

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

**CIVIL APPEAL NOS. _____ OF 2025
(Arising out of Diary No.38616 of 2018)**

INDIAN OVERSEAS BANK

...Appellant(s)

Vs.

M.A.S SUBRAMANIAN & ORS.

...Respondent(s)

O R D E R

Permission is granted to file civil appeals.

2. Delay condoned.

3. By consent of the parties, the appeals are taken up for final hearing.

4. We have heard the learned senior counsel for the appellant, the learned counsel appearing for respondent Nos. 5 to 9 and the learned counsel appearing for respondent No.10.

5. The challenge in these appeals will have to be confined to the findings recorded by the National Company Law Appellate Tribunal, (for short, "the NCLAT") in paragraph 16 of the impugned judgment which reads thus:

"16. We reject the averments made by the Appellants that the land belonged to them. The land was in possession of the Company under an

agreement which can be seen from the records that against the transfer of shares the original owner of the land had agreed to sell the land to the Company. For long the land was in possession of the Company and the Company was in possession by way of part-performance of the contract and there was nothing remaining to be done by the Company except that late Shri M.A.Shanmugam had to execute and register the sale deed which unfortunately he could not do as he suddenly passed away in a year of incorporation. The Appellants cannot take advantage of the position they hold as trustees to deprive the Company of the possession of its land. The Appellants have argued that the wives of original Petitioners 1 and 2 who were also near relatives of the Appellants had litigated with them regarding the partition of the properties left by late Shri M.A.Shanmugam in which litigation the present land was also included. The Appellants have given details regarding those litigations and their ending into compromise to argue that original Petitioners had knowledge about the disputes and thus they must be said to have come without clean hands. We find that even if the wives of the original Petitioners 1 and 2 had any litigation with reference to the properties left by Shri M.A.Shanmugam and their relationships with the Appellants, those disputes cannot be basis to say that the original Petitioners who are shareholders in their own rights can be debarred from making the claims they made in the Company Petition. We have already discussed as to how the sale deed dated 31.10.2011 was executed which came to be entered into books of

the District Registrar as Document No.1844/2013 and that the Company Petition filed on 25.10.2014 could not be said to be delayed. The argument of the Appellants that the original Petitioners did not disclose in the NCLT the lease deed, settlement deed and litigations have no substance. We hold that the petitioners could maintain the petition in their individual rights as share holders. We reject the arguments that the original Petitioners brought the Company Petition without having clean hands or that they had suppressed material facts."

6. It is well settled that an agreement for sale in respect of an immovable property does not transfer title in favour of the purchaser under the agreement. In view of Section 54 of the Transfer of Property Act, 1882, an agreement for sale does not create any interest in the property. The only mode by which an immovable property worth more than Rs.100/- (Rupees one hundred) can be sold is by a sale deed duly registered in accordance with the Indian Registration Act, 1908.

7. In this case, the NCLAT has recorded a finding that late Shri M.A.Shanmugam who was the owner of the property subject matter of these appeals had agreed to sell the property to the company against the transfer of shares of the company in his favour. The NCLAT has recorded a finding that the company was in possession by way of part performance of the contract. Based on the said finding, the

sale deed dated 31st October, 2011 purportedly executed by the legal representatives of late Shri M.A.Shanmugam has been held as not binding on the company. So long as the original owner had not sold the property by execution of a registered sale deed, he continued to be the legal owner of the property. Admittedly, he had not executed a sale deed in favour of the company. Therefore, the NCLAT in its limited jurisdiction could not have held that the sale deed dated 31st October, 2011 was not binding on the company as the company was in possession by way of part performance of the contract.

8. There is nothing placed on record to show that the company filed a suit for specific performance for enforcing the agreement made by late Shri M.A.Shanmugam. In the circumstances, we set aside the declaration granted by the NCLAT under the impugned judgment in the following terms:

"We declare that the sale deed dated 31.10.2011 executed by original Respondents 2 to 6 in favour of original Respondent No.7 as not binding on the Respondent No.1 Company."

9. While doing so, we make it clear that we have made no adjudication on the ownership rights claimed by the different parties pursuant to the sale deed dated 31st October, 2011 and the rights claimed by respondent No.10-company as well as by the appellant. Their remedies to seek declaration and/or to enforce their rights are kept open.

10. The appeals are accordingly partly allowed on the above terms.

11. Needless to add that the remedies of the company are also kept open.

.....J.
(ABHAY S.OKA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
January 07, 2025.

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

CIVIL APPEAL Diary No(s). 38616/2018

[Arising out of impugned final judgment and orders dated 12-07-2018 in CAAT No. 12/2018 and dated 24-09-2018 in RA No. 2/2018 passed by the National Company Law Appellate Tribunal]

INDIAN OVERSEAS BANK

Petitioner(s)

VERSUS

M.A.S SUBRAMANIAN & ORS.

Respondent(s)

(IA No. 130366/2022 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 154766/2018 - CONDONATION OF DELAY IN FILING
IA No. 154771/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT
IA No. 130368/2022 - EXEMPTION FROM FILING O.T.
IA No. 161351/2018 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES
IA No. 154762/2018 - PERMISSION TO FILE APPEAL
IA No. 39377/2019 - STAY APPLICATION
IA No. 154768/2018 - STAY APPLICATION)

Date : 07-01-2025 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s)

Mr. Kunal Tandon, Sr. Adv.
Mr. Kush Chaturvedi, AOR
Ms. Prerna Priyadarshini, Adv.
Ms. Richa Sandilya, Adv.
Ms. Natasha Singh, Adv.
Mr. Syed Farraz Alam, Adv.
Mr. Atharva Gaur, Adv.
Mr. Aayushman Aggarwal, Adv.
Mr. Shaurya Gupta, Adv.

For Respondent(s)

Mr. R Jawahar Lal, Adv.
Mr. Sayyam Maheshwari, Adv.
Ms. Meghna Kumar, Adv.
Mr. Balaji Srinivasan, AOR

Ms. Nappinai, Sr. Adv.
Mr. V. Balalji, Adv.
Mr. B. Dhananjay, Adv.
Mr. C. Kannan, Adv.
Mr. Nizamuddin, Adv.
Mr. S. Devendar, Adv.
Ms. Astha Tyagi, AOR

Mr. G. Balaji, AOR

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

The appeals are partly allowed in terms of the
signed order.

Pending applications also stand disposed of.

(ANITA MALHOTRA)
AR-CUM-PS

(AVGV RAMU)
COURT MASTER

(Signed order is placed on the file.)