

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 19630 OF 2017  
[ARISING OUT OF SPECIAL LEAVE PETITION  
(CIVIL) NO.22120 OF 2016]

UMA SHANKAR . . . APPELLANT (S)

VERSUS

BHARAT BHATIA & ANR. . . RESPONDENT (S)

ORDER

1. Leave granted.
2. We have heard the learned counsels for the parties.
3. The proceedings for eviction of the respondent - tenant which has been answered in favour of the appellant - landlord by the two authorities have been reversed by the High Court by the impugned judgment in exercise of jurisdiction under Article 227 of the Constitution of India.
4. The plea set up by the appellant - landlord was one of bona fide requirement of the premises in question for the

purposes of starting of business to accommodate his two sons who, according to the appellant - landlord, were not doing well in life. There was an affidavit filed by one of the sons of the appellant - landlord before the First Appellate Court to the effect that he has studied only upto 9<sup>th</sup> standard and he was doing odd jobs in private firm(s) earning about Rs.4,000/- (Rupees Four thousand) per month. On these facts, the two authorities who had initially considered the matter took the view that the plea of bona fide requirement set up by the landlord stood established.

5. The High Court found fault with the aforesaid conclusion primarily on the ground that the appellant had not disclosed the precise nature of the employment of his sons, their earnings and also that the son in his affidavit had not indicated that he intended to set up a business.

6. The High Court while exercising the jurisdiction under Article 227 of the Constitution, in our considered view, ought to have been slow in disturbing the findings reached by the primary and the first appellate authority. The findings recorded by the aforesaid two authorities on the materials on record, as noted above, cannot be characterized to be wholly untenable or perverse. The fact that the appellant needed the premises in question for the purposes of starting business for his two sons is not in dispute. If that be so, finer details as to the present occupation of his sons, their income and a supporting statement from the son of the appellant in his affidavit, in our considered view, was not necessary. We, therefore, cannot agree with the reversal made by the High Court.

7. Consequently and in the light of the above, we allow this appeal; set aside the order of the High Court and restore the order of eviction of the respondent.

8. The respondent is granted six months' time with effect from today to vacate the premises in question subject to his filing the usual undertaking in the Registry of this Court within two weeks from today stating that the respondent will not create any third party rights, will clear all the rent in the meanwhile and will peacefully vacate the premises in question at the end of six months.

.....,J.  
(RANJAN GOGOI)

.....,J.  
(R. BANUMATHI)

NEW DELHI  
NOVEMBER 23, 2017

ITEM NO.11

COURT NO.3

SECTION XI

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (C) NO(S). 22120/2016  
(ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED 19-04-2016  
IN WA NO. 6722/2016 PASSED BY THE HIGH COURT OF JUDICATURE AT  
ALLAHABAD)

UMA SHANKAR

PETITIONER(S)

VERSUS

BHARAT BHATIA &amp; ANR.

RESPONDENT(S)

Date : 23-11-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI  
HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s)

Mr. Shrish Kumar Misra, AOR

For Respondent(s)

Mr. Gourav Agarwal, Adv.  
Mr. Apoorva Bhumesh, AOR  
Ms. Madhavi K., Adv.

Mr. A. N. Arora, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeal is allowed in terms of the signed  
order.

The respondent is granted six months' time with  
effect from today to vacate the premises in question  
subject to his filing the usual undertaking in the  
Registry of this Court within two weeks from today

stating that the respondent will not create any third party rights, will clear all the rent in the meanwhile and will peacefully vacate the premises in question at the end of six months.

[VINOD LAKHINA]

AR-cum-PS

[ASHA SONI]

BRANCH OFFICER

[SIGNED ORDER IS PLACED ON THE FILE]