

D/L.3.
August 14, 2026.
MNS.

FA No. 75 of 2026
+
CAN 1 of 2026

Arshad Shah
Vs.
G. P. Spira Duct Pvt. Ltd.

Mr. Rahul Karmakar,
Mr. Soumojit Saha, Advs.

... for the appellant.

Re : CAN 1 of 2026 (stay application)

1. The affidavit-of-service filed in Court today be kept on record.
2. The present appeal has been preferred against a money decree.
3. Learned counsel appearing for the appellant submits that even the foundational pleadings and evidence necessary to pass a decree with the component of interest under the Micro, Small and Medium Enterprises (MSME) Act was lacking.
4. Learned counsel appearing for the appellant submits that throughout the plaint, there was not a single averment of the plaintiff/respondent as to the respondent being an MSME Unit.
5. However, the learned Trial Judge directed interest to be paid at the rates stipulated under the said Act.
6. Secondly, it is argued that the premise of invoking the territorial jurisdiction of the trial court, as pleaded in the

plaint and recorded by the learned Trial Judge, was that the registered office of the plaintiff/respondent is situated within the jurisdiction of the trial court, which, however, was not established by any evidence whatsoever.

7. Thirdly, the learned Trial Judge relied on certain purported printouts of e-mails without compliance of Section 65B of the Indian Evidence Act, 1872.

8. Learned counsel submits that due to such *ex facie* perversities in the judgment, the court may waive the deposit of the decretal amount as condition for grant of stay.

9. In support of his contention, learned counsel cites *Lifestyle Equities C.V. and another Vs. Amazon Technologies Inc.* reported at (2026) 3 Supreme Court Cases, 641.

10. From paragraph no. 138.9 of the said report, we find that the Hon'ble Supreme Court held that a lodestar for bringing a case within the purview of "exceptional case" for the purpose of granting benefit of unconditional stay of the execution of money decree by the appellate court would be, that the money decree in question:

- (i) is egregiously perverse;
- (ii) is riddled with patent illegalities;
- (iii) is facially untenable; and/or
- (iv) such other exceptional causes similar in nature.

11. In the present case, however, the contentions of the appellant, though well arguable, are not of the nature of a

patent perversity *ex facie* evident from the impugned judgment itself.

12. Insofar as the territorial jurisdiction is concerned, the learned trial Judge not only relied on the registered office of the plaintiff/respondent being within its jurisdiction, but also observed the part of the transactions forming the cause of action occurred within such jurisdiction, as such, deriving jurisdiction to decide the matter.

13. Secondly, insofar as the compliance of Section 65B is concerned, although the said provision is a bar in taking evidence, we do not find any reflection of any objection being taken at the point of admissibility of the evidence.

14. It is further arguable as to how far the learned Trial Judge could pass a decree on the basis of printouts of e-mails and also as to how far the defendant/appellant objected to such material at the time of adduction of evidence in order to appreciate the dispute conclusively.

15. We are also apprised, on query, that the defendant/appellant did not lead any independent evidence to dispute the case of the plaintiff.

16. Thirdly, regarding MSME, we also do not find any objection being raised by the defendant/appellant in the regard before the trial court during hearing of the suit, apart from in the written statement.

17. Also, at best, the same could be an error of law which is arguable at the time of hearing of the appeal, but does not amount to a patent perversity to come within the

purview of the riders stipulated by the Hon'ble Supreme Court in *Lifestyle Equities* (supra).

18. Undoubtedly, such questions will be open to be decided in the appeal, but at the threshold we do not find any mitigating factor to waive the requirement of deposit of the decretal amount as a condition of stay.

19. As far as the argument of non-applicability of the MSME Act is concerned, in any event, we do not intend to direct deposit of the decretal dues of interest, directed at the rates contemplated under the said Act, at this stage. Hence, the apprehension of the appellant on such count is allayed by default.

20. Accordingly, there shall be stay of operation of the impugned judgment and decree dated September 26, 2025 passed in Money Suit No. 344 of 2022 and/or all further proceedings in Money Execution Case No. 1 of 2026 pending before the learned Civil Judge (Senior Division), First Court at Uluberia, District-Howrah, till disposal of CAN 1 of 2026, subject to the appellant depositing the principal decretal amount (without interest) with the learned Registrar General of this Court within six weeks from date.

21. The stay shall continue unconditionally for six weeks and thereafter, upon such deposit being made, shall continue till disposal of the application.

22. In default, however, the stay order shall stand automatically vacated without further reference to the Court after the expiry of six weeks from this date.

23. In the event such deposit is made, the same shall be invested in a short term interest-bearing account/deposit with any nationalized bank/institution by the learned Registrar General and shall be subject to the outcome of the appeal.

24. The appellant shall serve a copy of CAN 1 of 2026 on the respondent and/or its learned Advocate in this Court afresh, indicating that the application shall be listed for hearing in the monthly list of September, 2026, when an affidavit-of-service shall be filed by the appellant to that effect.

25. Since, from the Office report dated August 11, 2026, it appears that the respondent has already entered appearance through its learned Advocate, service of notice of the appeal on the respondent is dispensed with and the appeal be treated to be ready as regards service.

26. The trial court records shall be brought by special messenger at the cost of the appellant, to be deposited within a week from date.

27. The appellant shall prepare and file the requisite number of paper books within eight weeks from the date of service of notice of arrival of the trial court records on the learned Advocate for the appellant.

(Sandip Kumar De, J.) (Sabyasachi Bhattacharyya, J.)