



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.607 OF 2025**

Karma Infrastructure and Development Company ... Applicant
versus
Lallubhai Amichand Ltd. and Anr. ... Respondents

**WITH
CIVIL REVISION APPLICATION NO.608 OF 2025**

Karma Infrastructure and Development Company ... Applicant
versus
Lallubhai Amichand Ltd. and Anr. ... Respondents

Mr. Sunny Shah with Mr. Ashwin Ankhad, Mr. Akshay Suresh i/by Ashwin Ankhad and Associates, for Applicant in both matters.

Mr. Atul Damle, Senior Advocate with Mr. Abhishek Adke, Ms. Deepali Joshi, for Respondent No.1 in both matters.

Mr. Kirit Hakani with Mr. Rahul Hakani, Ms. Niyati M., Ms. Priyanka Singh, Mr. Pratishtha Shukla i/by Kirit Hakani, for Respondent No.2 in both matters.

CORAM: N.J.JAMADAR, J.

DATE : 23 DECEMBER 2025

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in these applications is to an order dated 11 November 2025 passed by the Executing Court rejecting an application under Section 47 of the Code of Civil Procedure, 1908, and another order of even date passed by the Executing Court approving and finalizing the Draft Sale Deed and appointing the Court Commissioner to execute and register the sale deed in execution of the decree for specific performance passed by the Civil Court dated 27 February 2020 in Special Civil Suit No.271 of 2008.

3. The Applicant has preferred an application for setting aside the said decree purportedly passed ex-parte qua the Applicant before the Court which had passed the decree under the provisions of Order IX Rule 13 of the CPC, 1908, being Misc. Civil Application No.796 of 2021. Simultaneously, the Applicant preferred Regular Appeal No.11 of 2021 before the District Court. It seems that the Applicant filed an application to stay the hearing of the said appeal till adjudication of the application under Order IX Rule 13 of the CPC filed before the Trial Court. By an order dated 12 June 2023, learned District Judge was persuaded to allow the said application and stay the hearing of the appeal till the hearing of the application for setting aside the ex-parte decree being Misc. Civil Application No.729 of 2021.

4. The Applicant also preferred an application under the provisions of Section 47 of the Code, 1908 seeking discharge of the execution proceedings on the ground that, in view of the provisions contained in Section 22 of the Sick Industrial Companies (Special Provisions) Act, 1985, and Section 34 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the decree passed in SCS No.271 of 2008 was a nullity.

5. By the impugned orders dated 11 November 2025, learned Civil Judge rejected the said application and appointed a Court Commissioner to execute the sale deed in pursuance of the judgment and decree dated 27 February

2020.

6. It appears that the Applicant has resorted to multiple proceedings with a view to stay the effect and operation of the decree passed by the Trial Court in SCS No.271 of 2008. Indeed, a Defendant is entitled to simultaneously invoke the remedies under Order IX Rule 13 of the Code, and file an appeal against the ex-parte order. However, it does not appear that the remedy of seeking setting aside the ex-parte decree was pursued diligently. Having obtained stay to the hearing of the appeal i.e. RCA No.11 of 2021, it was incumbent upon the Applicant to seek interim relief in the Misc. Civil Application No.796 of 2021 for setting aside the ex-parte decree dated 27 February 2020.

7. In the aforesaid circumstances, this Court does not find any propriety in entertaining the revision applications against the orders passed by the Executing Court. It would be proper for the Applicant to work out its remedies in the proceeding filed to set aside the ex-parte order.

8. Mr. Shah submitted that, the Applicant be given an opportunity to pursue the application for interim relief in the said proceeding under Order IX Rule 13 and a limited protection be granted to the Applicant.

9. Mr. Damle, learned Senior Advocate for Respondent No.1, submitted that, the Respondent No.1 would oppose the grant of interim relief till the interim application taken out by the Applicant in Misc. Civil Application No.796

of 2021 is decided.

10. The Court is of the considered view that the appropriate remedy for the Applicant was to seek stay to the execution and operation of the decree passed in SCS No.271 of 2008, either in Misc. Civil Application No.796 of 2021 or in the appeal preferred by the Applicant. Therefore, to facilitate the Applicant to work out its remedies and seek stay to the execution and operation of the decree passed in SCS No.271 of 2008, the Court considers it appropriate to grant interim protection for a limited period.

11. The Court is informed that the Misc. Civil Application No.796 of 2021 is listed before the learned Civil Judge on 2 January 2026.

12. The Civil Revision Applications, thus, stand disposed.

13. The Applicant shall appear before the Trial Court on 2 January 2026 in Misc. Civil Application No.796 of 2021.

14. Learned Civil Judge is requested to hear and decide the Application for interim relief in Misc. Civil Application No.796 of 2021 as expeditiously as possible, and, preferably within a period of one month from 2 January 2026.

15. It is, hereby, made clear that this Court has not entered into the merits of the claim of the applicant for stay to the execution and operation of the decree in SCS No.271 of 2008.

16. In the meanwhile, the execution of the order dated 11 November 2025 passed by the Executing Court, appointing the Court Commissioner to

execute and register the sale deed, shall remain stayed for a period of one month from 2 January 2026.

17. All contentions of all the parties are kept open for consideration by the learned Civil Judge.

(N.J.JAMADAR, J.)