

CO. 939 of 2026

27.03.26
D/L
Sl-8
Ct. 06
(Samar)

Ambe Plywoods private Limited
-Vs-
Indian Oil Corporation Limited

Mr. Suddhasatva Banerjee,
Mr. Soumabho Ghose,
Mr. Sagnik Majumdar,
Mr. Aurin Chakraborty,
Ms. Shreya Ghosh Dastidar,
Mr. Devdas Saha.

.....for the petitioner.

Mr. Shounak Mukhopadhyay,
Mr. Amit Meharia,
Ms. Paramita Banerjee,
Mr. Sayan Dey.

.....for the opposite party.

1. This revisional application assails an order dated February 10, 2026 passed by the learned Civil Judge (Senior Division), 2nd Court at Alipore, in Title Execution Case No. 8 of 2025 whereby an order of stay of the Execution Case passed on September 06, 2025 has been directed to remain in force until consideration of the application for extension of such stay filed by the opposite party.
2. Mr. Banerjee, learned advocate appearing for the petitioner submits that the order impugned has been passed without appreciating the fact that the very basis of the order dated September 06, 2025 passed by the learned Executing Court thereby staying the Execution Case no longer exists.

3. It is submitted that the order dated September 06, 2025 had been passed by the learned Executing Court on the basis that the judgment and decree dated November 20, 2024 passed in Title Suit No. 39 of 2000, which is being presently executed, had been assailed in appeal before the learned District Judge, Alipore, South, 24- Parganas and that such appeal was pending.
4. Mr. Banerjee, submits that the said appeal being Title Appeal No. 07 of 2025 stood dismissed on January 27, 2026 and that being so, there was no reason for the learned Executing Court to extend the interim order of stay of execution any further.
5. Mr. Mukhopadhyay, learned advocate appearing for the opposite party submits that the learned Executing Court has granted stay inasmuch as a proceeding has been initiated before the Thika Controller in respect of the self-same property which forms “subject matter of the suit” and the opposite party’s right to prefer a second appeal has not yet expired.
6. Mr. Banerjee, learned advocate appearing for the petitioner quickly retorts that the issue as regards the petitioner’s claim of being a Thika Tenant in respect of the property in suit has already received consideration of the learned Trial Court and such issue has been decided against the opposite party in the judgment and decree sought to be executed.

7. Heard learned advocates appearing for the respective parties and considered the material on record. The order impugned is wholly unreasoned. The learned Executing Court has extended an order of stay passed on September 06, 2025 without appreciating the fact that the order dated September 06, 2025 had been passed taking into consideration the fact that the opposite party had assailed the judgment and decree (which has been put into execution) in appeal and such appeal was pending.
8. Upon such appeal itself having been dismissed on January 27, 2026, the interim order of stay passed on September 06, 2025 could not have been extended by the learned Executing Court by stating that the stay would be deemed to be extended without disclosing as to what weighed with the learned Executing Court allowing such deemed extension.
9. Mr. Mukhopadhyay's assertion that such extension of stay was granted in view of the fact that a proceeding is pending before the Thika Controller concerning the self-same property which forms the subject matter of the suit, is of no avail since no such reason is there in the order impugned.
10. Stay of execution of a decree cannot be granted lightly. It is now well settled that a decree holder should not be deprived of the fruits of the

decree by staying execution of the decree, unless there are reasons weighty enough for the Court to grant such stay. In the case at hand, there is none on record.

11. It is evident from the order dated February 10, 2026 that the learned Trial Court has not yet disposed of the application for stay and kept it pending. In such view of the matter, it was not open for the learned Executing Court to pass an order of deemed extension of the stay granted on order dated September 06, 2025 without assigning any reason therefor.
12. For all the reasons aforesaid, the order dated February 10, 2026 granting stay of the execution case till consideration of the application for stay filed by the opposite party is set aside. The learned Executing Court shall be free to proceed with the execution case in accordance with law keeping in view the mandate of the Hon'ble Supreme Court in the case of ***Periyammal and Others Vs. V. Rajamani and Another*** reported at ***(2025) 9 SCC 568***.
13. The application for stay filed by the opposite party shall be considered by the learned Trial Court on its own merits in accordance with law governing the field.
14. CO. 939 of 2026 stands disposed of, with the above observations.

15. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities

(Om Narayan Rai, J.)