



**IN THE SUPREME COURT OF INDIA**  
**CIVIL APPELLATE JURISDICTION**  
**SPECIAL LEAVE PETITION (C) NO.27002 OF 2023**

**DELIGHT GRIH NIRMAN PVT. LTD. ... Petitioner (s)**

***VERSUS***

**BHARAT PETROLEUM CORPORATION LTD. & ORS. ...Respondent(s)**

**ORDER**

1. The issue in the present Special Leave Petition is with reference to eviction of the respondents from the property in their possession at Premises No.137A, Beliaghata Road, Kolkata – 700 010 and Premises No.6 Nafar Koley Road, Kolkata 700 010.

2. Writ Petition<sup>1</sup> was filed by the petitioner in the High Court seeking direction to the respondents to vacate and hand over the peaceful possession of the aforesaid property. The same was allowed by the learned Single Judge vide order dated 26.04.2023. Aggrieved against the same, respondent Nos.1 and 2 filed intra-court appeal<sup>2</sup>. The same was allowed vide judgment dated 27.09.2023 holding that the case involved disputed questions of

<sup>1</sup> W.P.A. NO.1387 of 2022

<sup>2</sup> M.A.T. No.1294 of 2023

fact, which could not be resolved in writ jurisdiction and the parties were relegated to the civil court. Challenging the aforesaid order, the present Special Leave Petition was filed by the petitioner (writ petitioner before the High Court).

3. During the pendency of the present Special Leave Petition, the dealer, M/s Hind Service Station, Premises No.137-A, Beliaghata Road, Kolkata and Premises No.6 Nafar Koley Road, Kolkata, a licensee and operating the petrol pump on the site was permitted to be joined as party in the present petition. He is duly represented before this Court.

4. During the hearing of the present Special Leave Petition, Mr. Mukul Rohtagi, learned senior counsel appearing for the petitioner, on instructions, made an offer that the petitioner is ready to forego all the arrears of rent and mesne profit, in case vacant physical possession of the said property is handed over to the petitioner by 31.03.2025. He further submitted that after the writ petition was allowed by the learned Single Judge in favour of the petitioner herein, the newly added respondent no.5, the licensee of the petrol pump from BPCL, filed Civil Suit No. 275 of 2023 titled as '**Hind Service Station v. Delight Grih Nirman Pvt. Ltd. and others**' for declaration, which was not maintainable as he did not have any independent tenancy/lease agreement with the petitioner.

It was filed just with a view to prolong the litigation and to create hindrance in vacation of the premises by lessee.

5. To the aforesaid offer made by the learned counsel for the petitioner, Mr. V. Giri, learned senior counsel appearing for the respondent Nos.1 to 4 on instructions submitted that offer made by the petitioner is acceptable. Bharat Petroleum Corporation Limited/lessee is ready and undertakes to vacate the premises and hand over vacant physical possession of the property in dispute to the petitioner on or before 31.03.2025

6. Mr. Utpal Mazumdar, learned counsel for the newly added respondent No.5 who appeared online, sought to raise the issue that he has independent right to protect his possession of the premises in dispute. Hence, he cannot be evicted in the manner being agreed upon by the BPCL/lessee and lessor. We do not find any merit in the argument as there is no privity of contract between the respondent No.5 and the petitioner herein, and the privity of contract is between the petitioner and BPCL. Once lessee forgoes his tenancy in agreed terms on the premises in question and ready to vacate, the respondent No. 5 who has licence to operate the petrol pump on the said premises cannot acquire any independent right without having any privity of contract with petitioner.

7. In response to the argument raised by the learned counsel for the respondent No.5, Mr. V. Giri, learned senior counsel for the respondent Nos.1 to 4, submitted that in case the respondent No.5 locates any other suitable place, acceptable to BPCL, his request for grant of licence may be considered favourably but he is having no right to object to the above agreed terms as recorded whereby the BPCL is being benefited.

8. We may add here that we have not examined the issue of maintainability of the writ petition as the matter is being disposed of on account of terms agreed between the parties.

9. After hearing learned counsel for the parties, in our view, the present Special Leave Petition can be disposed of with the following directions.

(i) The respondent (BPCL) shall hand over vacant physical possession of the property in question to the petitioner on or before 31.03.2025.

(ii) The petitioner has foregone the right to recover the lease rent/mesne profit for the past and future till 31.03.2025 or till handing over possession of the property in question to the petitioner, whichever is earlier.

(iii) In case of failure to comply the direction Nos. (i) & (ii), the petitioner shall be entitled to initiate contempt proceedings in addition to any other remedy which may be available to him.

(iv) Title Suit No.275 of 2023 titled as ***'Hind Service***

***Station v. Delight Grih Nirman Pvt. Ltd. and others'***  
pending before the Court of Civil Judge (Sr. Division) at  
Sealdah shall be treated as disposed of on production of  
copy of this order.

10. The Special Leave Petition is disposed of accordingly.

.....J.  
(J.K. MAHESHWARI)

.....J.  
(RAJESH BINDAL)

New Delhi  
**September 06, 2024.**

ITEM NO.59

COURT NO.8

SECTION XVI

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

Petition(s) for Special Leave to Appeal (C) No(s). 25782/2023

(Arising out of impugned final judgment and order dated 14-08-2023 in MAT No. 1865/2022 passed by the High Court At Calcutta)

SIKHA GHOSH &amp; ORS.

Petitioner(s)

VERSUS

INDIAN OIL CORPORATION LTD &amp; ORS.

Respondent(s)

(IA No. 240374/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT) (IA No. 240377/2023 - EXEMPTION FROM FILING O.T.)

WITH

SLP(C) No. 27002/2023 (XVI)

(FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 111031/2024) (IA No. 111031/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 06-09-2024 These matters were called on for hearing today.

**CORAM : HON'BLE MR. JUSTICE J.K. MAHESHWARI**  
**HON'BLE MR. JUSTICE RAJESH BINDAL**

**For Petitioner(s)** Mr. Mukul Rohatagi, Sr. Adv.  
Mr. Ashok Panigahi, Sr. Adv.  
Mr. Anil Kumar Mishra, AOR  
Mr. Sameer Rohatagi, Adv.  
Ms. Devyani, Adv.  
Mr. Surajit Bhaduri, Adv.

Ms. Meenakshi Arora, Sr. Adv.  
Mr. Swarnendu Chatterjee, AOR  
Mr. Nilay Sengupta, Adv.  
Mr. Ankit Agarwal, Adv.  
Ms. Deepakshi Garg, Adv.  
Ms. Nanki Kalra, Adv.  
Mr. Chandratanay Chaubey, Adv.  
Ms. Mugdha Mallik, Adv.

**For Respondent(s)** Mr. Tushar Mehta, Solicitor General  
Ms. Tannishtha Singh, Adv.  
Mr. Abinash Agarwal, Adv.  
M/S. Meharia & Company, AOR

Mr. V. Giri, Sr. Adv.  
Mr. Parijat Sinha, AOR  
Mr. Divyam Dhyani, Adv.  
Ms. Reshmi Rea Sinha, Adv.  
Ms. Rao Vishwaja, Adv.

Mr. Utpal Majumdar, Adv.  
Ms. Ranjeeta Rohatgi, Adv.

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

**S.L.P.(C) No.25782 of 2023**

List the Matter on Monday, the 9<sup>th</sup> September, 2024.

**S.L.P.(C) No.27002 of 2023**

On 23.08.2024, this Court has issued notice to the dealer, M/s Hind Service Station, Premises No.137-A, Beliaghata Road, Kolkata and Premises No.6 Nafar Koley Road, Kolkata, a licensee who was operating the petrol pump on the site and impleaded as party respondent no.5 in the present proceedings.

Cause title be amended accordingly.

In terms of the signed order, the S.L.P.(C) No.27002 of 2023 is disposed of.

(JAYANT KUMAR ARORA)  
ASTT. REGISTRAR-cum-PS

(ANU BHALLA)  
COURT MASTER

(Signed non-reportable order in S.L.P.(C)No.27002 of 2023 is placed on the file)