

**IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE**

**APDT/11/2026
With CS/256/2009
IA No. GA/1/2026**

**KARNANI PROPERTIES LIMITED
-VS-
KAILASH PRASAD JHUNJHUNWALLA AND ANR.**

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK

-AND-

The Hon'ble JUSTICE MD. SHABBAR RASHIDI

For the Appellant : Mr. Sabyasachi Chaudhury, Sr. Adv.
Mr. Shounak Mukhopadhyay, Adv.
Ms. Anuradha Poddar, Adv.

For the Respondents : Mr. Anindya Kumar Mitra, Sr. Adv.
Mr. Sarvapriya Mukherjee, Adv.
Mr. Arif Ali, Adv.
Mr. Souradip Banerjee, Adv.
Ms. Upama Bhattacharjee, Adv.

HEARD ON : 22.04.2026

DELIVERED ON : 22.04.2026

DEBANGSU BASAK, J.:-

1. Appeal is directed against the judgment and decree dated March 18, 2026 passed in CS/256/2009. By the impugned judgment

and decree, learned Trial Judge, dismissed the suit of the appellant.

2. Learned Senior Advocate appearing for the appellant submits that, as on the date of impugned judgment and decree, there subsisted an interim order dated November 24, 2010. He submits that, pending hearing of the appeal, subsisting interim order dated November 24, 2010 be directed to continue till disposal of the appeal.
3. Learned Senior Advocate appearing for the respondents submits that, there is no averment in the stay application warranting grant of an interim order, as prayed for by the appellant. He draws the attention of the Court to the plaint as well as impugned judgment and decree. He relies upon **(2010) 1 SCC 689 (KASHI MATH SAMSTHAN AND ANOTHER -VS- SHRIMAD SUDHINDRA THIRTHA SWAMY AND ANOTHER)** in support of the proposition that, on dismissal of the suit, the subsisting interim order in that suit as on the date of the decree, need not be restored in appeal.
4. The appellant filed a suit for perpetual injunction and damages. Suit relates to car parking spaces. During the subsistence of the suit, in an injunction petition, orders were passed by the learned Single Judge. Orders received the consideration of the Appeal Court.
5. Ultimately, the injunction petition was disposed of in terms of the order of the Appeal Court dated October 26, 2009. The order of the Appeal Court dated October 26, 2009 permitted the

defendants to park two cars in the compound at such place as specified by the Appeal Court and on the condition as to payment specified in such order.

6. There are averments in the petition for stay particularly in paragraph 15 thereof where, the appellant claimed that the appellant will suffer irreparable loss and injury, if the interim order as subsisted on the date of dismissal of the suit was not granted.
7. **KASHI MATH SAMSTHAN AND ANOTHER (Supra)** in the peculiar facts and circumstances of that case as noted therein, did not find the balance of convenience to be made out for grant of interim protection. It also noted the fact that, in that suit, although, in the application for injunction, the plaintiff was found not to be entitled to be an order of injunction as the plaintiff failed to make out a prima facie case and balance of convenience, none the less an order of status quo till disposal of the suit, was passed.
8. The factual matrix in the present case is different. There subsisted an interim order till the impugned judgment and decree.
9. Parties were using the parking spaces concerned in accordance with the orders dated October 26, 2009 and November 24, 2010. Not continuing with such orders in the appeal will be prejudicial to the parties. Subject matter of the lis will stand affected by non grant of such order.

10. Prima facie case stands made out for grant of interim order. The balance on convenience and inconvenience is in favour of the appellant. It was found to be so at the interim stage by the Appeal Court also.
11. In such circumstances, interim order subsisting till the date of the impugned judgment and decree will continue till the disposal of the appeal or until further orders, whichever is earlier.
12. Appellant will prepare informal paper book incorporating all papers used before the learned Single Judge.
13. Learned Senior Advocate appearing for the respondent submits that the respondents propose to file a cross-objection.
14. Respondents are at liberty to exercise their rights available in law.
15. List the appeal 7 weeks hence.
16. IA No. GA/1/2026 is disposed of accordingly.

(DEBANGSU BASAK, J.)

17. I agree

(MD. SHABBAR RASHIDI, J.)