

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

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.5558 OF 2001

CHAMPABEN N. KAPADIA & OTHERS

Appellant(s)

VERSUS

KIRTIKUMAR VALLABHDAS GAJARIA & ANOTHER

Respondent(s)

(with office report)

Date: 25/10/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE ALTAMAS KABIR

For Appellant(s)Mr. Nikhil M. Sakhardande, Adv.

Mr. Apurva Parekh, Adv.

Mr. A.V.Palli, Adv.

Mrs. Rekha Palli, Adv.

For Respondents)Mr. Bhimrao N. Naik, Sr. Adv.

Mr. Jetender Sethi, Adv.

Mr. Punit Dutt Tyagi, Adv.

UPON hearing counsel the Court made the following

O R D E R

To come up tomorrow as Part-Heard.

(J.S.Rawat)

Court Master

(Kanwal Singh)

Court Master

Item No.102(Part-Heard)  
26.10.2005

Court No.7

Dated:

Coram & appearance : as above.

The Appeal is disposed of in terms of the signed order.

(Parveen Kr. Chawla)

Court Master

[Signed Order is placed on the File]

(Kanwal Singh)

Court Master

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5558 OF 2001

Champaben N. Kapadia & Others  
(s)

..Appellant

VERSUS

Kirtikumar Vallabhdas Gajaria & Another  
(s)

.Respondent

O R D E R

Respondent No.1 and his son Arun Kirit Gajaria, one of the obstructionists are present in the Court.

Counsel on both sides have exercised their good influence on the appellants as well as the respondents as a result of which a settlement has been arrived at between the parties who are closely related to each other. Appellants have agreed to the grant of time to the respondents to vacate and handover the peaceful possession of the suit premises up to 31st December, 2006 provided the respondents file an undertaking to the effect that they would handover vacant possession to them on or before 31st December, 2006 and also not to create third parties rights.

Respondent No.1 i.e. Shri Kirtikumar Vallabhdas Gajaria today in the Court has given an undertaking on his behalf as well as on behalf of his brother Shri Nalin Vallabhdas Gajaria, respondent No.2 herein to vacate and handover peaceful possession of the suit premises to the appellants or their authorised representatives, nominees or agents on or before 31st December, 2006. He has also undertaken to continue to pay the electricity charges for the suit premises at the rate of Rs.200/- per month commencing October 25, 2005 and ending December 31, 2006. Apart from these two respondents, Shri Arun Kirit Gajaria and Shrimati Nutan Gajaria, son and daughter-in-law of respondent No.1 are also occupying the suit premises along with respondent No.1. They have also given an undertaking to vacate and handover peaceful possession of the suit premises to the appellants on or before 31st December, 2006. Respondents have also undertaken not to create any third party rights.

Accordingly, this appeal is disposed of in view of the agreement arrived at between the parties and the undertaking given by the respondent No.1 on his behalf and on behalf of his brother and the two obstructionists, namely, son and daughter-in-law of respondent No.1 which are taken on record leaving the question(s) of law open. The respondents as well as the obstructionists are directed to vacate and handover peaceful possession of the suit premises to the appellants or their authorised representatives, nominees and agents on or before 31st December, 2006. They are also directed not to create any third party rights.

.....J.  
[ASHOK BHAN ]

NEW DELHI;  
OCTOBER 26, 2005.

.....J.  
[ALTAMAS KABIR]