

Companies Act, 1956 – Section 630 – The term ‘property of the company’ has to be construed widely having regard to the beneficial object of the Section – High Court has gone against the spirit of the provision, by strictly interpreting Section 630 to mean that the appellant company must have title by way of ownership to the disputed property and that the accused should have been in possession of the flat as a perquisite of his service – Section 630 nowhere requires that the company should have title to the property – The emphasis is on whether the accused has obtained wrongful possession of the property which defeats the company’s lawful right of exclusive possession, even though the property as such may not belong to the company but to a third-party landlord or licensor, as enunciated by this Court in **Baldev Krishna Sahi vs. Shipping Corporation of India Limited, (1987) 4 SCC 361, Atul Mathur vs. Atul Kalra, (1989) 4 SCC 514** – Companies Act, 2013, Section 452.

Held, it is true that in the majority of cases falling under the ambit of Section 630, it has been that property possessed by the company was allotted to an employee for the purposes of residential accommodation, etc. as an incidence of his service, at the first instance itself. In the present case, the 2nd Respondent has been a director of the company since 1988, and claims to be in permissive possession of the disputed property as per the alleged understanding between him and his relative, the deceased AKB, since 1994. However the company acquired the disputed property only in 2008. Be that as it may, the 2nd Respondent has failed to rebut the fact that as of 26.4.2008 it is the company which has acquired the exclusive right to possess the property, and the company handed over possession to him w.e.f 1.5.2008 only in his capacity as the director of the company. Whatever may have been the situation prior to 26.4.2008, on and after that date the company became entitled to recover possession of the disputed property. *Held further*, Section 630 nowhere stipulates that the property should have been allotted by the company to the accused as a perquisite of service. There may be a number of purposes for which the accused may be given lawful possession of the company’s property during the course of employment for example, for safe custody of the property or for maintenance thereof. The purpose for which and the time at which possession was given is irrelevant. What is sufficient is that the accused was put into possession of the property in their capacity as an officer/employee of the company and continued to withhold such property without having any independent right, title or interest thereto even after cessation of his employment. As we have found in the discussion supra, mere oral agreement or understanding would not be sufficient to establish such an independent right.

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