Reserved On : 30/10/2026
Pronounced On : 23/11/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 10960 of 2026

With
R/SPECIAL CIVIL APPLICATION NO. 11666 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE MAULIK J.SHELAT *Sd/-*

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Approved for Reporting	Yes	No
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CHINTAN JAYSUKHBHAI BHALODIYA
Versus
ATUL ABHECHANDBHAI MEHTA & ORS.

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Appearance in SCA No.10960/2026:
MR.KEYUR JALDEEP SHAH(14552) for the Petitioner(s) No. 1
MS HARDI CHETANKUMAR SHUKLA(13627) for the Petitioner(s) No. 1
MR. MIHIR THAKORE, SR. ADVOCATE WITH
MR. PRASHANTKUMAR R SHARMA(8591) for the Petitioner(s) No. 1
MR. SHALIN MEHTA, SR. ADVOCATE WITH
MR PARTH D PATEL(9754) for the Respondent(s) No. 1

Appearance in SCA No.11666/2026:
MR SHALIN MEHTA, SENIOR ADVOCATE WITH MR PARTH D PATEL(9754) for the Petitioner(s) No. 1
MR SJ MAKWANA(6053) for the Respondent(s) No. 4
MR TATTVAM K PATEL(5455) for the Respondent(s) No. 3
NOTICE SERVED BY DS for the Respondent(s) No. 1
NOTICE UNSERVED for the Respondent(s) No. 2
REFUSED SERVED (N)(10) for the Respondent(s) No. 5

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CORAM:**HONOURABLE MR. JUSTICE MAULIK J.SHELAT**

CAV JUDGMENT

1. Contempt is a wound inflicted upon the administration of justice. When committed blatantly and without remorse, it is not merely a violation of an order; it is an assault on the rule of law.

2. Since the impugned order challenged in both these petitions is the same, these matters were heard together and decided by way of this common judgment.

3. At the outset, Mr. Prashantkumar Sharma, learned advocate, as also Mr. Parth Patel, learned advocate for the respective petitioners, would request this Court to allow the draft amendment submitted on record in the respective writ petitions. The draft amendment is allowed in both these petitions and the same shall be carried out by the petitioners in their respective petitions.

4. The petitioner of SCA No.10960 of 2026 is the original defendant No.5 and the respondents are plaintiff and defendant Nos.1 to 4 respectively, whereas petitioner of SCA No.11666 of 2026 is original plaintiff and respondents are original defendant Nos.1 to 5. For the sake of convenience and brevity, hereinafter, they will be referred to as per their original position in the suit.

5. The Special Civil Application No.10960 of 2026 is filed under Article 227 of the Constitution of India by defendant No.5 who has violated the injunction order passed by the Trial Court, praying for the following reliefs: -

"(A) Issue a Writ of Certiorari or any other appropriate writ,

order or direction under Article 227 of the Constitution of India calling for the records and proceedings of Misc. Civil Appeal No. 52 of 2025 before the Ld. 4th Additional District Judge, Kheda at Nadiad, and after examining the same, quash and set aside the impugned Judgment and Order dated 17.04.2026 passed therein;

(B) Consequently, quash and set aside the order dated 12.06.2025 passed by the Ld. Principal Senior Civil Judge, Kheda below Exh. 173 in Sp. Civil Suit No. 11 of 2017, to the extent it sentences the Petitioner to 7 days' civil imprisonment;

(C) Pending the hearing and final disposal of the present petition, stay the execution, operation and implementation of the order of civil imprisonment imposed pursuant to the order dated 12.06.2025 as confirmed by the impugned order dated 17.04.2026, and restrain Respondent No. 1, his agents, servants, representatives and all those claiming through or under him, from taking the Petitioner into civil custody pursuant to the said orders;

(D) Pending admission and final disposal of the present petition, stay further coercive steps pursuant to the impugned orders.

(E) Pass such other and further order or orders, direction or directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, in the interest of justice."

5.1 The Special Civil Application No.11666 of 2026 is filed under Article 227 of the Constitution of India by the plaintiff in whose favour the order of injunction was granted by the Trial Court but violated by

defendant No.5, seeking following reliefs: -

> *"a. This Hon'ble Court may kindly be pleased to quash and set-aside the impugend order dated 17/04/2026 passed in Miscellaneous Civil Appeal no.51 of 2025 by the Ld. 4th Additional District Judge, Kheda at Nadiad, and thereby be pleased to partly quash and set-aside the order dated 12/06/2025 passed below Exhibit-173 in Special civil Suit no. 11/2017 passed by the Ld. Principal Senior Civil Judge, Kheda, which are annexed hereto at "Annexure-A and Annexure-B", respectively, to the extent it partly rejects the application of the petitioner filed vide Exhibit- 173, and thereby be pleased to allow the application filed by the petitioner Vide Exhibit – 173 in Special Civil Suit no.11/2017, before the Ld. Principal Senior civil Judge, Kheda.*
>
> *b. Pending the admission and final hearing of the petition this Hon'ble Court may kindly be pleased to direct the respondent no. 5 to reverse/cancel the registered sale deed entered into by the Respondent no. 5 in favour of M/s Vraj Industrial Park bearing registration number. 966 dated 09/05/2022 registered with the Sub-registrar, Kheda and be pleased to restore status quo ante over the propert bearing and situate at survey no. 799/p/b at Mouje: Bidaj, Taluka and District: Kheda.*
>
> *c. This Hon'ble Court may be pleased to pass appropriate/necessary orders / directions against the Respondent no. 5 to restore the status quo of the suit property, as it was on the date of passing the injunction order dated 04/10/2014, vide - Exhibit 112 in the Special Civil Suit no. 11/2017, pending for adjudication before the Ld. Principal Senior Civil Judge, Kheda.*

d. This Hon'ble Court may be pleased to pass appropriate/necessary orders / directions to the Respondent no. 5 to reverse/cancel the registered sale deed entered into by the Respondent no. 5 in favour of M/s Vraj Industrial Park bearing registration number. 966 dated 09/05/2022 registered with the Sub-registrar, Kheda and be pleased to restore status quo ante over the propert bearing and situate at survey no. 799/p/b at Mouje: Bidaj, Taluka and District: Kheda.

e. This Hon'ble Court may kindly be pleased to pass appropriate and necessary order directing the Respondent no. 5 to produce on record a list of all the property(ies) in the ownership of the Respondent no. 5 and this Hon'ble Court be further pleased to attach all the property(ies) in the ownership of the Respondent no. 5.

f. This Hon'ble Court may kindly be pleased to allow the application filed by the petitioner vide Exhibit – 173 in Special Civil Suit no. 11/2017, before the Ld. Principal Senior Civil Judge, Kheda.

g. This Hon'ble Court may kindly be pleased to pass appropriate and necessary directions to the Ld. Sub- Registrar, Kheda, for reversal of the transaction being registered sale deed no. 966 dated 09/05/2022.

h. This Hon'ble Court may kindly be pleased to pass appropriate and necessary orders to provide compensation to the plaintiff from the sale of the attached property(ies) in the ownership of the

Respondent no. 5.

i. This Hon'ble Court may be pleased to grant any other/further relief(s) as may be deemed fit in the interest of justice;

j. This Hon'ble Court may be pleased to grant any other/further relief(s) as may be deemed fit in the interest of justice;"

SHORT FACTS: -

6. The short controversy germane to these matters arises out of an impugned order dated 12.06.2025 passed by the Trial Court below Exhibit-173 in Special Civil Suit No. 11 of 2017 (old Special Civil Suit No. 49 of 2008), whereby the Trial Court partly allowed the said application (Exhibit-173) filed by the plaintiff under Order 39 Rule 2A of the Code of Civil Procedure, 1908 (CPC). Accordingly, the Trial Court passed an order of civil imprisonment for seven days against defendant No.5 for his willful disobedience and breach of the injunction order, as he executed the registered sale deed dated 09.05.2022 in relation to the suit property in favour of a third party, despite an order of status quo granted by the Trial Court below Exhibit-112 on 04.10.2014.

6.1 The aforesaid impugned order came to be challenged by the plaintiff and defendant No.5 before the Appellate Court by way of Misc. Civil Appeal Nos.51 and 52 of 2025 filed under Order 43 Rule 1(r) of the CPC, respectively. After hearing the parties and upon appreciating their submissions, the Appellate Court, vide its impugned order dated

17.04.2026, dismissed both these appeals.

6.2 The Appellate Court also concluded that defendant No.5 had willfully and intentionally executed the registered sale deed dated 09.05.2022 in favour of a third party, and therefore, the order passed by the Trial Court was just and proper; but it was observed that since the third party in whose favour the registered sale deed was executed by defendant No.5**,** was not joined as a party to the said application, the sale deed in question could not be cancelled or reversed. Thus, feeling aggrieved and dissatisfied with the impugned order, the plaintiff as well as defendant No.5 came before this Court by way of their respective writ petitions.

SUBMISSIONS OF DEFENDANT NO.5:-

7. Mr. Mihir Thakore, learned Senior Counsel, assisted by Mr. Prashantkumar R. Sharma, learned advocate appearing for defendant No.5, would submit that the Trial Court and the Appellate Court have committed a serious error in law by holding defendant No.5 guilty of committing of the breach of order dated 04.10.2014 passed below Exhibit-112 in the injunction application filed by the plaintiff. It is submitted that the plaintiff failed to bring on record any material evidence to show that the aforesaid order passed by the Trial Court whereby an order of status quo was granted against defendant No.5, was

either served upon defendant No.5 or was within the personal knowledge of defendant No.5.

7.1 Mr. Thakore, learned Senior Counsel, would further submit that the unless the plaintiff successfully established on record that defendant No.5, despite having personal knowledge of the status quo order, willfully executed a registered sale deed of the suit property in favour of a third party, no order of civil prison could have been passed by the Trial Court while exercising its power under Order 39 Rule 2A of the CPC.

7.2 Mr. Thakore, learned Senior Counsel would further submit that as per the settled position of law, unless willful disobedience on the part of defendant No. 5 was proved on record, the Courts below could not have passed an order of civil prison against him. It is submitted that the Trial Court as well as the Appellate Court, without appreciating the aforesaid legal aspect of the matter and in ignorance of law, held defendant No.5 guilty of breach of injunction and mistakenly sentenced him to civil imprisonment.

7.3 Mr. Thakore, learned Senior Counsel, would further submit that though defendant No.5 represented through a lawyer and in fact filed his written statement along with defendant No.4 prior to filing of the injunction application (Exhibit-112), the learned advocate engaged by defendant No.5 was not present when the order dated 04.10.2014 was

passed by the Trial Court granting injunction against defendant Nos.4 and 5, thereby defendant No.5 was not made aware about such order. It is further submitted that there cannot be any presumption in law that learned advocate engaged by defendant No.5 must have communicated the aforesaid order to defendant No. 5.

7.4 Mr. Thakore, learned Senior Counsel, would further submit that, though impugned application filed under Order 39 Rule 2A of CPC but as per the settled position of law, such proceedings can be considered as quasi-criminal in nature and, therefore, the standard of proof required in these proceedings is proof beyond all reasonable doubt.

7.5 Mr. Thakore, learned Senior Counsel, would further submit that, since the plaintiff failed to prove on record that the aforesaid order dated 04.10.2014 was within the knowledge of defendant No.5, the Courts below have committed a jurisdictional error by holding defendant No.5 guilty of committing contempt or willful disobedience of its order and thereby, committed a serious error in law by sending defendant No.5 to civil prison for seven days.

7.6 To buttress his arguments, Mr. Thakore, learned Senior Counsel, would rely upon the following decisions: -

i. ***Hoshiar Singh and Anr. Vs. Gurbachan Singh and Ors.*** reported in ***AIR 1962 SC 1089***;

ii. ***Ram Kishan Vs. Tarun Bajaj and Ors.*** reported in ***(2014) 16 SCC 204***;

iii. ***U.C. Surendranath Vs. Mambally's Bakery*** reported in ***2019 (20) SCC 666;***

iv. ***Future Coupons Private Limited and Others v. Amazon.com NV Investment Holdings LLC and Others*** reported in ***2022 INSC 129 : 2022 (2) Scale 724***;

7.7 Making the above submissions, Mr. Thakore, learned Senior Counsel for defendant No.5, would request this Court to entertain this petition.

SUBMISSIONS OF PLAINTIFF: -

8. Mr. Shalin Mehta, learned Senior Counsel assisted by Mr. Parth Patel, learned advocate for the plaintiff, has stoutly opposed the petition filed by defendant No.5, and assiduously submitted in support of the petition filed by the plaintiff as follows:

8.1 The defendant No.5 was not only aware of the stay order dated 04.10.2014 passed by the Trial Court below Exhibit-112 in the suit, but he also willfully disobeyed the said order by executing the registered sale deed dated 09.05.2022 in favour of a third party, for which he was correctly held guilty by the Courts below.

8.2 The defendant No.5 was joined as a party defendant in the suit proceedings, and at that point of time, there was already the status quo

order in force in the matter, inasmuch as the Trial Court had initially directed the parties to maintain status quo vide its order dated 21.10.2011, and despite that, defendant No.5 purchased the suit property.

8.3 Once defendant No.5 was joined to the suit proceedings, thereafter another separate injunction application was filed by the plaintiff against defendant Nos.4 and 5 on 26.02.2014 below Exhibit-112, wherein time was sought by the learned advocate engaged by defendant No.5 to file reply; but for reasons best known to the parties, no such reply was filed, and thereafter, the Trial Court closed the right of defendant No. 5 to file reply against the injunction application. The Trial Court, after recording its reasons, partly allowed the aforesaid injunction application (Exhibit-112) on 04.10.2014, whereby directed defendant No. 4 & 5 to maintain status quo.

8.4 Since defendant No.5 was represented by a lawyer, there was no reason for the plaintiff to separately serve the copy of the stay order dated 04.10.2014 to defendant No.5. The defendant No.5 has chosen not to defend the impugned application filed under Order 39 Rule 2A of CPC despite having received the application; as such, the averments made in the impugned application filed under Order 39 Rule 2A of CPC by the plaintiff remained uncontroverted. The Courts below have

concurrently held the defendant No.5 guilty for committing contempt of Court, inasmuch as due to his willful disobedience, he was sentenced to undergo seven days of civil imprisonment, this Court should not disturb such finding of fact.

8.5 The defendant No.5 has not tendered an unconditional apology, either before this Court or before the Courts below for his contemptuous act and has not even shown any remorse for his conduct; this Court should not exercise its powers under Article 227 of the Constitution of India to interfere with the concurrent findings recorded by the Courts below against defendant No. 5, which are neither perverse nor grossly erroneous.

8.6 The defendant No.5 cannot allow to plead before this Court that he was not made aware about the aforesaid stay order dated 04.10.2014. The defendant No.5 has consciously made a false statement in the registered sale deed dated 09.05.2022 executed by him in favour of the third party, wherein in Clause-27, it was categorically stated by defendant No.5 that as on that date, there was no litigation pending in relation to the suit land in question and there is no stay granted against the transfer of property. This statement is completely false, inasmuch as despite knowing the pending litigation and the stay order granted by the Trial Court in the suit, defendant No.5 proceeded further with the suit

land and eventually transferred it in favour of a third party by way of a registered sale deed.

8.7 The defendant No.5 has also, while obtaining non-agricultural permission (N.A. permission), made a false statement before the Collector concerned while submitting an application dated 06.07.2019 that there is no litigation pending, which shows the *mens rea* on the part of defendant No. 5 to make false statement either to the authority or to the purchaser.

8.8 The third-party - purchaser is a partnership firm namely 'Vraj Industrial Park', and one of its partners happens to be a director of defendant No.3, who at the relevant point of time submitted an application under Order VII Rule 11 of CPC. Therefore, the third-party purchaser was also aware about the order of status quo granted against defendant No.5 as well as defendant No.3 by the Trial Court, as the case may be.

8.9 The Courts below have committed a gross error in law by not cancelling or reversing the transaction executed by way of the registered sale deed dated 09.05.2022 by defendant No.5 in favour of the third party only on the ground that such third party was not joined as party to the impugned application. As per the settled position of law, in a case like the present one, when it has been proved on record that the sale

deed executed and registered by defendant No.5 in favour of a third party in breach of injunction order passed by the Trial Court, whereby there was a willful disobedience on his part, even without joining such third party, the Courts below ought to have cancelled the registered sale deed in question.

8.10 The Courts below ought to have reversed the transaction entered into between defendant No.5 and the third party to uphold the majesty of the Court's order; otherwise, it would perpetuate the illegality committed by defendant No.5 in defiance of the stay order passed by the Trial Court.

8.11 Since defendant No.5 has blatantly violated the stay order granted by the Trial Court and knowingly entered into the transaction in the form of a registered sale deed in favour of a third party, this Court ought to exercise its powers in favour of the plaintiff by declaring the transaction *void ab initio*, reversing the same, and directing the cancellation of the registered sale deed, and also impose exemplary costs upon defendant No.5 to compensate the plaintiff.

8.12 To buttress his arguments, he would rely upon the following decisions: -

i. ***State Bank of India Vs. Vijay Mallya*** reported in ***2024 (12) SCC 85***;

ii. ***Balwantbhai Somabhai Bhandari Vs. Hiralal Somabhai Contractor (Deceased) Rep. By Lrs.*** reported in ***2023 (17) SCC 545***;

iii. ***Kiranbhai Jayvantrao Kamle & Anr. Vs. Nitinbhai Rameshbhai Baria & Ors.*** rendered in ***Civil Application (For Breach of Order) No.1 of 2019*** in ***R/Appeal from Order No.177 of 2018.***

8.13 Making the above submissions, Mr. Mehta, learned Senior Counsel, would request this Court to allow the petition filed by the plaintiff and dismiss the petition filed by defendant No.5 with exemplary costs.

SUBMISSIONS OF DEFENDANT NO.3:-

9. Mr. Tatvam Patel, learned advocate for defendant No.3, would submit that, as such, defendant No.3 is not directly connected with the impugned application, as it was alleged by the plaintiff that defendant No.5 flouted the stay order dated 04.10.2014 by executing a registered sale deed in favour of a third party. Nonetheless, Mr. Patel, learned advocate would submit that the claim of the plaintiff is as weak as the suit itself.

9.1 It is submitted that, considering the pleadings of the plaintiff and the agreement to sell, there is hardly any possibility that the plaintiff would succeed in the suit seeking specific performance of the agreement to sell.

9.2 Even if this Court may at this stage cancel the sale deed executed by the defendant No.5 in favour of the third party, but this Court may suitably observe that in the event the plaintiff ultimately fails in the suit, the transaction entered into by defendant No.5 in favour of a third party shall stand validated and become fully effective.

9.3 In support of his submission, Mr. Tatvam Patel, learned advocate would rely upon the decision of the Hon'ble Apex Court in the case of ***Thomson Press (India) Limited Vs. Nanak Builders and Investors Private Limited*** reported in ***2013 (5) SCC 397***.

9.4 By making the above submissions, Mr. Patel, learned advocate for defendant No.3, would request this Court to pass an appropriate order in the matters.

SUBMISSIONS OF DEFENDANT NO.4:-

10. Mr. S. J. Makwana, learned advocate for defendant No.4 would state that since there is no breach of order by defendant No.4, and as such, the impugned application filed below Exhibit-173 under Order 39 Rule 2A of CPC filed only against defendant No.5, this Court may pass an appropriate order in the interest of justice.

ANALYSIS AND REASONS: -

11. The facts, which are observed, at the outset, are not much in

dispute. As such, the controversy germane to these petitions is also in a very narrow compass. The petition filed by defendant No.5 being Special Civil Application No.10960 of 2026 is against the concurrent findings of fact recorded by the Courts below against him that he willfully disobeyed the stay order passed by the Trial Court, as executed the registered sale deed dated 09.05.2022 in favour of a third party in relation to the suit property; whereas, Special Civil Application No. 11666 of 2026 filed by the original plaintiff is against the very same order passed by the Courts below, whereby they did not cancel the aforesaid registered sale deed executed by defendant No.5 on the ground that the third party in whose favour the sale deed was executed was not made party opponent in the impugned application filed below Exhibit-173 under Order 39 Rule 2A of CPC.

12. According to Mr. Thakore, learned Senior Counsel, the stay order dated 04.10.2014, which alleged to have been willfully breached by defendant No.5, was never served upon him, and the plaintiff failed to prove on record that such order was well within the personal knowledge of defendant No.5 when he executed the registered sale deed dated 09.05.2022. Therefore, according to Mr. Thakore, learned Senior Counsel, in absence of service of the stay order and/or proof on record that defendant No.5 was well within the knowledge of the stay order, neither the Trial Court nor the Appellate Court could have ordered him

to undergo seven days civil imprisonment.

13. *Per contra*, Mr. Mehta, learned Senior Counsel appearing for the original plaintiff, has vociferously opposed such submission and argued that defendant No.5, having appeared through a lawyer, had complete knowledge of the injunction application filed against him as well as the order passed thereon, i.e., dated 04.10.2014. According to Mr. Mehta, learned Senior Counsel, defendant No.5 consciously made a false statement in Clause-27 of the registered sale deed dated 09.05.2022 in question as well as in the N.A. application that there is no pending civil litigation in any Court of law in relation to the land in question and there is no injunction order passed by the Court against its transfer.

14. Before proceed to appreciate and examine the respective submissions advanced by learned Senior Counsels, I would like to first refer to the decision of the Court of Appeal, England & Wales, in the case of ***Hadkinson Vs. Hadkinson*** reported in ***[1952] ALL. E.R.567,*** wherein held thus: -

> *"7. It is the plain and unqualified obligation of every person against, or in respect of whom, an Order is made by a Court of competent jurisdiction, to obey it unless and until that Order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by an Order believes it to be irregular or even void. Lord Cottenham, L.C. said in Chuck V. Cremer: (1) (1*

Coop. Temp. Cott. 342) (at p.342). "A party who knows of an Order, whether null and void, regular or irregular, cannot be permitted to disobey it ……. It would be most dangerous to hold that the suitors, or their solicitors, could themselves judge whether an Order was null and void — whether itwas regular or irregular. That they should come to the Court and not take upon themselves to determine such a question. That the course of a party knowing of an Order which was null and irregular and who might be affected by it was plain. He should apply to the Court that it might be discharged. As long as it existed it must not be disobeyed" (per Lord Gottenham L.O. in Chuck v. Cremer, I Cooper, 338). 8

8. Such being the nature of this obligation, two consequences will, in general, follow from its breach. The first is that anyone who disobeys an Order of the Court (and I am not now considering disobedience of Orders relating merely to matters of procedure) is in contempt and may be punished by committal or attachment or otherwise. ***The second is that no application to the Court by such a person will be entertained until he has purged himself of his contempt****……."*

(Emphasis Supplied)

14.1 The defendant No.5 has neither contested the impugned application (Exhibit-173) before the Trial Court nor purged himself of his contempt, inasmuch as he has no remorse for the act committed by him. This Court could have refused to entertain the writ petition filed by defendant No.5 on this ground alone; however, I have nevertheless

examined the submissions advanced on his behalf.

15. Having heard learned Senior Counsels at length and upon appreciation of their respective submissions advanced before me, and so also upon perusal of the documents made available in the respective petitions, the arguments advanced by Mr. Thakore, learned Senior Counsel for the defendant No.5-contemnor, cannot be accepted for the following reasons: -

15.1 Special Civil Suit No. 49 of 2008 was instituted by the plaintiff seeking specific performance of an agreement to sell against defendant Nos. 1 to 3. At the relevant point of time, the Trial Court, vide its order dated 21.10.2011, directed the parties to the suit to maintain status quo. It appears that despite the order of status quo, defendant No.1 appears to have sold part of the land in favour of defendant Nos.4 and 5. Thereafter, defendant Nos.4 and 5 have been joined in the suit proceedings. The defendant No.5 was served with the notice to be impleaded in the suit proceedings, and accordingly, he was impleaded as defendant No.5 in the suit.

15.2 The plaintiff filed a separate injunction application below Exhibit-112 on 26.02.2014, whereby sought an injunction against defendant Nos.4 and 5 (newly added defendants). It can be seen from the record that despite an opportunity was granted to the learned advocate

appearing for defendant Nos.4 and 5 to submit reply to such injunction application, no reply was filed. Therefore, the right to file reply was closed. Nonetheless, defendant Nos.4 and 5 appear to have filed their written statement below Exhibit-108, which must have been filed prior to the injunction application (Exhibit-112).

15.3 The Trial Court, vide its order dated 04.10.2014, allowed the injunction application filed below Exhibit-112, whereby directed defendant Nos.4 and 5 to maintain status quo till final disposal of the suit. Since the defendant No.5 was represented through lawyer, there was no good reason to serve him a copy of the said stay order.

15.4 In view of the aforesaid facts, defendant No.5 cannot be allowed to say that he was not at all aware about the pendency of the suit proceedings, apart from playing ignorance about the aforesaid order passed in the injunction application filed below Exhibit-112.

15.5 At this stage, it would be apposite to refer to Clause-27 of the registered sale deed dated 09.05.2022 executed by defendant No.5 in favour of the third party, which certainly belied the claim of defendant No.5 that he was not at all aware about anything. The fair translation of Clause-27 of the aforesaid sale deed reads thus: -

> *"I, the Seller, further assure and guarantee to you, the Purchaser that the said land has not been acquired under any law nor have*

I, the Seller have executed any sale, mortgage or gift of the said land to any other person or individual nor transferred or assigned it in writing in any other manner nor does anyone have any right of maintenance, cultivation right or any other kind of right, interest, or share over it. ***Furthermore, no suits or claims of any kind have been instituted in any Court or office regarding the said land nor has any decree been passed, nor has the said land been placed under attachment or prior attachment. Furthermore, no injunction order of any kind restraining the sale, transfer, or handing over of possession to anyone in any manner has been issued against me, the Seller nor received or served upon the Seller.*** *Moreover, the said land has not been declared as Benami property nor has it been purchased from the funds of any third party. Furthermore, the said land has not been kept as reserved land for any scheme under the Land Acquisition Act or any other Act. Furthermore, regarding the said land, the Seller has not, prior to today executed any sale, mortgage, or gift to any other person or individual, nor executed any writings to that effect such as an Agreement to Sell, Banachit, Sale Agreement, or any other kind of documents. Despite this, if any such documents from the Seller emerge in the future or if any objection arises regarding the title of the said land, its resolution and clearance shall be done by me, the Seller at my own expense and I, the Seller along with our descendants, guardians, heirs, etc., shall compensate you, the Purchaser for any costs and damages incurred. The Seller has given complete assurance, firm guarantee and full belief to the Purchaser that all kinds of rights and titles of the Seller in the said land are clear, marketable, and transferable and based on that the Purchaser has purchased the said land from the Seller."*

15.6 A bare reading of the aforesaid Clause would show *mens rea* of defendant No.5, who brazenly made a false statement to the purchaser (third party) that as on the date of execution of the registered sale deed, neither any suit nor any injunction is operated in relation to the land in

question. This itself proved that defendant No.5 brazenly flouted the injunction order passed by the Trial Court way back in 2014. Even defendant No.5 has no remorse for his illegal act, inasmuch as he has not purged the contempt nor tendered his unconditional apology before the Courts below and/or to this Court.

15.7 It is an undisputed fact that despite service of notice of the injunction application (Exhibit-173) filed under Order 39 Rule 2A of CPC upon defendant No.5, he chose not to contest the injunction application by filing his reply. Therefore, the averments made in the injunction application remained uncontroverted. The plaintiff has categorically stated in paragraphs-9 to 16 of the impugned application that the stay order dated 04.10.2014 passed by the Trial Court against defendant No.5 was within his knowledge, and despite such order, at first instance, defendant No.5 applied for NA permission by making false statements in the application as not disclosed the pendency of the suit proceedings, and thereafter executed the registered sale deed in question by making false statement, noted supra. The charge of willful disobedience and breach of order of status quo levelled against defendant No.5 remained unopposed. Thus, neither the Trial Court nor the Appellate Court has committed any serious error in law by holding defendant No.5 guilty of willful disobedience.

16. The defendant No.5, in paragraph-3.2 of the memo of his appeal, stated that he was totally unaware about the stay order dated 04.10.2014 (Exhibit-112) as he was never informed by his lawyer. The defendant No.5 in his appeal stated that, being a resident of Ahmedabad, he routinely relied on the e-Courts online portal to ascertain the status of the civil suit. He claimed that his name was not shown as a defendant in the case status. Thus, defendant No.5 pleaded ignorance about any of the proceedings conducted before the Trial Court after his joining to the suit.

16.1 Since the defendant No.5 made such a plea before the Appellate Court, this Court has personally verified the case status of Special Civil Suit No.49 of 2008 from the official website, i.e., e-Courts online portal, wherefrom it is evident that there is a reference of the order dated 04.10.2014 in the case status, apart from the reference to the previous orders passed by the Trial Court. For ready reference, the relevant portion of such case status containing relevant details reads as follows:

Registration Number	**Judge**	**Business On Date**	**Hearing On Date**	**Purpose of hearing**
49/2008	Principal Senior Civil Judge	06-09-2014	04.10.2014	ORDER

16.2 When the case status of the suit in question was readily available on the website and defendant No.5 used to check the case status, he

must have noticed the order passed on 04.10.2014. It may be true that neither his name was reflected nor the copy of the order dated 04.10.2014 made available with the case status of the suit; at the same time, defendant No.5 cannot dispute that he was not joined to the suit proceedings and confronted with the injunction application, as filed his written statement with defendant No.4, and served with copy of the injunction application through his lawyer.

16.3 According to me, it was the duty of defendant No.5 to at least inquire about the order dated 04.10.2014 passed by the Trial Court in reference to the injunction application (Exhibit-112) before proceed to transfer the suit land to the third party.

17. Apart from the aforesaid case status, Mr. Thakore, learned Senior Counsel, during the course of his arguments, provided me a copy of the *rojkam* of the suit proceedings. This Court has also minutely gone through the subsequent events which had taken place after the passing of the stay order dated 04.10.2014. It is evident that subsequent to the said stay order, not only once but twice, the notice came to be issued by the Trial Court to defendant No.5. First, when a third party filed an application below Exhibit-128 to be joined **to** the suit proceedings, at that time, below Exhibit-134, notice came to be issued to defendant No.5 to respond to such application. Such notice appears to have been duly

served. Secondly, at the time of intra court transfer, the said suit came to be transferred and renumbered as Special Civil Suit No.11 of 2017, at that stage also, fresh notice came to be issued to all parties to the suit on 23.11.2017 / 07.12.2017 including defendant No.5. It appears that such notice was also duly served upon defendant No.5. Therefore, there was an ample opportunity available to the defendant No.5 to verify the case status and previous orders passed therein especially when he purchased the suit property despite the order of *status-quo*.

18. Thus, considering the aforesaid facts and circumstances of the case and taking note of the fact that defendant No.5 has deliberately chosen not to appear and participate in the suit proceedings, and cannot now be allowed to cry foul that he was not made aware about the stay order dated 04.10.2014 passed by the Trial Court; rather, prior to executing the registered sale deed in favour of a third party, it was incumbent upon defendant No.5 to get it verified the current position of the suit and any injunction order passed against him or not. It would not be out of place to observe that defendant No.5 has refused the service of notice of this Court when it issued notice in the writ petition filed by the plaintiff, i.e., SCA No. 11666 of 2026. This shows indifferent attitude on the part of defendant No.5.

19. If the arguments advanced by Mr. Thakore, learned advocate,

were to be accepted, it would lead to a situation where a party who fails to respect the Court's order can go scot-free on the ground that he was not made aware by his lawyer about the stay order passed against him by the Court. Such an argument cannot be accepted by this Court; otherwise, it would amount to putting a seal of approval on an illegal act committed by defendant No.5, and thereby, allowing the illegality on the part of defendant No. 5 to be perpetuated.

20. It is true that, as per the settled position of law, it must be established on record before punishing a contemnor that he willfully disobeyed the order passed by the Court. It cannot be disputed that 'willful' means knowingly, intentionally, conscious, calculated, and deliberate with full knowledge of the consequences flowing therefrom. It would be the mental state of mind of a person who acted in defiance of the order passed by the Court. Mere disobedience would not *ipso facto* hold someone guilty of contempt, but it should be willful disobedience. Although, the word willful is not found in Order 39 Rule 2A of CPC and as such, on this aspect, it has been observed by the division bench of the Hon'ble Apex Court in the case of ***Amazon.Com NV Investment Holdings LLC Vs. Future Retail Ltd.,*** reported in ***(2022) 1 SCC 209 (para-61)*** that such issue may require to be reviewed by a larger bench. Be that as it may, in the case at hand, it is ostensibly clear that defendant No.5 willfully disobeyed the order passed by the Court.

21. Even, as per the ratio of the Hon'ble Apex Court in the case of ***Hoshiar Singh and Anr. (supra)***, it is considered that once it is proved that the contemnor had notice of the order *aliunde* by any means, i.e., telegram, newspaper report, or otherwise, it amounts to having knowledge of the prohibitory order. It is also held that prohibitory order is not required to be served upon the party against whom such order is granted. It appears that in the aforesaid decision, the appellant – contemnor was not represented by the lawyer when the prohibitory order was passed. Whereas, in the case at hand, defendant No.5 was indisputably represented by a lawyer who must have had knowledge of the order dated 04.10.2014 passed by the Trial Court.

21.1 Having observed above, after the passing of the stay order dated 04.10.2014 and before execution of the sale deed in question, the Trial Court issued notice twice to defendant No. 5. At least, this Court is not ready to accept that defendant No.5 never contacted his lawyer between 04.10.2014 and 09.05.2022. The relationship between a client and a lawyer is that of principal and agent. The principal cannot be allowed to complain that the agent never informed him; rather, it cannot be gainsaid that for the acts of the agent, the principal is surely liable unless the agent has done any unauthorized act.

21.2 This Court has taken pain to verify the case status of the suit in

question, and even after going through the *rojkam* of the suit, it is evident that defendant No.5 had knowledge of the order dated 04.10.2014 by *aliunde*, i.e., verifying the case status as well as from his lawyer. Since defendant No.5 did not appear and contest the impugned breach of injunction application filed below Exhibit-173 by the plaintiff, and considering his overall conduct, it is not a fit case of granting the benefit of doubt to defendant No.5. Rather, the factual scenario emerging from the record would clearly show that defendant No.5 was very well aware about the stay order dated 04.10.2014.

22. Thus, considering the aforesaid facts and circumstances and for the reasons supra, I am of the considered view that there is no error, much less any gross error of law, committed by the Courts below while holding defendant No.5 guilty of willful disobedience of the stay order dated 04.10.2014 and accordingly, sentenced him to civil imprisonment for a period of only seven days. According to me, the sentence awarded is inadequate to deter a party who has knowingly and brazenly flouted the stay order passed by the Court.

23. Thus, having considered the aforesaid facts and circumstances of the case, I am of the considered view that there is no case made out by defendant No.5 to interfere with the impugned order passed by the Courts below.

24. Now, as far as the grievance of the plaintiff that despite being noticed by the Trial Court as well as the Appellate Court that the execution of the registered sale deed dated 09.05.2022 by defendant No.5 in favour of a third party was in clear breach of the stay order dated 04.10.2014, they had not cancelled the sale deed and reversed the transaction merely on the ground that the third party in whose favour the sale deed was executed was not joined to the contempt proceedings. The law in this regard is well settled, and as such there is a clear legal fallacy on the part of the Courts below in not reversing the transaction due to the absence of the third party in whose favour the sale deed was executed by defendant No.5.

25. At this stage, it would be apt to refer to the decision of this Court in the case of ***Kiranbhai Jayvantrao Kamle & Anr. (supra)***, wherein such aspect was discussed in detail. The relevant paragraphs of the aforesaid decision read thus:

> *"13.1 After going through the pleadings of the parties, appreciating the documents which are annexed with their respective pleadings of the parties, it is very much clear that when order of status quo passed by this Court was in operation, sale-deed in question has been executed. Once, it has come on record that sale-deed is executed in violation of order of status quo, as per settled legal position of law, such agreement i.e. registered sale-deed is null and void thereby, it requires to be cancelled.*
>
> *13.3 The Hon'ble Apex Court in the case of* ***Jehal Tanti Vs. Nageshwar Singh (dead) through LRs. reported in 2013 (14) SCC***

689 *has observed and held as under :-*

> *"11. The same issue was considered in Vidur Impex and Traders (P) Ltd. and others v. Tosh Apartments (P) Ltd. and others (2012) 8 SCC 384, and it was held :*
>
> > *"At the cost of repetition, we consider it necessary to mention that Respondent 1 had filed suit for specific performance of agreement dated 13.9.1988 executed by Respondent 2. The appellants and Bhagwati Developers are total strangers to that agreement. They came into the picture only when Respondent 2 entered into a clandestine transaction with the appellants for sale of the suit property and executed the agreements for sale, which were followed by registered sale deeds and the appellants executed agreement for sale in favour of Bhagwati Developers. These transactions were in clear violation of the order of injunction passed by the Delhi High Court which had restrained Respondent 2 from alienating the suit property or creating third-party interest. To put it differently, the agreements for sale and the sale deeds executed by Respondent 2 in favour of the appellants did not have any legal sanctity."*
>
> *(emphasis supplied)*
>
> *13. We may also notice Section 23 of the Indian Contract Act, 1872, which lays down that the consideration or object of an agreement is lawful, unless it is forbidden by law; or is of such a nature that, if permitted, it would defeat the provisions of any law; or is fraudulent; or involves or implies injury to the person or property of another; or the Court regards it as immoral, or opposed to public policy. In each of these cases, the consideration or object of an agreement is unlawful and every agreement executed with such an object or consideration which is unlawful is void.* ***Since the sale deed was executed in***

***favour of respondent No.1 in the teeth of the order of injunction passed by the trial Court, the same appears to be unlawful**."*

(emphasis supplied)

*13.4 The Hon'ble Apex Court in the case of **Virendrabhai Devjibhai Patel (supra)** has observed and held as under :-*

"5. The High Court was of the view that the Trial Court was not justified in passing the order, and in particular for cancellation of the sale deed. The High Court reached the said conclusion mainly on the basis that the transferees were not originally the defendants; they were only impleaded by the Court as defendants while passing the order on the application filed under Order XXXIX, Rule 2A. The High Court has also taken the view that in any case there is no justification in issuing a direction for cancellation of the document since the power under Order XXXIX Rule 2A is only to punish the alleged contemnors and attach the property.

*6. **We are afraid, the stand taken by the High Court may not be wholly correct. Going by the injunction granted by the Trial Court is it fairly clear that the defendants if at all could have made any transfer it could have been only the undivided share and not the specific portion of the property, which is certainly in violation of the spirit of the order.***

7. Faced with such a situation, learned senior counsel, on instruction, submits that the defendants may be permitted to execute an appropriate rectification deed making the sale deed dated 19.2.2008 only as a transfer of undivided share and not any specific portion of the entire property comprising of 20700 sq. mts...."

(emphasis supplied)

13.5 Likewise, the Division Bench of this Court in the case

of ***Nareshbhai Hathising Shah (supra)*** *in a similar situation had on occasion to decide the controversy, wherein it was held as under :-*

> ***"1. <u>At the outset it is required to be noted that present case is a glaring example of taking the interim order / injunction granted by the High Court and selling the land in absolute breach of the injunction granted by this Court</u>*** *and it shows that the concerned opponents more particularly opponent No.11 has no respect of the Court and the Court's order and as such the opponent No.11 has changed the story / stand from time to time and as such played game with the Court and the court proceedings.*
>
> ***[3.3]*** *It is the case on behalf of the applicants herein - original appellants - original plaintiffs that despite the above interim stay / injunction granted by the Division Bench of this Court and during the continuance of the aforesaid interim injunction, the opponent No.6 herein as power of attorney holder of the opponent No.11 herein has executed one registered sale deed dated 22.11.2012 in favour of opponent Nos.1 to 5 herein for a sale consideration of Rs.7,97,32,600/- collusively. Therefore, the applicants herein - original appellants - original plaintiffs have preferred the present civil application for the aforesaid reliefs.*
>
> ***[18.0]*** *In view of the above and for the reasons stated above, <u>we hold opponent No.11 herein guilty of the Contempt of Courts Act for deliberate and willful disobedience of the interim order dated 06.10.2010 passed by this Court in Civil Application No.4816/2008 and under Order 39 Rule 2(A) of the Code of Civil Procedure, 1908</u> having regard to the facts and circumstances of the case, we impose the sentence of 3 months imprisonment in*

addition to a fine of Rs.2,000/- upon opponent No.11. The fine shall be paid within a period of two weeks from today and in default thereof the opponent No.11 shall undergo further imprisonment of two weeks.

For the reasons stated hereinabove, ***it is also declared that the sale deed dated 22.11.2012 executed by opponent No.6 herein as power of attorney of opponent No.11, in favour of opponent Nos.1 to 5 which is found to be in breach of the interim order / injunction granted by this Court in Civil Application No.4816/2008 is declared as non est and is hereby ordered to be cancelled and quashed and set aside and it is directed to restore the position which was prevailing prior to the execution of the sale deed dated 22.11.2012 which was prevailing at the time of interim injunction/order dated 06.10.2010 passed by Division Bench of this Court in Civil Application No.4816/2008****. However, it is observed that it will be open for the opponent Nos.1 to 5 to recover the amount of sale consideration from the opponent No.11 herein. Rule is made absolute accordingly to the aforesaid extent however, with exemplary cost which is quantified at Rs.1 lakh, to be deposited by the opponent No.11 herein with the Registry of this Court within a period of two weeks from today and it is directed that on such deposit, Rs.50,000/- to be paid to the applicants towards the cost of the present proceedings and Rs.50,000/- to be transmitted to the Gujarat State Legal Services Authority."*

(emphasis supplied)

13.6 The Division Bench of this Court in the case of ***Ismail Ahmad Siddat (supra)*** *wherein an application filed under Order 39 rule 2(a) of CPC. having come to the conclusion that registered sale-deed was*

executed in breach of order of injunction, ultimately held that sale-deed is void ab-initio. It also profitable to refer the observations made by the Division Bench of this Court in the aforesaid case, reads as under :-

> ***"1.*** *The applicants, who happen to be the original respondents in First Appeal No. 719 of 2012, have taken out this application for appropriate directions and orders under the provisions of Order 39 Rule 2A and other provisions of CPC with following prayers:*
>
> *A) Your Lordships be pleased to initiate appropriate proceedings against the respondents no. 1 to 4 and their Power of Attorney Holder, Jamila Ibrahim Dadi Patel under the provisions of the Contempt of Court Act, and under the provisions of Order 39 Rule 2A and others of Code of Civil Procedure for their deliberate and willful breach of the order dated 14.3.2012 passed by this Court in Civil Application No. 2975/2012 in First Appeal No. 719/2012.*
>
> *B) Your Lordship be further pleased to direct the respondents to restore the possession of title of the portion of land in question by cancelling the illegally executed sale deed dated 24.6.2014.*
>
> *C) Your Lordship be pleased to pass appropriate orders for detaining a person in civil prison who has committed disobedience of the order passed by this Court.*
>
> ***12.*** *This Court is of the considered view that when the respondents have come out with affidavit way back on 17.12.2015 and subsequent affidavit dated 23.12.2015, there hardly remains a question to be adjudicated so far as breach is concerned.* ***The contents of numbers of***

decisions in which it is clearly observed that the action taken in ignorance of the court's order, over reaching court's process, would be nullity in the eye of law also and, hence, we have to annul the sale-deed in question, which, therefore, is hereby annulled as the sale-deed was executed in disregard of the court's order. As a result thereof, the sale-deed dated 24.6.2014 shall have no effect at all and the same is declared to be void ab initio and any action taken pursuant thereto also shall be voided and are voided by this Court as no one can claim any right, title or entitlement through that or under the sale-deed dated 24.6.2014 which was admittedly executed in disregard to the order of this Court dated 14.3.2012*.*

13*. This brings this court to consider the aspect of dealing with the claim of the applicants that the respondents are liable to be prosecuted against the Contempt of Courts Act.*

14. *Mr. Mehta learned advocate appearing for the applicant, at this stage submitted that in case if the court is not inclined to pass any order qua punishment as prayed in para-10(C), the Court may at least consider about the awarding appropriate costs.*

15. *We are of the considered view that the respondents have though not resisted this matter in any manner qua the factum of contempt and looking to the aforesaid two affidavits of the respondents, we are not inclined to issue any order so far as prayer para-10(C) is concerned, but it would be appropriate to partly allow this application with appropriate costs as on account of act of disregard to this Court's order, the applicants were compelled to take out this proceedings. Hence, this application is partly allowed with costs of Rs. 25,000/-. The respondents shall deposit the said amount with the Registry of this Court on or before 25.2.2016, which*

shall be disbursed to the applicants after proper verification."

(emphasis supplied)

13.7 At this stage, it is apt to refer the decision of the Division Bench of the Bombay High Court in the case of ***Keshrimal Jivji Shah (supra)****, wherein it was observed and held as under :-*

"27. We cannot accept Shri Naphade's contention that observations of the Supreme Court in the case of Surjeet Singh should be read as restricted to proceedings under Order 22, Rule 10 of Civil Procedure Code and the same cannot be extended to defiance of injunction order issued under Order 39, Rule 1 of Civil Procedure Code. Once the issue is placed on the pedestal of public policy and the very faith of litigants in Rule of law and administration of justice, then it is not possible to make the distinction or bifurcation suggested by Shri Naphade. ***It would mean that consequences of nullifying such transaction not being provided by the Statute, it would not lose its legal efficacy even if it is in utter disregard to or in violation of or breach of prohibitory order or order of injunction issued by a Court of law. It would mean that parties can breach and violate Court orders openly and with impunity and neither they nor the beneficiaries suffer any consequences. It is time that we recognise the principle that transfer of immovable property in violation of an order of injunction or prohibition issued by Court of law, confers no right, title or interest in the transferee, as it is no transfer at all. The transferee cannot be allowed to reap advantage or benefit from such transfer merely because he is not party to the proceedings in which order of injunction or other prohibitory direction or restraint came to be issued. It is enough that the transferor is a party and the order was in force. These two conditions being satisfied, the transfer must not be upheld. If this course is not adopted then the tendency to flout orders of Courts which is increasing day by day can never be curbed. The Court exercises its powers on the foundation of respect and regard for its authority by***

litigating public. People would loose faith and respect completely if the Court does not curb and prevent this tendency. The note of caution of the Supreme Court must be consistently at the back of everybody's mind. *Therefore, Shri Naphade is not right in the distinction which he is trying to make.*

28. Equally untenable is the contention of Shri Naphade that an order of injunction will bind only the transferor in this case. It is his submission that the said order does not bind the world at large. He submits that ownership rights are neither taken away nor restricted in any manner by order of injunction or other preventive directions. He submits that the transfer in favour of his client was thus neither invalid nor illegal, leave alone null and void. For the reasons already recorded above, we find it difficult to accept this contention of Shri Naphade. Decision of the Supreme Court in the case of Krishan Kumar Narula v. State of Jammu and Kashmir, has no application. There, the Supreme Court was distinguishing an order of stay from an order of injunction. The distinction was made in the context of consequences upon breach and violation of such orders. It is in that context that the Supreme Court observed that the order of stay is qua a Court, whereas an order of injunction reaches and touches a party to the lis. These observations cannot be applied when it is noticed that during the pendency of an order of injunction, immovable property, which is subject matter of restraint or injunction, is transferred. When this course is admittedly adopted, then there is no choice but to declare the transaction as illegal. There is no question of then deciding the nature and effect of the order of injunction."

(emphasis supplied)

13.8 It is also apt to refer and rely on the decision of the Hon'ble Apex Court in the case of ***Robust Hotels Private Limited (supra)****, wherein it was observed and held as under :-*

> *"42. This Court further held that it is not open either a party to the lis or to any third party to determine at their own that an order passed by a Court is valid or void. A party to the lis or the third party who considers an order passed by a court as voidable or non est, must approach the court of competent jurisdiction to have the said order set- aside on such grounds, as may be available in law. This Court held that the order of the Company Court of Madras High Court was to be complied with and sale held in violation of the said order was to be set aside."*
>
> *(emphasis supplied)*

14.5 At this stage, it is profitable to refer and rely upon the decision of the Hon'ble Apex Court in the case of ***Balwantbhai Somabhai Bhandari Vs. Heeralal Somabhai Contractor (deceased) represented LRs and others reported in (2023) 17 SCC 545****, more particularly in Para-88 to 91, 91, 97 which read as under :-*

> *"88. Thus, although Section 52 of the Act 1882 does not render a transfer pendente lite void yet the court while exercising contempt jurisdiction may be justified to pass directions either for reversal of the transactions in question by declaring the said transactions to be void or proceed to pass appropriate directions to the concerned authorities to ensure that the contumacious conduct on the part of the contemnor does not continue to enure to the advantage of the contemnor or anyone claiming under him.*
>
> *89. The High Court declared all the sale deeds executed by the contemnors in favour of the purchasers as non-est. The High Court ordered that the sale deeds stand cancelled and set aside. The contemnors were directed to restore the position which was prevailing at the time of the order dated 14.10.2015 passed by the High Court. In our opinion, the High Court was fully justified in declaring the sale deeds as non-est or void.*

IMPLEADMENT OF PURCHASERS AS NECESSARY PARTIES

90. ***We now proceed to answer the question whether the clients of Mr. Shyam Divan i.e., purchasers should have been impleaded as party respondents in the contempt proceedings before the High Court and whether they should have been heard before passing the final order.***

91. In the case of Satyabrata Biswas (supra), it was held that no person can gain an advantage in derogation of rights of the parties. In the said matter an order was passed, directing the parties to maintain status quo with respect to the disputed property. The appellant therein however, acted in contempt and created a sub-tenancy in favour of one Somani Builders, who was not made a party to the contempt proceedings before the High Court. Somani Builders contended that they should have been made a party to the proceedings as they possessed a right in the disputed property. This Court rejected the said contention and observed as under:

> *"23. ... It is no use contending as Mr. Chidambaram, learned counsel for the respondents does, that there was a bar to such a sublease under the terms of the status quo order. It has the effect of violating the preservation of status of the property. This will all the more be so when this is done without the leave of the court to disturb the state of things as they then stood. It would amount to violation of the order. The principle contained in the maxim 'actus curiae neminem gravabit' has no application at all to the facts of this case when in violation of status quo order a sub-tenancy has been created. Equally, the contention that even a trespasser cannot be evicted without recourse to law is without merit, because the state of affairs in relation to property as on September 15, 1988 is what the court is concerned with. Such an order cannot be circumvented by parties with impunity and expect the court to confer its blessings. It does not matter that to the contempt proceedings Somani*

> *Builders was not a party. It cannot gain an advantage in derogation of the rights of the parties, who were litigating originally. If the right of sub-tenancy is recognised, how is status quo as of September 15, 1988 maintained? Hence, the grant of sublease is contrary to the order of status quo. Any act done in the teeth of the order of status quo is clearly illegal. All actions including the grant of sublease are clearly illegal."*
>
> *(Emphasis supplied)*
>
> *97.* ***Thus, from the aforesaid, it is evident that it was not necessary for the High Court to implead the purchasers in the contempt proceedings.*** *In fact, we may go to the extent of observing having regard to the facts of the case that the purchasers were quietly watching the proceedings. It is not as if they were not aware of what was happening however, when things went wrong, they now cry foul of not being impleaded as parties and heard by the High Court. We are also not prepared to believe that even while the sale transactions were being effected they were not aware of the undertaking given before the High Court that the properties would not be sold till the final disposal of the main matter."*
>
> *(emphasis supplied)*

15. Thus, in view of the aforesaid pronouncement of law by the Hon'ble Apex Court as such, opponent Nos. 5 & 6 are not even required to be joined/heard in the present application but when it has been joined, they cannot plead anything more than what is pleaded by the opponent No.1, who has committed breach of order of injunction passed by this Court. In the light of the aforesaid position of law, submissions made by the learned advocate Mr. Thakkar for opponent Nos.5 & 6 requires to be rejected.

16. Having found that opponent No.1 has clearly violated and the breach of order of status quo passed by this Court dated 14.09.2018 thereby, he has executed sale-deed on 01.12.2018 in

favour opponent Nos. 5 & 6 and put them in possession of the suit land, such sale-deed is hereby declared as void ab-initio and any action taken pursuant thereto shall be voided and are voided by this Court and no one can claim any right title or entitlement through that or under sale-deed dated 01.12.2018 which was undisputedly executed in disregards to the order passed by this Court on 14.09.2018. Consequently, the sale-deed in question is hereby cancelled and ordered to be cancelled."

(Emphasis Supplied)

26. Even it is worth to refer to pertinent observations made by the Hon'ble Apex Court in the case of ***Vijay Mallya (supra)***, wherein it held thus:

"13. It is, thus, well settled that apart from punishing the contemnor for his contumacious conduct, the majesty of law may demand that appropriate directions be issued by the court so that any advantage secured as a result of such contumacious conduct is completely nullified. ***The approach may require the court to pass directions either for reversal of the transactions in question by declaring said transactions to be void or passing appropriate directions to the concerned authorities to see that the contumacious conduct on the part of the contemnor does not continue to enure to the advantage of the contemnor or any one claiming under him****. It is precisely for these reasons that the direction to have vacant possession delivered to the rightful claimant was passed by this Court in Noorali Babul Thanewala v. K.M.M. Shetty & Ors. 3 Mere passing of an order of punishment as stated by this Court in Pravin C. Shah v. K.A. Mohd. Ali & Anr.5 would not be enough or sufficient.* ***In a given case, to meet the ends of justice, the concept of purging of the contempt***

> ***would call for complete disgorging of all the benefits secured as a result of actions which are found by the court to be contumacious****."*
>
> *(Emphasis supplied)*

27. Thus, it is now well-settled position of law that to uphold the majesty of law and to maintain the dignity, a sale deed executed in flagrant violation of stay order granted by the Court is considered as a void agreement and required to be declared as void *ab initio*; rather to secure the ends of justice and to uphold the sanctity of the Court's order, the transaction must be reversed by declaring it void, and the sale deed in question ought to be cancelled. Any benefit derived by any party in defiance of the stay order passed by the Court is of no avail.

28. At this stage, it would be apt to refer to and rely upon the decision of the Hon'ble Apex Court in the case of ***Surjit Singh Vs. Harban Singh*** reported in ***1995 (6) SCC 50***, wherein it observed and held thus: (para-4)

> ***"4.*** *As said before, the assignment is by means of a registered deed. The assignment had taken place after the passing of the preliminary decree in which Pritam Singh has been allotted 1/3rd share. His right to property to that extent stood established. A decree relating to immovable property worth more than hundred rupees, if being assigned, was required to be registered. That has instantly been done. It is per se property, for it relates to the immovable property involved in the suit. It clearly and squarely fell within the ambit of the restraint order. In sum, it did not make any appreciable difference whether*

property per se had been alienated or a decree pertaining to that property. ***In defiance of the restraint order, the alienation/assignment was made. If we were to let it go as such, it would defeat the ends of justice and the prevalent public policy. When the Court intends a particular state of affairs to exist while it is in seisin of a lis, that state of affairs is not only required to be maintained, but it is presumed to exist till the Court orders otherwise. The Court, in these circumstances has the duty, as also the right, to treat the alienation/ assignment as having not taken place at all for its purposes****. Once that is so, Pritam Singh and his assignees, respondents herein, cannot claim to be impleaded as parties on the basis of assignment. Therefore, the assignees respondents could not have been impleaded by the trial Court as parties to the suit in disobedience of its orders. The principles of lis pendens are altogether on a different footing****. We do not propose to examine their involvement presently. All what is emphasised is that assignees in the present facts and circumstances had no cause to be impleaded as parties to the suit. On that basis, there was no cause for going into the question of interpretation of paragraphs 13 and 14 of the settlement deed. The path treaded by the Courts below was, in our view, out of their bounds. Unhesitatingly, we upset all the three orders of the Courts below and reject the application of the assignees for impleadment under Order 22 Rule 10 C. P. C."*

(Emphasis Supplied)

28.1 In view of the aforesaid pronouncement of law by the highest Court, I am not inclined to accept the submissions made by Mr. Patel, learned advocate for defendant No.3 and as such, the decision pressed into service by him is also not applicable to the case at hand.

29. It is also required to be observed that though technically the third party in whose favour the sale deed was executed (Vraj Industrial Park)

was not joined to the contempt proceedings (impugned application), nonetheless, the partner of such party happens to be a director of defendant No.3. Mr. Patel, learned advocate, argued on the merits of the suit, yet he was unable to dispute the ratio laid down by the Hon'ble Apex Court in the case of ***Balwantbhai Somabhai Bhandari (supra)***, ***Vijay Mallya (supra)***, and this Court in the case of ***Kiranbhai Jayvantrao Kamle & Anr. (supra);*** rather, Mr. Patel, learned advocate, has made limited request that if this Court cancels the sale deed executed by Defendant No. 5, an observation be made that the said deed shall stand restored or re-validated in favour of the third party should the plaintiff ultimately fail in the suit.

29.1 Without expressing anything on such request made by Mr. Patel, learned advocate, I would like to only state that though the third party was not technically joined to the contempt proceedings, it was also well within the knowledge of that third party about the execution of the registered sale deed by defendant No.5 in defiance of the status *quo* order granted by the Trial Court firstly on 21.10.2011 and secondly on 04.10.2014, as its partner happens to be director of the defendant No.3 company must be aware of the said status quo orders. At the same time, at an appropriate stage and in a case of dismissal of the suit, the Trial Court may pass appropriate order in this regard.

30. According to me, the Courts below have failed to exercise the

power vested in them by not reversing the transaction and cancelled the registered sale deed dated 09.05.2022 in question despite holding defendant No.5 guilty of willful disobedience of the stay order dated 04.10.2014. Thus, to the aforesaid extent, the Courts below fell into serious error of law.

CONCLUSION: -

31. In view of the foregoing observations, discussion, and reasons, I am of the considered view that there is no merit in the claim of Defendant No.5, inasmuch as he failed to prove on record that he was not made aware about the stay order dated 04.10.2014. Rather, it can be held that he had knowingly breached the aforesaid stay order by executing the registered sale deed dated 09.05.2022 in favour of a third party.

31.1 The Courts below have committed no error by holding Defendant No.5 guilty of committing breach of its injunction order and, having found him willfully disobeying such order, correctly sentenced him to civil imprisonment, that too only for seven days'. Rather, I am of the view that such a short sentence (civil imprisonment) is not at all an adequate to deter any party who knowingly and brazenly flouted the stay order passed by the Court. Nonetheless, I exercise restrain by refraining from enhancing the period of civil imprisonment. Instead, while not entertaining the writ petition filed by the contemnor and

allowing of the plaintiff, I would like to saddle him with heavy costs.

31.2 The aforesaid part of the impugned order cannot be said to be in any manner perverse or grossly erroneous; thus, it does not warrant any interference of this Court under Article 227 of the Constitution of India.

32. At the same time, for the reasons supra, this Court also found that the Courts below, in law, were required to cancel the registered sale deed dated 09.05.2022 executed by Defendant No.5 in favour of the third party, and having failed to pass such order, committed a serious error in law. Accordingly, this Court cancels the sale deed dated 09.05.2022 in question executed by defendant No.5 in favour of the third party, i.e., Vraj Industrial Park.

33. The Registry of this Court is hereby directed to forthwith send a copy of the writ of this judgment-order to the concerned Sub-Registrar, Kheda.

33.1 After receipt of the writ of this judgement-order, the concerned Sub-Registrar, Kheda, is hereby directed to take note of the cancellation of the sale deed in question by this Court, which was registered on 09.05.2022 with his office at Serial No.966 of 2022. The Sub-Registrar, Kheda, shall make suitable entry in his book in this regard, and treat the aforesaid sale deed as cancelled.

34. Having considered the overall conduct of defendant No.5 and in lieu of enhancing his civil imprisonment and to compensate the plaintiff who required to approach up to this Court due to illegal act of defendant No.5, this Court is inclined to impose exemplary costs upon defendant No.5, whereby directing him to pay Rs.1,00,000/- to the plaintiff and deposit Rs.1,00,000/- with the DLSA, Kheda at Nadiad, within one month from the date of receipt of a copy of this judgment-order.

34.1 In a case of failure to pay and deposit of the aforesaid amount by the defendant No.5, it is open for the plaintiff as well as DLSA, Kheda at Nadiad, to recover the aforesaid amount from the defendant No.5 in accordance with law. Since the suit is still pending before the Trial Court, it may also see the compliance of this order by the defendant No.5. The writ of this judgement-order shall also be sent to DLSA, Kheda at Nadiad.

35. In view of the foregoing conclusions, Special Civil Application No. 10960 of 2026 filed by defendant No.5 is dismissed with costs. Whereas, Special Civil Application No.11666 of 2026 filed by the plaintiff is allowed to the aforesaid extent with costs to be recovered from the defendant No.5.

Sd/-
(MAULIK J.SHELAT,J)

Lalji Desai

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: LALJI DESAI(HC01558), PRIVATE SECRETARY, at High Court of Gujarat on 23/11/2026 14:57:24