

12.05.2026
Ct. No.6
Sl. No.9
skg

C.O. 1230 of 2026

**AMBE Plywoods Private Limited
Vs.
Indian Oil Corporation Limited**

Mr. Krishnaraj Thaker, Sr. Adv,
Mr. Suddhasatra Banerjee,
Mr. Soumabho Ghose,
Mr. Pushan Kar,
Mr. Sagnik Majumdar,
Mr. Aurin Chakraborty,
Ms. Shreya Ghosh Dostidar,

...for the Petitioner

Mr. Shounak Mukhopadhyay,
Mr. Amit Mehoria,
Ms. Paromita Banerjee,
Mr. Sayan Dey,

...for the opposite party

1. This petitioner is aggrieved by an order dated April 2, 2026 passed by the learned Civil Judge (Sr. Div.) 2nd Court at Alipore in Title Execution No. 8 of 2025 whereby an application for stay of the execution case filed by the opposite party has been fixed for being heard and decided on merits on April 20, 2026, while the execution case filed by the petitioner has remained stalled.
2. Mr. Thaker, learned Senior Counsel appearing for the petitioner invites the attention of this court to the said application for stay that is pending consideration before the learned Executing Court and submits that the prayer for stay has been made

on the basis that an appeal preferred against the decree is pending before the Appellate Court. He submits that since the opposite party's appeal ended in dismissal on January 27, 2026, therefore nothing remains to be decided on the application for stay filed by the opposite party.

3. He then invites the attention of this court to an earlier order dated July 1, 2025 passed by a co-ordinate bench of this court in C.O. 2342 of 2025 whereby this court had requested the learned Executing Court to dispose of the Title Execution Case no. 8 of 2025 as expeditiously as possible without granting any unnecessary adjournment to either of the parties.
4. He next submits that by an order dated March 27, 2026 passed in C.O. 939 of 2026 this Court had set aside an interim stay that had been granted by the learned Executing Court pending consideration of the opposite party's application for stay and left the learned Executing Court 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 & Ors. v. V. Rajamani & Anr. reported in (2025) 9 SCC 568*** Mr. Thaker submits that by the order impugned the learned Executing Court has effectually continued with the

stay that had been set aside inasmuch as, while the learned Executing Court has fixed April 20, 2026 for hearing of the stay application the execution case itself has become stagnant. It is submitted that there could not have been a deemed stay of the execution proceeding without there being any actual order of stay.

5. Mr. Mukhopadhyay, learned Advocate appearing for the opposite party submits that though the appeal preferred against the decree passed in the suit has been dismissed, a second appeal has been filed before this Court against the first appellate decree which is pending. It is further submitted that May 19, 2026 has been fixed as the next date for hearing of the stay application and as such there is no reason for the petitioner to approach this Court by way of present revisional application.
6. Heard the learned Advocates appearing for the respective parties and considered the material on record.
7. In the order dated March 22, 2026 this Court had, upon setting aside the interim stay that had been granted by the Executing Court earlier, observed that the learned Executing Court would be free to proceed with the Execution Case in accordance with law.

8. In such view of the matter, the learned Executing Court should have either proceeded with the Execution Case or should have dealt with the stay application filed by the opposite party one way or the other immediately in order to avoid stagnation of the Execution Case. The learned Executing Court was not justified in not deciding the application for stay and thereby stalling the Execution Case without there being any order of stay in operation.
9. This Court *prima facie* finds substance in the submission of Mr. Traker that the stay application is based on the pendency of the appeal which no longer remains in existence inasmuch as the same was dismissed by an order dated June 27, 2026.
10. In view of the aforesaid, the learned Executing Court is requested to dispose of the opposite party's application for stay by the next date fixed.
11. It is made clear that even if such application is not disposed of, then also, mere pendency thereof should not be made a ground to stall the Execution Case. It is further clarified that the learned Executing Court shall not stall the Execution Case merely on the ground of the pendency of the second appeal before this Court unless a specific order of stay is granted by this Court.

12. It is clarified that the observation of this Court as regards the merits of the stay application is only *prima facie* and the learned Executing Court shall decide such application independently, in accordance with law.
13. C.O. 1230 of 2026 stands disposed of with the above observation. There shall be no order as to costs.
14. 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.)