

OCD-1

APOT/186/2026  
WITH CS.COM/159/2025  
IA No.GA-COM/1/2026

IN THE HIGH COURT AT CALCUTTA  
Commercial Appellate Division  
Original Side

MRS. GITA SHARMA AND ANR.

-VERSUS-

M/s. SMART PAVE CORPORATE  
CENTRE AND ORS.

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK

-AND-

The Hon'ble JUSTICE ARYAK DUTT

Date: 14<sup>th</sup> October, 2026

Appearance:

*Mr. Sayantan Bose, Adv.*

*Ms. Manisha Das, Adv.*

*...for the appellants.*

*Mr. Sunny Nandy, Adv.*

*Ms. Oindrila Ghosal, Adv.*

*...for the respondent.*

The Court :- Appellants assail the order dated August 5, 2026 passed in IA No.GA-COM/3/2026 in CS-COM/159/2025.

IA No.GA-COM/1/2026 is an application for condonation of delay of 3 days in filing the instant appeal.

Respondent does not object to the delay being condoned.

In such circumstances, delay in making and filing the appeal is condoned.

Learned Advocate appearing for the appellants submits that, the subject-matter of the suit is governed by the provisions of Transfer of Property Act, 1882 and that the appellants are seeking eviction after issuance of notice under Section 106 of the Act of 1882.

Learned Advocate appearing for the appellants submits that, the appellants were enjoying an order of injunction dated 24<sup>th</sup> November, 2025. He submits that, the core issue in this suit is identical to the issue pending before the Hon'ble Supreme Court of India. He has relied on the judgment passed by this Court reported in **2026:CHC-OS:419-DB (Orient Trading and Investment Co. vs. United Consultants (India) LLP.)**. He has submitted that in the said judgment this Court relied on **T.E. Thomson & Company Ltd. vs. Swanalatha Chopra Nee Kapur** reported in **2025 SCC OnLine Cal 5076** and has held that the same is binding upon the learned Single Judge and the learned Single Judge erred in not continuing with the injunction order.

In the impugned order, learned Single Judge has given referenced to Civil Appeal No.466 of 2021 pending before the Hon'ble Supreme Court on the issue as to whether an eviction suit of this nature shall be considered as a commercial litigation.

The learned Single Judge is of the view that unless the foundation is decided before the Hon'ble Supreme Court of India, hearing of the suit required to be adjourned. We disagree with such view of the learned Single Judge.

In view of the judgment passed by this Court in Oriental Trading and Investment Co. (supra), the order impugned dated August 5, 2026 is set aside and the matter is remanded back to the learned Single Judge.

APOT/186/2026 along with connected application stands disposed  
of.

**(DEBANGSU BASAK, J.)**

**(ARYAK DUTT, J.)**

A/s.