

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.720 OF 2005
IN
ARBITRATION PETITION NO.229 OF 2004

Ashok Gupta and others	Appellants
versus	
Jayesh Himatlal Pandya and others	Respondents

None for the Appellants.
Mr.R.S.Jaisinghania with Mrs.Jacinta D'Silva for Respondents.

CORAM : MOHIT S. SHAH, C.J. AND
B.P.COLABAWALLA, J.

DATE : 4 March 2015

PC :

The appeal was notified for seven times in the last six months. None appeared for the appellants on six occasions. Yesterday also, none appeared for the appellants. Hence, the matter was ordered to be listed today under the caption “for dismissal”. Today also, none appears for the appellants.

2. We further find from the report of the Prothonotary & Senior Master of this Court dated 27 January 2015 as well as report dated 27 February 2015 that his office was not able to trace out three compilations of documents submitted by the arbitrator. The Prothonotary & Senior Master has

proposed to initiate disciplinary action against two officials on administrative side.

3. In view of the above, while dismissing the appeal for default, we make it clear that the respondents will be at liberty to request the concerned Court for permission to rely upon the secondary evidence.

4. We further make it clear that since the appeal is dismissed for default, we do not propose to go into the cross objections filed by the respondents, but in case it becomes necessary for the respondents to do so, the respondents will be at liberty to move this Court for hearing of the cross objections. The cross objections accordingly stand disposed of with the above observation.

(CHIEF JUSTICE)

(B.P.COLABAWALLA, J.)

MST