Reserved On : 22/12/2025
Pronounced On : 21/01/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CIVIL REVISION APPLICATION NO. 40 of 2020

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE J. C. DOSHI ***Sd/-***

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Approved for Reporting	Yes	No
	Yes	

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PRADIPKUMAR GORDHANDAS PATEL
Versus
CHANDRAKANT JIVANLAL PATEL

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Appearance:
MR.MRUDUL M BAROT(3750) for the Applicant(s) No. 1
MR HARDIK D MUCHHALA(5634) for the Opponent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE J. C. DOSHI**

CAV JUDGMENT

1. By way of this revision under Section 115 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'the Code'), revisionist prayed for following relief:-

> *"16. A) Allow this Application;*
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> *B) Be pleased to quash and set aside the order dated 04.12.2019 passed in P.S.R.P. No.22 of 2011 passed by the Small Cause Court No.10, Ahmedabad;*

C) Pending admission, hearing and till the final disposal of the present application, this Hon'ble Court may be pleased to stay the said order dated 04.12.2019 passed in P.S.R.P. No.22 of 2011 passed by the Small Casue Court No.10, Ahmedabad;

D) Pass such orders as thought fit in favour of the applicant in the interest of justice."

2. The case backgrounds as under:-

2.1 Mr. Chandrakant Jivanlal Patel filed the application under Section 41 of the Presidency Small Cause Court Act, 1882 (hereinafter referred to as 'the Act') to issue possession warrant against the opponent – Pradipkumar Gordhandas Patel for getting possession of the disputed premises bearing House No.86 situated at Uttar Gujarat Patel Society, Part-I, near Haripur, Asarva, Ahmedabad ('Disputed premises') on the pleading that the disputed premises was handed over to the opponents for the use and enjoyment for the limited time period without charging any rent, as the opponent was the relative of the applicant. The permission is revoked and the plaintiff has demanded the peaceful and vacant possession of the premises from the opponent, but no possession has been handed over. Instead, the opponent has filed the Civil Suit No. 2069 of 2003 for the relief of injunction to protect his possession and Civil Suit No.2929 of 2010 for the relief of specific performance in the City Civil Court against the plaintiff and other.

2.2 Some incidental pleading made to the effect that the opponent has acquired alternative accommodation situated at

Mandirvas Navi Parabadi, Haripura Gaam, Asarwa being House No. 300/1 in Ahmedabad City.

2.3 The relief of issuance of possession warrant, therefore, was sought under Section 41 read with Section 43 of 'the Act'. On service of notice, the opponent has appeared before the Court and has filed his written statement at Exhibit-40, wherein defendant admitted that they are close relatives. It is further averred that the petitioner is the son of defendant's aunt (*Foi*) and since defendant's mother was expired, he was not kept by the father of the plaintiff and later on, since defendant was earning independently, he has purchased the disputed property on the sale consideration of Rs. 45,50,000/- by paying Rs. 1.50,000/- being part payment thereof on 29.04.1994 and Bharatbhai Patel, the brother of the plaintiff obtained the possession of the disputed property thereof.

2.4 On the aforesaid conspectus, it was prayed that the application under Section 41 and 43 of 'the Act' is not maintainable.

2.5 Learned Small Cause Court permitted both the parties to lead the evidence and allowed the petition and passed the order of issuing the possession warrant under Section 43 of 'the Act' and the Bailiff of the Court was directed to execute the possession warrant and to take the possession of the disputed premises and handover it to the applicant.

2.6 Being aggrieved, the defendant is before this Court by filing this revision.

3. Heard learned advocate Mr. Mrudul M. Barot for the revisionist – defendant and learned advocate Mr. Hardik D. Muchhala for the original plaintiff.

3.1 Learned advocate Mr. Mrudul M. Barot raised the argument that plaintiff has not given any notice in writing to the revisionist, terminating the permission or revoking the revisionist's right to remain in the possession of the demised premises. Thus, order of isuance of posession warrant is bad in law.

3.2 He would further submit that the plaintiff is totally silent on the aspect that, on which date the plaintiff has left the premises of the defendant to live in other premises, no specific date was mentioned to claim that on particular date, the notice was issued to the defendant and permission to live in the disputed property was discontinued or revoked.

3.3 Learned advocate Mr. Mrudul M. Barot takes this Court to the order dated 31.01.2020 passed by the coordinate Bench and submitted that the revision was admitted on the ground that, although the request for revocation of the permission may not be in writing, but must be proved with specific effective date of revocation, date of revocation to declare the defendant as a permissive user or tresspasser. He would submit that since the oral notice request was not proved in absence of plea as to specific date on which the revisionist becomes permissive user or was rendered tresspasser, inasmuch as it is only after the said date that the petitioner could be termed as a ‘tresspasser’. Therefore, in absence of compliance

with the written notice request, the petition under Section 41 of 'the Act' was not maintainable.

3.4 He would further submit that the learned Small Cause Court erroneously referred to provision of some other Act and drew the analogy from there that if a notice in writing is to be served to the defendant, the lawmakers must have stated so in the provision of the law.

3.5 He would further submit that the predominant aspect in Section 41 is to revoke the permission and the person claiming to be the owner is to request the person in occupation and such request must reckon from any particular date to render the permissive possession as a possession of the trespasser. In absence thereof, he would submit that the application filed by the petitioner under Section 41 of 'the Act' was not maintainable, but the learned Small Cause Court has committed serious error in overlooking the specific provision.

3.6 Mainly upon the aforesaid submission, learned advocate Mr. Mrudul M. Barot submitted to allow this revision and to interfere with the impugned judgment and order, and consequently, to quash the same.

4. As against the aforesaid submission, learned advocate Mr. Hardik D. Muchhala appearing for the original plaintiff would submit that Section 41 of 'the Act' does not contemplate to written request/notice to revoke the permission.

4.1 He would further submit that the defendant since has apprehended the threat to his possession, has filed Civil Suit

in the City Civil Court to protect from being dspossessed is suffice to say that the plaintiff being a landlord has made the request and revoked the permission of the revisionist to remain in the possession of the disputed property. Therefore, he submitted that the learned Small Cause Court has not committed any error in reaching to conclusion of issuance of the warrant for possession of the petitioner. Thus, he submitted to dismiss this revision.

5. I have heard learned advocates for both the sides, also perused the paper-book and applied anxious consideration to the rival submission as well as the facts of the case.

5.1 Some admitted facts of the case are that the defendant - Pradipkumar Gordhandas Patel is living in the disputed property. Defendant's possession has not been given any statutory enactment like tenant, lessee, mortgagee, etc. It is a case of the landlord that he is the owner of the disputed property, it is not much disputed by the defendant. Rather, during the course of leading of evidence, it is admitted that the plaintiff is the owner of the property.

5.2 In para 1.2 of application, plaintiff came out with the case that he has withdrawn the permission and has demanded the possession of the disputed premises from the defendant. No specific date is stated that on which date the permission was withdrawn or revoked. Apt to note that the defendant has no other statutory right to remain in possession of the disputed property, except under the permission of the plaintiff.

5.3 The plaintiff filed the PSRP Application under Section 41 of 'the Act' on 01.07.2011. The defendant filed two Civil Suits being Civil Suit No.2069 of 2003 and secondly, Civil Suit No.2929 of 2010. The former suit was filed for the injunction, as the defendant was apprehending that his possession could have been snatched away by the plaintiff without following due process of law and second suit was filed for the specific performance of the agreement, by which the defendant claims that it was purchased by him from the brother of the plaintiff.

5.4 In juxtaposition of the aforesaid undisputed facts of the case, the question arise that, whether landlord is required to issue any written notice to revoke the permission given to the defendant by specifying the particular date reckoned as a date for revocation of the permission to file the petition under Section 41 of 'the Act' and to claim the possession of the disputed property thereof.

6. The Presidency Small Cause Courts Act, 1882 has been enacted in 1882 with the specific object to consolidate and streamline the law for small civil cases in the presidency towns establishing the territorial Court with simpler procedure to provide speedy, efficient justice for trivial disputes, reducing the burden of regular Courts and ensuring quicker resolution for small monetary issues and property possession issues. 'The Act' has been amended from time to time.

6.1 Section 4 of 'the Act' regulates the operation of the "Small Cause Court" within the territorial jurisdiction of the towns of Calcutta, Madras and Bombay.

6.2 Section 5 to extends 'the Act' to the city of Ahmedabad and the Court to be called the Court of Small Causes of Ahmedabad

6.3 Section 6 to put the Court of Small Causes of Ahmedabad and to be a Court subject to the superintendence of the High Court of Gujarat and to be a Court subordinate to the High Court within the meaning of Section 6 of the Legal Practitioners Act, 1879 and further gives the High Court the same powers in respect of the Small Cause Court of Ahmedabad as it has in respect of the Courts subject to its appellate jurisdiction.

6.4 Section 17 and 18 in Chapter IV of 'the Act' are in regards to the Jurisdiction in respect of Suits. It defines the local limit and jurisdiction of the Court of Small Causes. Section 18 also defines the territorial jurisdiction with the exceptions stated in Section 19.

6.5 Chapter VII of 'the Act' is dealing with the litigation in regards to recovery of possession of immovable property. Section 41 permits a person to file the PSRP Application for recovery of the immovable property.

6.6 Section 43 permits the Small Cause Court to issue possession warrant in case if the occupant does not appear at the time appointed and show cause to the contrary.

6.7 Section 44 is in regards to execution of the possession warrant. Section 45 is related to the granting the right to sue to the occupant for compensation, and applicant, if

entitled to possession, not to be deemed trespasser for any error in proceedings.

6.8 Section 46 thereof deals with the situation where applicant obtaining the possession of any property under the Chapter of 'the Act' from any occupant, the occupant deeming himself aggrieved thereby, may file a suit against the applicant and the applicant's possession would not be protected.

6.9 Section 47 of 'the Act' deals with the legal situation, whereby the occupant, if intends to file a civil suit protecting his possession and claiming of non-application of Section 41 of 'the Act', was required to give two sureties, in a bond for such amount as the Small Cause Court thinks reasonable, and if occupant obtains a decree in any such suit against the applicant, such decree shall supersede the order of the possession warrant made under Section 43.

6.10 The Sections 41, 43, 45, 46 and 47 of 'the Act' being important provision to decide this revision, are reproduced as under:-

> *"**41. Summons against person occupying property without leave.**—When any person has had possession of any immovable property situate within the local limits, of the Small Cause Court's jurisdiction and of which the annual value at a rack-rent does not exceed [two] thousand rupees, as the tenant, or by permission, of another person, or of some person through whom such other person claims,*
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> *and such tenancy or permission has determined or been withdrawn,*
>
> *and such tenant or occupier or any person holding*

under or by assignment from him (hereinafter called the occupant) refuses to deliver up such property in compliance with a request made to him in this behalf by such other person,

such other person (hereinafter called the applicant) may apply to the Small Cause Court for a summons against the occupant, calling upon him to show cause, on a day therein appointed, why he should not be compelled to deliver up the property.

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***43. Order for possession.**—If the occupant does not appear at the time appointed and show cause to the contrary, the applicant shall, if the Small Cause Court is satisfied that he is entitled to apply under section 41, be entitled to an order addressed to a bailiff of the Court directing him to give possession of the property to the applicant on such day as the Court thinks fit to name in such order.*

Explanation.—If the occupant proves that the tenancy was created or permission granted by virtue of a title which determined previous to the date of the application, he shall be deemed to have shown cause within the meaning of this section.

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***45. Applicant, if entitled to possession, not to be deemed trespasser for any error in proceedings. Occupant may sue for compensation.** —When the applicant, at the time of applying for any such order as aforesaid, was entitled to the possession of such property, neither he nor any person acting in his behalf shall be deemed, on account of any error, defect or irregularity in the mode of proceeding to obtain possession thereunder, to be a trespasser; but any person aggrieved may bring a suit for the recovery of compensation for any damage which he has sustained by reason of such error, defect or irregularity:*

when no such damage is proved, the suit shall be

dismissed; and when such damage is proved but the amount of the compensation assessed by the Court does not exceed ten rupees, the Court shall award to the plaintiff no more costs than compensation, unless the Judge who tries the case certifies that in his opinion full costs should be awarded to the plaintiff.

46. Liability of applicant obtaining order when not entitled. *—Nothing herein contained shall be deemed to protect any applicant obtaining possession of any property under this Chapter from a suit by any person deeming himself aggrieved thereby, when such applicant was not at the time of applying for such order as aforesaid entitled to the possession of such property.*

Application for order in such case an act of trespass. *—And when the applicant was not, at the time of applying for any such order as aforesaid, entitled to the possession of such property, the application for such order, though no possession is taken thereunder, shall be deemed to be an act of trespass committed by the applicant against the occupant.*

47. Stay of proceedings on occupant giving security to bring suit against applicant*.—Whenever on an application being made under section 41 the occupant binds himself, with two sureties, in a bond for such amount as the Small Cause Court thinks reasonable, having regard to the value of the property and the probable costs of the suit next hereinafter mentioned, to institute without delay a suit in the High Court against the applicant for compensation for trespass and to pay all the costs of such suit in case he does not prosecute the same or in case judgment therein is given for the applicant, the Small Cause Court shall stay the proceedings on such application until such suit is disposed of.*

If the occupant obtains a decree in any such suit against the applicant, such decree shall supersede the order (if any) made under section 43.

Nothing contained in section 22 shall apply to suits under this section."

6.11 Thus, the entire scheme under Chapter-VII in regards to possession of the immovable property, if streamlined, it can be this wise that, 'if the person being occupant continues his occupation after losing the right to remain in possession and delivered such property in compliance with the request made to him in this behalf by such other person, i.e. applicant, the later one has been given a right to file PSRP Application under Section 41 of 'the Act'.

6.12 Section 43 streamlines the proceedings of the Small Cause Court. It gives the jurisdiction to the Small Cause Court that if the occupant fails to show cause to the contrary and the Small Cause Court is satisfied that the applicant is entitled to apply under Section 41 of 'the Act', the Small Cause Court should pass order addressed to the Bailiff of the Court directing him to give possession of the property to the applicant on such day as the Court may deem fit. Conjoint reading of Section 41 and 43 of 'the Act' demarks the proceeding under Chapter VII from ordinary civil proceedings. It gives the summary power to the Small Cause Court to recover possession from the occupant without following the rigors of the ordinary civil suit proceedings or following the rigors of the Evidence Act.

6.13 Section 45 of 'the Act' saves the action of the applicant, he cannot deemed to be a trespasser in a case where, at the time of applying for issuance of the possession warrant and was entitled to the possession of such property, committed any error, defect or irregularity in the mode of proceedings by

himself or someone on his behalf. However, it gives the right to the occupant or the person aggrieved to bring a suit for recovery of compensation for any damage, which he has sustained by reason of such error, defect or irregularity.

6.14 Section 46 of 'the Act' is a liability upon the applicant and right given to the occupant and it permits the occupant to file suit against the applicant to claim, if he is entitled to the possession of such property, which is taken pursuant to the warrant issued under Section 43 of 'the Act' establishing his right to remain in occupation.

6.15 Section 47 of 'the Act' is in regards to giving breathing time to the occupant to tender sureties and bonds for any amount the Small Cause Court thinks reasonable, having regard to the value of the property and the probable costs of the suit and to institute the suit in the City Civil Court against the applicant for compensation for trespass and to pay all the costs of such suit, in case he does not prosecute the same or in case judgment therein is given for the applicant, the Small Cause Court shall stay the proceedings on such application until such suit is disposed of and if the occupant obtains a decree, it would supersede the judgment (if any) passed under Section 43 of 'the Act'.

7. The coordinate Bench of this Court in ***Saiyad Jabbarhusain and Ors. v. Hasan Abubakar Malbari (deceased by Lrs.) and Ors.***, reported in ***AIR 1998 Gujrat 130***, referred to the provision under Chapter-VII of 'the Act'. Para 7, 8 and 12 observed and held as under:-

"7. Section 41 of the said Act, which is to be found in Chapter VII, which is captioned as "Recovery of Possession of Immovable Property", inter alia, provides that when any person has had possession of any immovable property situate within the local limits of the Small Cause Court's jurisdiction and of which the annual value at a rack-rent does not exceed two thousand rupees, as the tenant, or by permission, or another person, or of some person through whom such other person claims, and such tenancy or permission has determined or been withdrawn, and such tenant or occupier or any person holding under or by assignment from him (hereinafter called the occupant) refuses to deliver up such property in compliance with a request made to him in this behalf by such other person, such other person (hereinafter called the applicant) may apply to the Small Cause Court for a summons against the occupant, calling upon him to show cause, on a day therein appointed, why he should not be compelled to deliver up the property.

In its application to the State of Gujarat, in Section 41, for the words "two thousand" the words "three thousand" were substituted by Guj. Act 5 of 1969, Section 5 and Bombay Act 17 of 1952, Section 5 (4-11-1952). Now, in Gujarat the words "three thousand rupees" are substituted by the words "five thousand rupees" — Guj. Act 20 of 1979, Section 9 (1-1-1980).

8. Under the scheme of the said Act, a person who is alleged to be a licensee or a person who is put in possession has the remedy under Section 46 to file an application, inter alia, seeking declaration that the application of the applicant under Section 41 is, in fact, an act of trespass and, on making such application, he is required to apply under Section 47 for stay of proceedings on the occupant giving security to bring suit against the applicant. Section 47 of the said Act, as amended by the State of Gujarat, in its application to the city of Ahmedabad, reads as under :–

'47. State of proceedings on occupant giving security to bring suit against applicant : Whenever on an application being made under Section 41 the occupant bind himself, with two sureties, in a bond for such amount as the Small Cause Court thinks reasonable, having regard to the value

of the property and the probable costs of the suit next hereinafter mentioned, to institute without delay a suit in the High Court against the applicant for compensation for trespass and to pay all the costs of such suit in case he does not prosecute the same or in case judgment therein is given for the applicant, the Small Cause Court shall stay the proceedings on such application until such suit is disposed of.

If the occupant obtains a decree in any such suit against the applicant, such decree shall supersede the order (if any) made under Section 43.

Nothing contained in Section 22 shall apply to suits under this Section.

In its application to the city of Ahmedabad, Section 47 :– (i) for the words 'occupant binds himself, substitute the words 'the occupant, at the earliest opportunity, and in any event before filing any statement of defence, binds himself ; and (ii) for the words 'High Court', substitute the words 'Ahmedabad City Civil Court' — Guj. Act 19 of 1961, Sections 18 and 21 and Schedule (4-11-1961).'

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12. Being fully conscious of the fact that the Court was a Court of very limited jurisdiction, supposed to make inquiry under Section 41 of the said Act only, he unfortunately permitted himself to be carried away by a fact which was not even the defence of deceased Hasan Abubakar, Having totally forgotten the scope, nature and ambit of Section 41 of the said Act, he proceeded to record a finding that the deceased Hasan Abubakar who was inducted as a licensee by the Wakf Committee, was in exclusive possession of the room in question and that would create a tenancy in his favour; and that such a right cannot be said to be a right of licensee. The learned Small Causes Court Judge was not deciding a dispute between the landlord and the tenant in which case the matter would have been covered by the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947. He was very much conscious of the fact that he was deciding an application under Section 41 of the said Act where the licensee or person who was inducted as a licensee by the Wakf Committee was required to institute an application under Sections 46 and 47 for the purpose of

declaration that the action of bringing an application under Section 41 was an act of trespass on the part of the Wakf Committee and he was required to apply for stay of such proceeding in the City Civil Court within the stipulated time. For the reasons best known to Shri A. S. Sanghvi, the then Small Causes Court Judge, blatantly misdirected himself in law and dragged himself into the controversy which was not even raised by the deceased Hasan Abubakar. On such reasoning, he rejected the application of the Wakf Committee under Section 41 by the impugned order, least realising thereby that the remedy which was available to the licensee or person who is inducted in the premises under Section 41 of the said Act by resorting to Sections 46 and 47 of the said Act was not availed of and he being a Court of very limited jurisdiction cannot open up Pandora's box and cannot create a case which was not even pleaded by the deceased Hasan Abubakar."

8. The base contention of learned advocate Mr. Mrudul M. Barot that the permission was not revoked by a written notice or communication, the revocation was not reckoning from any particular date, and therefore, the plaintiff was not entitled to file the application under Section 41 of 'the Act' and consequently, the Small Cause Court was not entitled to issue possession warrant under Section 43 of 'the Act' thereof.

9. The plain reading of statute does not call for revocation of the permission by a written communication or to discontinue the permission by issuance of any statutory notice. Section 41 of 'the Act' rather starts with the facts that, 'if a person i.e. occupant, had been in possession of any immovable property either as the tenant, or by permission of another person, or of some person through whom such other person claims, and such tenancy or permission has determined or been withdrawn, and such tenant or occupier still holds the

possession, refuses to deliver up such property in compliance with a request made to him, such other person, i.e. applicant, would be entitled to prefer the application under Section 41 of 'the Act'.

10. The scheme of the statute, thus, clearly reflects that, the person being an occupant has to establish by raising a defence that his permission or tenancy has not been determined or not been withdrawn to classify the application under Section 41 of 'the Act' as premature. It is not a duty upon the applicant to establish that, by a particular date, the permission or tenancy was determined or has been withdrawn and possession become illegal. The phrase *'refuses to deliver up such property in compliance with a request made to him',* is indicative of the fact that the request of the applicant may be implied. It is not necessary to be explicit and by written communication. Any act or gesture may be treated as a request made by the applicant to deliver the peaceful and vacant possession of the immovable property. The legislature being conscious enough has not legislated that the request must be written and explicit and does not make it statutory as it is made in some other statute, like the Rent Act, Negotiable Instruments Act or Section 80 of "the Code" or in some other Act, like the Panchayat Act or the GPMC Act, etc.

11. In the rule of interpretation of the statute, applying the Doctrine of *Cassus Omissus*, it is made explicitly clear that when statute does not call for any supplant in reading of it, the Court cannot supply it. It is further to be noted that provision of the law has to be read as a whole in its context. When language

of the provision is plain and unambiguous, question of supplying *Cassus Omissus* does not arise. It is well settled principle of law that, Court can interpret the provision of law, but cannot legislate.

12. In ***Padma Sundara Rao (Dead) and Ors. v. State of T.N. and Ors.***, reported in ***(2002) 3 SCC 533***, the Supreme Court while observing that the Court cannot read anything into statutory provision, which is plain and unambiguous, in para 12 to 14 held as under:-

> *"12. The rival pleas regarding re-writing of statute and casus omissus need careful consideration. It is well settled principle in law that the Court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the legislature. The language employed in a statute is the determinative factor of legislative intent. The first and primary rule of construction is that the intention of the Legislation must be found in the words used by the Legislature itself. The question is not what may be supposed and has been intended but what has been said.*
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> *'Statutes should be construed not as theorems of Euclid". Judge Learned Hand said, "but words must be construed with some imagination of the purposes which lie behind them'. (See Lenigh Valley Coal Co. v. Yensavage 218 FR 547). The view was re-iterated in Union of India and Ors. v. Filip Tiago De Gama of Vedem Vasco De Gama (AIR 1990 SC 981).*
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> *13. In Dr. R Venkatchalam and Ors. etc. vs. Dy. Transport Commissioner and Ors. etc. (AIR 1977 SC 842) it was observed that Courts must avoid the danger of apriori determination of the meaning of a provision based on their own pre-conceived notions of ideological structure or scheme into which the provision to be interpreted is somewhat fitted. They are not entitled to usurp legislative function under the disguise of interpretation.*

14. While interpreting a provision the Court only interprets the law and cannot legislate it. If a provision of law is misused and subjected to the abuse of process of law, it is for the legislature to amend, modify or repeal it, if deemed necessary. [See Rishabh Agro Industries Ltd. vs. P.N.B. Capital Services Ltd. (2000 (5) SCC 515)]. `The legislative casus omissus cannot be supplied by judicial interpretative process. Language of Section 6(1) is plain and unambiguous. There is no scope for reading something into it, as was done in Narasimhaiah's case (supra). In Nanjudaiah's case (supra), the period was further stretched to have the time period run from date of service of High Court's order. Such a view cannot be reconciled with the language of Section 6(1). If the view is accepted it would mean that a case can be covered by not only clauses (i) and/or (ii) of the proviso to Section 6(1), but also by a non-prescribed period. Same can never be the legislative intent."

13. Yet in another judgment in the case of ***State of Jharkhand and Anr. v. Govind Singh***, reported in ***(2005) 10 SCC 437***, similarly the interpretation has been made by observing that when the words of statute are clear, plain or unambiguous, they are reasonably susceptible of only one meaning, the Courts are bound to give effect to that meaning, regardless of consequences. The relevant are para 12, 15, 20 and 22, which reads as under:-

"12. It is said that a statute is an edict of the legislature. The elementary principle of interpreting or construing a statute is to gather the mens or sententia legis of the legislature.

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15. Where, however, the words were clear, there is no obscurity, there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for the court to innovate or take upon itself the task of amending or altering the statutory provisions. In that situation the Judges

should not proclaim that they are playing the role of a law-maker merely for an exhibition of judicial valour. They have to remember that there is a line, though thin, which separates adjudication from legislation. That line should not be crossed or erased. This can be vouchsafed by 'an alert recognition of the necessity not to cross it and instinctive, as well as trained reluctance to do so'. (See: Frankfurter, Some Reflections on the Reading of Statutes in "Essays on Jurisprudence", Columbia Law Review, P.51.)

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20. While interpreting a provision the Court only interprets the law and cannot legislate it. If a provision of law is misused and subjected to the abuse of process of law, it is for the legislature to amend, modify or repeal it, if deemed necessary. (See Commissioner of Sales Tax, M.P. v. Popular Trading Company, Ujjain (AIR 2000 SC 1578). The legislative casus omissus cannot be supplied by judicial interpretative process.

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22. It is then true that, "when the words of a law extend not to an inconvenience rarely happening, but due to those which often happen, it is good reason not to strain the words further than they reach, by saying it is casus omissus, and that the law intended quae frequentius accidunt." "But," on the other hand, "it is no reason, when the words of a law do enough extend to an inconvenience seldom happening, that they should not extend to it as well as if it happened more frequently, because it happens but seldom" (See Fenton v. Hampton 11 Moore, P.C. 345). A casus omissus ought not to be created by interpretation, save in some case of strong necessity. Where, however, a casus omissus does really occur, either through the inadvertence of the legislature, or on the principle quod semel aut bis existit proetereunt legislators, the rule is that the particular case, thus left unprovided for, must be disposed of according to the law as it existed before such statute - Casus omissus et oblivioni datus dispositioni communis juris relinquitur; "a casus omissus," observed Buller, J. in Jones v. Smart (1 T.R. 52), 'can in no case be supplied by a court of law, for that would be to make laws.' "

14. Lastly, I may refer to the judgment in the case of ***Commissioner of Customs (Import), Mumbai v. Dilip Kumar and Company and Ors.***, reported in ***(2018) 9 SCC***, whereby the Supreme Court involving the basic principles involving the interpretation of the statutes, explained the purpose of interpretation and explained the difference between the Literal Construction, Principle of Strict Construction and plain meaning of Rule. Para 20, 21, 23 and 25 are as under:-

> *"20. It is well accepted that a statute must be construed according to the intention of the Legislature and the Courts should act upon the true intention of the legislation while applying law and while interpreting law. If a statutory provision is open to more than one meaning, the Court has to choose the interpretation which represents the intention of the Legislature. In this connection, the following observations made by this Court in District Mining Officer vs. Tata Iron and Steel Co., (2001) 7 SCC 358, may be noticed:*
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> > *'... A statute is an edict of the Legislature and in construing a statute, it is necessary, to seek the intention of its maker. A statute has to be construed according to the intent of them that make it and the duty of the Court is to act upon the true intention of the Legislature. If a statutory provision is open to more than one interpretation the Court has to choose that interpretation which represents the true intention of the Legislature. This task very often raises the difficulties because of various reasons, inasmuch as the words used may not be scientific symbols having any precise or definite meaning and the language may be an imperfect medium to convey one's thought or that the assembly of Legislatures consisting of persons of various shades of opinion purport to convey a meaning which may be obscure. It is impossible even for the most imaginative Legislature to forestall exhaustively situations and circumstances that may emerge after enacting a statute where its application*

may be called for. Nonetheless, the function of the Courts is only to expound and not to legislate. Legislation in a modern State is actuated with some policy to curb some public evil or to effectuate some public benefit. The legislation is primarily directed to the problems before the Legislature based on information derived from past and present experience. It may also be designed by use of general words to cover similar problems arising in future. But, from the very nature of things, it is impossible to anticipate fully the varied situations arising in future in which the application of the legislation in hand may be called for, and, words chosen to communicate such indefinite referents are bound to be in many cases lacking in clarity and precision and thus giving rise to controversial questions of construction. The process of construction combines both literal and purposive approaches. In other words the legislative intention i.e., the true or legal meaning of an enactment is derived by considering the meaning of the words used in the enactment in the light of any discernible purpose or object which comprehends the mischief and its remedy to which the enactment is directed…'

21. The well settled principle is that when the words in a statute are clear, plain and unambiguous and only one meaning can be inferred, the Courts are bound to give effect to the said meaning irrespective of consequences. If the words in the statute are plain and unambiguous, it becomes necessary to expound those words in their natural and ordinary sense. The words used declare the intention of the Legislature.

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23. In applying rule of plain meaning any hardship and inconvenience cannot be the basis to alter the meaning to the language employed by the legislation. This is especially so in fiscal statutes and penal statutes. Nevertheless, if the plain language results in absurdity, the Court is entitled to determine the meaning of the word in the context in which it is used keeping in view the legislative purpose. Not only that, if the plain construction leads to anomaly and absurdity, the court having regard to the hardship and consequences that flow from such a provision can even

explain the true intention of the legislation. Having observed general principles applicable to statutory interpretation, it is now time to consider rules of interpretation with respect to taxation.

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25. At the outset, we must clarify the position of 'plain meaning rule or clear and unambiguous rule' with respect of tax law. 'The plain meaning rule' suggests that when the language in the statute is plain and unambiguous, the Court has to read and understand the plain language as such, and there is no scope for any interpretation. This salutary maxim flows from the phrase "cum inverbis nulla ambiguitas est, non debet admitti voluntatis quaestio". Following such maxim, the courts sometimes have made strict interpretation subordinate to the plain meaning rule4, though strict interpretation is used in the precise sense. To say that strict interpretation involves plain reading of the statute and to say that one has to utilize strict interpretation in the event of ambiguity is selfcontradictory."

15. After referring to the aforesaid principle of law, coming to the facts of the present case, the occupant - defendants failed to show any statutory discipline to remain in the possession of the disputed property.

16. It is discernible that the revisionist has filed the application under Sections 46 and 47 of 'the Act' in the proceedings of PSRP Application No.22 of 2011. The order dated 28.02.2013 disfavors the case of the revisionist. It was assailed before this Court by way of filing a SCA No.10271 of 2013. The revisionist remained unsuccessful in getting any favorable order. The coordinate Bench in the proceedings of the SCA, in addition to dismissing the SCA, directed the revisionist to vacate the premises forthwith.

17. The order was challenged before the Supreme Court in Civil Appeal No. 3591 of 2019. The Supreme Court did not incline to grant the application under Section 46 and 47 of 'the Act', but found that the order passed by the coordinate Bench in the SCA to vacate the premises is in excess of jurisdiction, and therefore, a limited interference was made to that extent. What could be noticeable from these proceedings that, at no point of time, the occupant's possession was conceded under any statutory discipline, permitting the occupant to file the Civil Suit under Section 46 or his request to grant the time to file the Civil Suit under Section 47 of 'the Act'. The obvious consequence was to face the possession warrant under Section 43 of 'the Act'.

18. It is noticeable aspect on the factual milieu is that, prior to filing of the PSRP Application No.22 of 2011, since the revisionist apprehended that his possession would have been taken away by the petitioner and thus, had filed a Civil Suit being a Civil Suit No.2069 of 2003 unsuccessfully, which itself determined that the permission to remain in the possession of the disputed property was revoked or withdrawn explicitly known to the revisionist and it abundantly made clear to be a deemed request of the applicant - landlord to handover the peaceful and vacant possession of the disputed property.

19. According to this Court, under the limited jurisdiction of revision, this Court finds no error, much less error of interpreting the provision of law by the learned Small Cause Court. This Court finds the argument that no written request has been made as an attempt to open up the Pandora's Box. Such kind of argument is found to be breathless and in the teeth

of the spirit of provision contained in Chapter VII of 'the Act'. It is pitiable that the applicant, who is claiming the possession of the disputed property since 2003 and subsequently filed the PSRP Application under Section 41 of 'the Act' on 01.07.2011 is yet to ripe the fruit of the provision, which is essentially a summary proceedings.

20 In the aforesaid premises, reasoning stated hereinabove are suffice to reject the revision. Accordingly, it is rejected.

i) Interim-relief, if any, stands vacated.

ii) Registry is directed to return back the Record and Proceedings to the concerned Court forthwith.

Sd/-
(J.C. DOSHI, J.)

Raj

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: RAJ SUBHASH DHOBI(HC01779), Private Secretary, at High Court of Gujarat on 21/01/2026 16:26:10