

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

SUIT NO.3125 OF 2006

Percept Finserve Private LimitedPlaintiff

V/s.

Satish Dhirajlal Vithalani & Ors.Defendants

Mr.Rajesh Maravoor i/by M/s.Maravoor & Wamorkar & Co. for plaintiff.

Mr.Rajeev Narula i/by M/s.Jhangiani Narula & Associates for defendant nos.1, 2, 3, 4A & 4B.

CORAM : K.R.SHRIRAM,J

DATE : 29.7.2016

P.C.:-

1 Mr.Rajeev Narula appearing for defendant nos. 1, 2, 3, 4A & 4B states that his clients accept the fact that plaintiff is in possession of the suit premises and they will not dis-possess the plaintiffs without following due process of law. Mr.Maravoor for the plaintiffs states that defendant nos. 5, 6 & 7 have never appeared and not even filed written statement and the main contesting defendants are defendant nos. 1 to 4B.

2 Mr.Narula tenders an affidavit of one Satish Dhirajlal Vithalani-defendant no.1 and trustee of Khimji Bhagwandas Charity Trust affirmed on 27.7.2016. Mr.Narula states that this affidavit is being filed on behalf of defendant nos.1 to 4B, which is taken on record and marked 'X' for identification. In the said affidavit it is

admitted that plaintiff is in possession but according to the defendant nos.1 to 4B, plaintiff is in unlawful possession and they have also stated that the defendants will not dis-possess the plaintiff without following due process of law. Mr.Narula states that this statement be even noted as an undertaking to this court.

3 The fact that the defendant nos. 1 to 4B admit that the plaintiff is in possession, is taken note of and the undertaking that the plaintiff will not be dis-possessed without following due process of law is also accepted.

4 In the circumstances, nothing survives in the suit. Suit accordingly, stands disposed.

(K.R.SHRIRAM,J)