

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO(s). 5851 OF 2005

SAMAR DAS GUPTA

Appellant (s)

VERSUS

RAJ KUMAR SEAL AND ANR.

Respondent(s)

(with appln(s) for substitution)

Date: 03/02/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MR. JUSTICE T.S. THAKUR

For Appellant(s)

Mr. Shankar Divate, Adv.
Mr. Varun Thakur, Adv.for
Mr. G.S. Chatterjee, Adv.

For Respondent(s)

Ms. S.Janani, Adv.for
Mr. Deepak Goel, Adv.

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

The Application for substitution is allowed.
The Appeal is dismissed in terms of the signed order. No order as to costs.
However, we grant six months' time to the appellant to vacate the suit premises on his furnishing usual undertaking in this Court within six weeks from today.

(Parveen Kr. Chawla)
Court Master

(Indu Satija)
Court Master

[Signed Order is placed on the File]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5851 OF 2005

Samar Das Gupta

..Appellant

versus

Raj Kumar Seal & Another

..Respondents

O R D E R

Heard learned counsel for the parties.

This appeal has been filed against the impugned judgment of the Calcutta High Court dated 28th April, 2003 passed in First Appeal No.43 of 1996.

The facts have been set out in the impugned judgment of the High Court and hence we are not repeating the same here.

A finding of fact has been recorded by the courts below that the appellant-tenant has changed the user of the premises in question. The lease deed in paragraph 5 specifically mentioned that the premises have been let out for the purpose of printing and no other purpose. Admittedly, the appellant has started residing in the premises in question. This is clearly a change of user as the premises were let out only for printing purpose.

For the reasons given above, we find no force in this appeal and it is dismissed accordingly. However, we

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grant six months' time to the appellant to vacate the suit premises on his furnishing usual undertaking in this Court within six weeks from today. No order as to costs.

.....J.
[MARKANDEY KATJU]

NEW DELHI;
FEBRUARY 03, 2010

.....J.
[T.S. THAKUR]