

SUPREME COURT OF INDIA

Raghubir Singh Bisht

Vs.

Dr. Raghunath Singh Negi

C.A.No.6761 of 2009

(Kurian Joseph and R.Banumathi,JJ.,)

29.03.2017

JUDGMENT

Kurian Joseph,J.,

1. Heard the learned counsel for the parties on both the sides.
2. Having argued the case for quite some time and having realized the fact that there are two concurrent findings against the appellants, one by the Appellate Court and the other by the High Court, operating against the appellants and having regard to other factual findings, learned counsel for the appellant sought for some reasonable time to vacate the premises, since the hotel conducted at the premises is the only source of livelihood and since they have been in the business for quite some time.
3. Learned counsel for the respondents, however, submits that he has been waiting to get the premises vacated for more than three decades, particularly since he is an ex-serviceman and the premises is badly required for him to start a business of his own.
4. Having heard the learned counsel on both the sides and having regard to the entire facts and circumstances of the case, we are of the view that equities can be balanced if the appellants are given a reasonable time to vacate, in the sense time up to the month in which Deepawali falls in the year 2018.
5. Therefore, this appeal is disposed of subject to the following conditions:-
 - “(i) The appellant shall surrender vacant possession of the premises on the last day of the month in which Deepawali falls in the year 2018.
 - (ii) The appellant shall not induct any new partner or sub-let the premises in question.
 - (iii) There shall be no change of business.

(iv) He shall continue to pay the same rent which he is paying now towards use and occupation charges.

(v) The appellant shall file a usual undertaking incorporating the above conditions, within a period of one month from today.

(vi) In case, the undertaking, as above, is not filed within the time granted or if the undertaking is violated, the appellant shall be liable to be proceeded with in accordance with law including the action for contempt of Court.

6. Pending applications, if any, shall stand disposed of.

7. There shall be no orders as to costs.