

Company Law | Capital Reduction | Minority Squeeze Outs

P. Bhansali v. Bharti Telecom

When the Majority Prices the Exit,
Who Prices the Fairness?

Supreme Court of India | March 10, 2026

Rs. 96

2001 Buyback

Rs. 310

SingTel Entry

Rs. 196.80

Final Payout

Swipe →



01

THE STRUCTURAL GAP



S. 66 Is Silent. Silence Is Not Licence.

VALUATION MANDATED	S. 66 — CAPITAL REDUCTION
S. 62 — Preferential Issue	Silent. No mandate. Voluntary report not required but would be required nonetheless to establish fairness. Disclosing the per-share price is all S. 66 requires.
S. 230 — Compromise	
S. 232 — Merger / Demerger	
S. 236 — Compulsory Acquisition	

Court Held: Since S. 66 imposes no mandate, and can be undertaken by the majority shareholders, unlike in case of other cases, where valuation is mandatory; however, floor price on inherent fairness would be still be checked

Map this against every other forced exit route and the conclusion is stark: S. 66 is the only mechanism where the majority sets the price, controls the disclosure, and has no statutory valuation standard, but the principles of fairness stand.

Structural Asymmetry

S. 66 protects process. Yet the exit price is not unconstrained: S. 50CA (tax) imposes a floor and FEMA on NR payout imposes a cap; inherent fairness on floor price should not diluted



02

THE STANDARD OF REVIEW



Four Limbs. All Satisfied.

I	Fair and Reasonable Price
II	Majority Non-Promoter Approval i.e., public shareholders
III	Valuation Not Egregiously Wrong
IV	Principles in line with Valuation Regimes/ Standards

Substantive Fairness. Not Procedure.

*Cadbury test is a standard of fairness review, not box-ticking.
A company that satisfies all four limbs has defended the price.*



03

THE STRUCTURAL PROBLEM



One Company. Multiple Value Anchors. Majority v Minority Perception

Rs. 196.80

DCF + 25% DLOM

Rs. 310

FEMA / SingTel

Rs. 111 – 174

Third Party (ex-rights)

Every forced minority exit is an amalgam of commercial valuation and regulatory valuation

In Bharti Telecom squeeze out: minority received Rs. 196.80 under DCF net of a 25% DLOM. SingTel had entered at Rs. 310 under FEMA floor pricing one month earlier. Custodian-commissioned agencies valued the shares between Rs. 12,707 and Rs. 20,215 in 2012 — before the 1:115 rights issue

Key Issue: The Court's task was substantive fairness review under S. 66, not inter-regime reconciliation of value divide

Commercial – Regulatory Divide

Commercial and Regulatory Valuations often diverge since the majority and minority shareholders perceive value differently



04

THE DLOM QUESTION



Discounting the Cage the Majority Built.

MINORITY ARGUMENT: DLOM IS WRONG HERE

DLOM rejected in court-ordered buyout following oppression finding.

Majority manufactured the illiquidity by delisting. Pricing the cage they built onto the minority's exit is analytically incoherent.

COMPANY RESPONSE: DLOM IS VALID

ICAI VS 103 expressly recognises DLOM for illiquid assets; FMV is market based factoring illiquidity, not exit based

Valuation in oppression not relevant

DLOM is not prohibited, and recognized in valuation standards/ IndAS – Illiquidity of a delisted company with no market for 20+ years, the 25% liquidity discount was valid

What was not decided: the quantum 25% was never calibrated.

S. 241 Door Still Open?

the majority cannot manufacture illiquidity and then price it against the minority; hence oppression route still open?



05

THE MULTI-REGIME INTERLOCK



FEMA Prices Entry. Ind AS Prices Fairness. ICAI Prices Illiquidity.



FEMA / NDI Rules

SingTel entered at Rs. 310 i.e., FEMA's floor for NR allotments, reflecting a strategic premium. The Court excluded it as a benchmark for the capital reduction. Regulatory minimum \neq market value. But excluding it entirely also discards a genuine contemporaneous price signal.



Ind AS 113: Fair Value

FMV is market-based and exit-price driven. A market participant would price illiquidity.



ICAI Valuation Standard 103

Expressly recognises DLOM as a valid adjustment for illiquid assets. But VS 103 prescribes neither the quantum nor the methodology.

Three Regimes – Three Objectives

FEMA governs entry. Ind AS defines the concept. ICAI sets the discount framework. All have three different objectives



06

THE TAX BRACKET



FEMA Cap.

S. 50CA Floor.

S. 2(22)(d) Bifurcation.



S. 50CA deems FMV as minimum consideration for unquoted shares (tax floor)



FEMA NDI Rules impose ceiling on price payable to non-resident shareholders



Payout to extent of accumulated profits = deemed dividend under S. 2(22)(d)



Balance over accumulated profits = capital gains under S. 48 (G. Narasimhan)



Company must price exit between S. 50CA floor and FEMA ceiling

Not a Free Exit.

S. 66 is silent on valuation, but the exit price is bracketed by tax and FEMA the payout itself is bifurcated: dividend to the extent of profits, capital gains on the rest with deeming fictions



07

EMERGING PRINCIPLES



What Settles.

What Stays Open.

What needs to be Reconciled.



Cadbury four-limb test is the substantive fairness benchmark under S. 66



DLOM permitted, quantum unexamined



Regulatory floor (FEMA / S. 50CA) and commercial value remain structurally distinct



Practically, valuation and inherent fairness would continue to be scrutinised



Oppression valuation remains structurally distinct - negotiated exit

No Valuation ≠ Free Pass

While the Supreme Court held that a valuation report is not required in minority squeeze-outs, the principles of a fair exit, substantive fairness review, and regulatory compliance with tax and FEMA would always govern the price.





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The Takeaway

Floor valuations under S. 66 continue to present a conundrum against commercial and regulatory valuations

Squeeze-out pricing under S. 66

Majority sets the price. No statutory valuation. Cadbury test governs fairness.

DLOM

Permitted. Quantum (25%) never calibrated. Door open for challenge.

FEMA price as comparable

Excluded. Regulatory floor \neq market value.

Ind AS 113 as controlling test

No. Supportive reasoning only. Not a legal standard.

DLOM in oppression (S. 241)

Different parameters in oppression

S. 241 oppression route

Structurally distinct.

Exit Valuations Remain

Valuation still to comply with floor price under tax and cap under FEMA

