

Ramchandra Jai Ram Randive (Since Deceased) Through Lrs.

Vs

Chandanmal Rupchand and Others

Civil Appeal No. 2209 of 1985

30.01.1987

ORDER

1. In this case, leave to appeal was granted. However we find that before the High Court, the appellant had given an undertaking on September 8, 1983 to hand over and deliver vacant possession by the end of September 1985. On the basis of this undertaking, the High Court granted time up to September 1985 to vacate the premises in question. In that view of the matter, whatever be the merits of the case, we in exercise of our discretion under Article 136 of the Constitution decline to interfere with the finding made by the High Court. The appeal must therefore fail.

2. It however appears that the appellant is carrying on a business of shop owner for some time and the respondent is a charitable institution. While the appeal is dismissed, we direct that in case the respondent proposes to let out the premises, then he should give the first option to the appellant upon his arranging to pay a market rate for the same. With these directions, the appeal is dismissed and in the facts of the case, we make no order as to costs.

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