OCD-3

ORDER SHEET

APDT/20/2025
WITH
CS-COM/788/2024

IA NO: GA-COM/1/2025

IN THE HIGH COURT AT CALCUTTA
Commercial Appellate Division
ORIGINAL SIDE

MIHIJAM VANASPATI LIMITED AND ANR
VS
SHINING VYAPAR PRIVATE LIMITED AND ORS

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE
AND
The Hon'ble JUSTICE OM NARAYAN RAI
Date : September 22, 2025.

Appearance:
Mr. Satadeep. Bhattacharya, Adv.
Mr. Bipin Ghosh, Adv.
Ms. Sriparna Mitra, Adv.
..for the plaintiffs

Mr. Rishad Medora, Adv.
Mr. Rohit Banerjee, Adv.
Ms. Kanchan Jaju, Adv.
..for the respondent nos.1 & 2

Dictated by Arijit Banerjee, J.

The Court: This appeal is directed against a judgment and decree dated July 7, 2025, passed by a Learned Judge of this Court in CS-COM/788/2024. By the impugned judgment and decree, the Learned Single Judge rejected the claim of the appellants who were the plaintiffs before the Learned Judge. The Learned Judge partly allowed the counter-claim of the defendant no.1.

We recorded in our earlier orders passed in this appeal that certain sums of money were deposited from time to time by the appellants pursuant to orders of Court. We called for reports from the Registry as regards the present status of such deposits.

Today, a fresh report dated September 01/07, 2025 has been filed by the learned Registrar, Original Side. From that report, it appears that initially a sum of Rs.13 lakh was deposited by the appellants pursuant to an order of the Hon'ble Supreme Court dated July 10, 2013, passed in Civil Appeal No.8258 of 2013. As per the direction of the Hon'ble Supreme Court, a sum of Rs.10 lakh was paid to the defendant no.1. The balance sum of Rs.3 lakh was to be paid to the plaintiff no.2. However, the said plaintiff never collected such money. Therefore, the sum of Rs.3 lakh has been lying in the P.L Account, to the credit of the suit, without earning any interest.

It further appears that subsequently, pursuant to an order dated March 31, 2016, passed by Hon'ble Justice I. P. Mukerji, on April 12, 2016, a sum of Rs.3 lakh was deposited with the Registry. That sum was invested in a fixed deposit account with the Central Bank of India, Red Cross Place Branch, Kolkata, in terms of the direction contained in the aforesaid order. As per Bank's statement dated August 29, 2025, the said sum has now become Rs.5,27,067/-.

Thereafter, in terms of an order dated February 26, 2019, passed by a Co-ordinate Bench in APO/401/2018, a further sum of Rs.8 lakh was deposited by the appellants with the Registry on March 13, 2019. However, the report of the learned Registrar says that in the absence of specific direction upon the Registry for investing the same, the said amount is lying with the Registrar's P.L Account maintained with the Reserve Bank of India, Kolkata, without earning any interest.

Therefore, we see in all a sum of Rs.16,27,067/-, deposited by the appellants from time to time is lying with the Registry of our Court. The decree that was passed on the counter-claim of the defendant no.1, we are told by learned Counsel for the defendant no.1, would be in the sum of approximately Rs.18.30 lakh as on the date of the decree including interest and costs. We direct the appellants to furnish security for a further sum of Rs.2 lakh, either in cash or by way of bank guarantee, to the satisfaction of the learned Registrar, Original Side. If such security is furnished in cash, the same shall be forthwith invested in a fixed deposit account in the nationalised bank which offers the best rate of interest.

There will be an unconditional stay of execution of the judgment and decree impugned in this appeal for a period of one week after the puja vacation (October 31, 2025). In the event additional security of Rs.2 lakh is furnished by the appellants within that date, the stay of execution of the decree shall continue till the disposal of the appeal. In default of furnishing such security, the stay order shall stand vacated automatically.

Insofar as the amounts lying in the P.L Account of the Registrar, Original Side, maintained with the Reserve Bank of India, are concerned, the said sums of Rs.3 lakh and Rs.8 lakh respectively, shall be forthwith invested, preferably in the same nationalised bank where the amount deposited pursuant to Hon'ble Justice I. P. Mukerji's order, has been invested by way of fixed deposit. The fixed deposit shall be kept renewed from time to time and shall abide by the result of the appeal.

The stay application shall stand disposed of.

Let requisite number of informal paper-books be filed by the appellants incorporating therein all papers that were available before the Learned Single Judge, within two weeks after the puja vacation. All formalities are dispensed with. However, a copy of the stay application be included in the paper-book for the sake of reference.

Since the respondent nos.1 and 2 are represented through learned Counsel, notice of appeal is deemed to be waived insofar as those respondents are concerned. Issue notice to respondent nos.3 and 4.

List the appeal under the appropriate heading three weeks after the puja vacation.

Mr. Medora, learned Counsel representing respondent nos.1 and 2, tells us that insofar as part of the counter-claim of the defendant no.1 was disallowed, the defendant no.1 has filed an application for review of the impugned judgment and decree.

We clarify that pendency of this appeal or this order shall not stand in the way of the Learned Single Judge deciding the said review application in accordance with law.

(ARIJIT BANERJEE, J.)

(OM NARAYAN RAI, J.)

sg./kc.