

**BIKRAM SINGH DHIMAN Versus JASBIR KUKREJA AND
ANOTHER**

COMS-7 of 2026

06.05.2026 Present: Mr. R.K. Bawa, Senior Advocate with Mr. Ajay Kumar Sharma, Advocate, for the plaintiff.

OMP-309 of 2026

By way of instant application filed under Section 12-A of Commercial Courts Act, 2015, exemption has been sought from pre-institution, mediation and settlement as the suit contemplates urgent interim reliefs.

It has been averred in the application that applicant/plaintiff is in lawful and settled possession of the suit property i.e. Hotel Auckland Lakkar Bazar, Shimla-171001 as a lessee under valid and subsisting Lease agreement dated 30.07.2025 executed with non-applicant/defendant No.1. Though lease agreement shall remain in force for three years, but yet unlawful attempt is being made by the non-applicants/defendants to oust the applicant/plaintiff, who after taking the aforesaid property on lease, claims to have invested huge amount therein. Since in the month of April, 2026, non-applicant/defendant No.1 along with her daughter (defendant No.2) and her associates, in a pre-planned manner, took the law into their own hands, barged into the hotel premises, threatened the hotel staff, committed criminal trespass and wrongfully restrained the plaintiff as well as hotel staff from

performing their duties, matter came to be reported to the police at Police Station Lakkar Bazar.

Police, after having carefully perused lease agreement *inter se* parties, attempted to persuade the non-applicants/defendants not to interfere in the lawful possession of the applicant/plaintiff, but since despite police intervention, non-applicants/defendants are interfering in the peaceful possession of the applicant/plaintiff, as a result thereof, huge loss is being suffered, applicant/plaintiff approached this Court in the instant application seeking exemption from pre-litigation mediation.

Section 12-A of Commercial Courts Act provides for Pre-Institution, Mediation and Settlement. Under aforesaid provision of law, a suit, which does not contemplate any urgent interim relief under afore Act, shall not be instituted unless the plaintiff exhausts the remedy of preinstitution mediation in accordance with the manner and procedure as may be prescribed by rules made by the Central Government.

Though it has not been disputed at the behest of the applicant/plaintiff that at first instance, pre-institution mediation and settlement is required to be attempted before filing a commercial suit, but since circumstances and facts detailed hereinabove contemplate urgent interim relief, prayer has been made to exempt the applicant/plaintiff from pursuing pre-institution, mediation and settlement.

Having carefully perused lease agreement dated 30.07.2025 adduced on record by the applicant/plaintiff, this Court finds that non-applicant/defendant No.1, who is the owner of the Hotel Auckland, Lakkar Bazar, Shimla i.e. lessor, had given the afore suit property on lease to the applicant/plaintiff for a fixed term of three years, commencing from 01.08.2025 and ending on 30.06.2028, subject to terms and conditions contained therein. As per agreement, there should be a lock-in period of three years, during which neither party shall terminate the lease deed, any such premature exist, abandonment or discontinuation of operations by the lessee shall be deemed a material breach of agreement, except in cases of material breach, as defined in agreement, in case of unilateral termination or abandonment by the lessee within the lock-in period, the entire security deposit shall stand forfeited. Admittedly, in terms of aforesaid lease agreement, since applicant/plaintiff is in lawful possession of the suit property, without there being any justifiable reasons, he cannot be ousted on or before 31.06.2028, whereas as per terms and conditions of agreement, lease can be extended subject to certain conditions. In terms of aforesaid lease agreement, applicant/plaintiff, who is a lessee, is required to pay to the lessor a fixed monthly rent of Rs.1,66,667/- throughout the initial three years' lease term, commencing from 01.08.2025 to 30.06.2028.

To substantiate the factum with regard to payment of rent in terms of provisions contained in lease agreement, documents have been adduced on record in the shape of bank statements suggestive of the fact that rent till date has been paid. Since during the subsistence of Lease agreement as detailed hereinabove, repeated attempts have been made by non-applicant/defendant No.1 to interfere with the lawful possession of the property and non-applicants/defendants illegally occupied two rooms of the hotel along with pets as is evident from the police report as well as photographs placed on record, there appears to be merit in the contention of Mr. R.K. Bawa, learned Senior Counsel that in case interim relief, as prayed for, is not granted, huge loss shall be caused to the applicant/plaintiff, who has otherwise invested huge amount in making hotel viable for business.

Since on account of continuous interference by the non-applicants/defendants, applicant/plaintiff, who is otherwise under an obligation to pay huge rent, is continuously suffering in the shape of revenue, which he could have otherwise generated by giving rooms on rent, this Court is satisfied that suit contemplates urgent interim relief, as such, prayer made on behalf of the applicant/plaintiff seeking exemption from pre-institution mediation and settlement deserves to be allowed. Ordered accordingly.

Application stands disposed of in afore terms.

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Notice to defendants be issued, returnable within six weeks, on taking steps within one week.

OMP-310 of 2026

Notice in aforesaid terms. For the reasons assigned in order passed in OMP-309 of 2026, prayer made on behalf of the applicant/plaintiff for interim relief deserves to be allowed, accordingly, pending reply, the non-applicants/ defendants are restrained from interfering in any manner with the peaceful possession and management, day to day affairs and functioning of Hotel Auckland/Suit property, situated in Lakkar Bazar, Shimla-171001 by the applicant/plaintiff, by themselves, through their agents, representatives, family members or any other persons during the pendency of the suit.

(ii) The non-applicants-defendants are directed to immediately vacate the unauthorized illegal occupation of two rooms i.e. room Nos. 301 & 302 of the Hotel Auckland/Suit property along with their two pets and further return/hand over booking register, attendance records, tourism register, day book and accounts files etc. illegally detained by them.

(iii) restrained from entering the premises of Hotel Auckland, Lakkar Bazaar, Shimla, without prior permission of the applicant/plaintiff and the entry of the non-applicant/ defendants/her agents, representatives, or any person acting on their behalf within 50 Meters radius from the boundary of Hotel

Auckland premises near Lakkar Bazaar, Shimla, H.P. is prohibited.

Thus, order shall be subject to compliance in terms of Order 39 Rule 3-A CPC.

May 06, 2026
(sunil)

(Sandeep Sharma),
Judge