequently and was illegal. In any event, that would not render the Panchnama invalid, as under the Act, only possession of the excess vacant land is required to be taken. It was further submitted that there is no requirement to issue a separate notice under Section 10(6) of the Act, as the notice issued under Section 10(5) of the Act itself clearly indicates the consequence of failure to surrender the possession of the land to the Government or any person authorised by the Government.

10. The learned Counsel appearing for the Respondent also submitted that the earlier proceedings under Section

33 of the Act would operate as *res judicata* against the Bank, the predecessor-in-interest of the main appellant, since it did not prefer any appeal against the order passed by the Tribunal. It was, therefore, contended that no interference is warranted, particularly when both the Courts have concurrently held against the appellant(s). It was further submitted that the main appellant had not independently challenged the Tribunal's order and was impleaded only as a respondent in the Special Civil Application filed by the Company, the erstwhile land owner, which itself chose not to file any intra-Court appeal before the High Court.

11. On perusal of the records and the statutory provisions, we are not inclined to hold that section 10(6) of the Act, *per se*, mandates the issuance of a separate notice. We have also perused the notice under Section 10(5) of the Act, which is a comprehensive notice. This notice clearly stipulates the requirement of handing over possession and the consequences that would follow in the event of failure to surrender possession. The finding on record is that the said notice was duly served. As stated Section 10(6) of the Act only facilitates the Urban Land Ceiling Authority to take possession in the event of non-compliance with the notice issued under Section 10(5) of the Act. It does not mandate the issuance of a fresh notice before action is taken under Section 10(6) of the Act. In other words, the

statutory scheme primarily contemplates the taking over of possession of the excess vacant land, which, according to the record, has been done in the present case.

12. There is no difficulty in holding that it is for the authorities to satisfy the Court that, pursuant to the Panchnama drawn, the possession has been taken. However, we are inclined to hold that the right of the main appellant is rather restricted in nature. Furthermore, the main appellant's predecessor-in-interest, namely, the Bank, did not file the Special Civil Application challenging the order passed by the Tribunal and was only arrayed as a respondent in the Special Civil Application filed by the Company. The Company, in turn, did not file the intra-court appeal against the judgment of the learned Single Judge dismissing the Special Civil Application. The learned Single Judge has specifically noted that the Company had abandoned the litigation and had shown no active interest in pursuing it. Thereafter, the Company chose to file the present appeal directly before us. However, none has appeared on its behalf. We have also been informed that the Company is under liquidation. Perhaps that is the reason why it has chosen not to pursue the present litigation before us.

13. Merely because permission was granted to create the mortgage does not enure to the benefits of the main appellant. In other words, what the main appellant seeks before us is an order extending to it the benefits

available under Sections 3 and 4 of the Act. It is for the Company, the erstwhile landowner, to make such a claim. The proceedings before the Civil Court, to which the respondent(s) are not parties, would not enure to the benefit of the main appellant. As stated earlier, we are concerned only with the possession of the excess vacant land.

14. The other contention regarding the panchnama also does not hold good, as it is for the Company, the erstwhile landowner, to raise the appropriate plea. Having found that the notice issued under Section 10(5) of the Act was duly served, and that it clearly indicated the consequential action that would follow upon failure to surrender possession of the land, it is too late in the day to permit the main appellant to raise all such contentions on merits before us. Suffice it to state that the main appellant is merely an assignee of the erstwhile Bank, in whose favour the property in question had been mortgaged.

15. Accordingly, we are inclined to hold that the judgments relied upon by the learned counsel appearing for the appellant(s), in our considered view, do not have any bearing on the facts of the case.

16. Taking note of the facts and circumstances governing the case, we have no hesitation in holding that the order passed by the Division Bench under challenge deserves to be affirmed, particularly when no intra-court

appeal was filed by the Company, the erstwhile landowner. The main appellant before us also did not choose to challenge the proceedings by filing a Special Civil Application; instead, it preferred an intra-court appeal against the order passed in the Special Civil Application filed by the Company. Additionally, we take note of the fact that the predecessor-in-interest of the main appellant had invoked Section 33 of the Act, whereupon the Tribunal held that it had no *locus standi* to challenge the proceedings. The said order has attained finality as against the predecessor of the main appellant and is, therefore, binding upon the main appellant. In other words, the main appellant continues to be merely a mortgagee and, therefore, its rights are circumscribed by the law governing mortgage alone.

17. We are conscious of the fact that we are dealing with a very hard case. As recorded by us, there was an element of lack of due diligence on the part of the predecessor of the main appellant in obtaining prior permission from the authorities before executing the deed of mortgage. Apart from the substantial dues payable to the main appellant, we are also confronted with the competing interests of the erstwhile employees.

18. In such view of the matter, we grant liberty to the main appellant, the Company, its erstwhile employees including respondent No.8 in Civil Appeal No.8439/2013, Rashtriya Majdoor Sangh to make a representation to

respondent No.1-State, seeking release of the specific portion of the land declared as surplus, which may include the constructed portion as well.

19. We make it clear that we have not expressed any opinion on the subsequent action of the Bank in bringing the property to sale, as the same gives rise to a separate cause of action.

20. Accordingly, the appeals stand dismissed. No costs.

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

..... J.
[M.M. SUNDRESH]

..... J.
[PRASANNA B. VARALE]

NEW DELHI;
AUGUST 12, 2026.

ITEM NO.105

COURT NO.4

SECTION III-B

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). 8437-8438/2013

ASSEST RECONSTRUCTION COMPANY (INDIA) LTD

Appellant(s)

VERSUS

THE STATE OF GUJARAT & ORS.

Respondent(s)

IA No. 35968/2026 - PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES

WITH

C.A. No. 8439/2013 (III-B)

IA No. 63383/2019 - CONDONATION OF DELAY IN FILING

IA No. 15477/2019 - PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES

IA No. 46746/2020 - PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES

C.A. No. 8435-8436/2013 (III-B)

IA No. 30838/2011 - app. permission to file addl. docs

IA No. 77818/2019 - APPLICATION FOR PERMISSION

Date : 12-08-2026 These matters were called on for hearing
 today.

CORAM :

HON'BLE MR. JUSTICE M.M. SUNDRESH

HON'BLE MR. JUSTICE PRASANNA B. VARALE

For Appellant(s)

Ms. Kiran Suri, Sr. Adv.
 Mr. S.J. Amith, Adv.
 Ms. Aishwarya Kumar, Adv.
 Mr. Vishwanath Gururaj Joshi, Adv.
 Mr. Tarun Kumar Sobti, Adv.
 Dr. Mrs. Vipin Gupta, AOR

Mr. Sumit Bansal, Sr. Adv.
 Mr. Ateev Kumar Mathur, Adv.
 Mr. Ananta Prasad Mishra, AOR
 Mr. Bimlesh Kumar Singh, AOR

For Respondent(s)

Ms. Archana Pathak Dave, A.S.G.
 Ms. Deepanwita Priyanka, AOR
 Ms. Priyal Sheth, Adv.

Mr. Chinmoy Khaladkar, Adv.

Dr. Pramod Kumar Tripathy, Adv.
Mr. Archit Kaushik, Adv.
Ms. Kumar Abhishek, Adv.
Mr. Anil Kumar, AOR

Mr. Bimlesh Kumar Singh, AOR

Mr. Jitendra Kumar, AOR
Mr. Alok Kumar, Adv.
Mr. Abhijeet Kumar, Adv.
Mr. Uttam Kumar, Adv.
Mr. Aarav Raj, Adv.

Ms. Kiran Suri, Sr. Adv.
Mr. S.j. Amith, Adv.
Ms. Aishwarya Kumar, Adv.
Mr. Vishwanath Gururaj Joshi, Adv.
Dr. Mrs. Vipin Gupta, AOR

M/S. Parekh & Co., AOR
Mr. E R Kumar, Adv.
Ms. Sonal Gupta, Adv.
Mr. Abhishek Thakral, Adv.
Ms. Riya Kumar, Adv.

Mr. Ateev Kumar Mathur, Adv.
Mr. Ateev Mathur, Adv.
Mr. Anmol Mehta, Adv.
Mr. Ananta Prasad Mishra, AOR
Mr. Sanjay Gupta, Adv.
Ms. Nikita Gupta, Adv.
Mr. Ananta Prasad Mishra, AOR

UPON hearing the counsel the Court made the
following

O R D E R

The appeals are dismissed in terms of the signed order.

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

(ASHA SUNDRIYAL)
DEPUTY REGISTRAR

(POONAM VAID)
ASSISTANT REGISTRAR

[Signed order is placed on the file]