

**IN THE COURT OF APPEAL
ON APPEAL FROM THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS IN BRISTOL
INSOLVENCY & COMPANIES LIST (ChD)**

Before Lord Justice Lewison, Lady Justice Asplin and Lord Justice Arnold

10 October 2022

B E T W E E N :

**(1) NIHAL MOHAMMED KAMAL BRAKE
(2) ANDREW YOUNG BRAKE**

Appellants

and

THE CHEDINGTON COURT ESTATE LIMITED

Respondent

ORDER

UPON HEARING the Appellants' appeal against the Order of HHJ Paul Matthews (sitting as a Judge of the High Court) dated 3 March 2022 (the **Order**)

AND UPON hearing Alexander Learmonth KC and Jon Colclough for the Appellants and Andrew Sutcliffe KC and William Day for the Respondent

AND UPON judgment being handed down

In this order the following definitions are used:

- (a) The property with title number DT302107 is "**West Axnoller Cottage**"; and
- (b) The Appellants' current trustees in bankruptcy, Kristina Kicks and Blair Nimmo, are the "**Trustees in Bankruptcy**".

IT IS DECLARED THAT

- (1) The Respondent had no right or title at common law to justify any interference with the Brakes' exclusive possession of the cottage without a court order.

IT IS ORDERED THAT

- 1. The appeal is allowed to the extent indicated in declaration (1) above.
- 2. Paragraph 1 of the Order be set aside.

3. By 4pm on 31 October 2022, the Appellants shall file and serve written submissions setting out what further relief they say is justified as a consequential matter. For the avoidance of doubt, those written submissions shall also be served on the Trustees in Bankruptcy.
4. By 4pm on 21 November 2022, the Trustees in Bankruptcy shall (if so advised) make an application to join the proceedings (the **Application**). At the same time, the Trustees in Bankruptcy shall file and serve written submissions and/or a witness statement setting out their position on the question of any further relief in these proceedings sought by the Appellants.
5. By 4pm on 05 December 2022, the Respondents shall file and serve written submissions setting out their position on the question of any further relief in these proceedings sought by the Appellants.
6. By 4pm on 19 December 2022, the Appellants shall file and serve reply written submissions.
7. The parties shall in their written submissions indicate whether they consider that the matter requires a hearing.
8. The Court shall then, as it sees fit, determine the question of whether any further relief is justified as a consequential matter on paper or give directions for a hearing.
9. All other consequential matters including costs and permission to appeal shall be reserved until after judgment is given on the question of whether any further relief is justified as a consequential matter.
10. This order shall be served on the Trustees in Bankruptcy in addition to the parties.