

(2026) 07 CAL CK 0122
In the Calcutta High Court, Original Side
Case No : EC/20/2025, IA No. GA/2/2025

Square Four Assets Management and Reconstruction
Company Pvt Ltd. and Ors

APPELLANT

Vs

Orient Beverages Limited

RESPONDENT

Date of Decision : 20-07-2026

Acts Referred:

Code of Civil Procedure, 1908 — Order XXI Rule 35

Citation : (2026) 07 CAL CK 0122

Hon'ble Judges : Ananya Bandyopadhyay, J.

Bench : Single Bench

Advocate : For the Decree Holder: Mr. Ratnanko Banaerji, Sr. Adv.; Ms. Sristi Barman Roy, Adv.; Ms. Sudipta Paul, Adv. For the Judgment Debtor: Mr. Kaushik Banerjee. For the Petitioner in GA/2/2025: Mr. Rahul Singh. For the Receiver: Mr. Jayanta Kr. Dhar; Ms. Arpita Das Jana.

Final Decision : Allowed

Judgement

1. The present execution application invites the Court to give practical effect to a decree that has already traversed the entire spectrum of adjudication and has attained finality.

2. The trustees, by a registered indenture executed on 29th September, 1965, granted a lease for a period of fifty years in favour of Alepe Finance Limited, presently known as Orient Beverages Limited. Upon expiry of the leasehold tenure, the trustees, acting as lessors, executed a registered indenture dated 12th September, 2015 in favour of Decree Holder No.1, whereunder the specified portion of the premises was demised with effect from 1st October, 2015.

3. The judgment debtor, by its own communication dated 1st October, 2015, acknowledged that the lease had expired and declared that possession of the premises had been handed over to the decree holders. The said admission constituted the foundation of G.A. No. 20 of 2022 in C.S. No. 144 of 2016, culminating in the judgment and decree dated 19th May, 2022 whereby a decree

of eviction came to be passed, which continued to remain operative and binding on every person whose possession traced its origin to the estate of the judgment debtor.

4. Subsequent thereto, Decree Holder No.1 called upon the judgment debtor to deliver peaceful and vacant possession of the entirety of the leasehold premises. In response, the judgment debtor disclosed several portions of the property continued to remain occupied by various tenants and occupiers. It furnished particulars of occupants covering an area measuring 6569 square feet while simultaneously recording another portion measuring 5533 square feet remained occupied by several persons whose identities were not within its knowledge. The present execution proceeding has therefore been instituted to secure delivery of possession of the remaining decretal premises measuring 5533 square feet, thereby accomplishing recovery of the entire decretal area measuring 12,102 square feet.

5. Pursuant to directions issued by this Court, the Learned Special Officers have conducted a physical inspection of the premises and have submitted a comprehensive report dated 11th of March, 2026. The report reflected the Learned Advocates representing the decree holders and the judgment debtor remained present throughout the inspection. Although notice had been served upon the intervenors, none appeared at the time of inspection. The Special Officers inspected every portion that remained accessible, recorded approximate measurements of areas lying beyond immediate access, identified the occupiers wherever practicable, segregated those who had approached this Court from those who had chosen not to invoke its jurisdiction, and furnished a detailed account enabling precise identification of the remaining decretal property.

6. The substantial portion of the report delineating the relevant assessment concerning the respective portions are replicated as follows:-

"SEGREGATING LIST OF TENANTS/OCCUPIERS WHO HAD NOT FILED ANY APPLICATION BEFORE THIS HON'BLE COURT :

Occupant	Details
1. Monoj Kumar Bhagat	It was closed and approximate occupying area 70 Sq.ft. at Basement near building.
2. Raja Chatterjee	It was closed and approximate occupying area 112 Sq.ft. at Basement near building.
3. Bikash Khanna	It was opened and co-operated us and approximate occupying area 504 Sq.ft. at ground floor building.
4. Pintu Saha	It was closed and approximate occupying area 140 Sq.ft. at ground floor near building.
5. Pintu Saha	It was closed and approximate occupying area 200 Sq.ft. at ground floor near building.

6. Sundar Lal	It was closed and approximate occupying area 450 Sq.ft. at basement of the building.
7. LT Elevator	It was closed and approximate occupying area 180 Sq.ft. at ground floor of the building.
8. Mani Gupta	It was closed and nobody was there approximate Occupying area 110 Sq.ft. at the ground floor of the building.
9. Mani Gupta	It was closed and nobody was there approximate occupying area 400 Sq.ft. at the ground of the building.
10. Anil Kumar Goyal	Area vacant under the possession of decree holder and approximate area is 140 Sq.ft. at 1st floor front side of the building.
11. B. Chiranjeevi	Area vacant under the possession of decree holder and approximate area is 291 Sq.ft. at 8th floor of the building.
12. Sanjeev Gupta	Area vacant under the possession of decree holder and approximate area is 400 Sq.ft. at the roof front portion of the building.
13. Balbir Prasad Gupta	Area vacant under the possession of decree holder and approximate area is 400 Sq.ft. at the roof front of the building.

Total = 3397 Sq.ft.”

7. The list of tenants/occupiers in G.A. No.1 of 2025, inter alia, stated as follows:-

Occupant	Details
1. Ankit Agarwal, son of Late Binod Kumar Agarwal of premises no.50, Chowringhee Road, Kolkata-700071.	Physically found at basement front portion of the building and approximate occupied area 80 Sq.ft.
2. Mili Roy, wife of Late Dipake Roy of premises No.50, Chowringhee Road, Kolkata-700071.	Physically found at basement front portion of the building and approximate occupied area 30 Sq.ft.
3. Naqi Raza and Nikhat Raza of premises No.50, Chowringhee Road, Kolkata-700071.	Physically found and approximate occupied area 154 Sq.ft. at basement of the building.
4. Shamim Akhtar, son of Mohmaddin Khan, of premises No.50, Chowringhee Road, Kolkata-700071.	Physically found at basement of the building and approximate occupied area 64 Sq.ft.
5. Ajay Kumar Biyani, son of Late Laxminarayan Biwani, of premises No.50, Chowringhee Road, Kolkata-700071.	Physically found at basement of the building and approximate occupied area 278 Sq.ft.
6. Gunjan Agarwaal, son of Hari Shankar Agarwal, of premises No. 50, Chowringhee Road, Kolkata – 700 071.	Physically found at basement front portion of the building and approximate occupied area 300 Sq.ft.
7. Jaladhar Nayak, son of Sukhdeb Nayak, of premises No. 50, Chowringhee Road, Kolkata – 700 071.	Physically found at basement of the building and approximate occupied area 100 Sq.ft.
8. Jamuna Sah, son of Late Megha Sah, of premises No. 50, Chowringhee Road, Kolkata – 700 071.	Open and Physically found at basement portion of the building and approximate occupied area 28.5 Sq.ft.

9. Mina Devi Agarwal, wife of Mahesh Agarwal, of premises No. 50, Chowringhee Road, Kolkata – 700 071.	It was closed, not Physically found at basement portion of the building and approximate occupied area 350 Sq.ft.
10. Ritesh Agarwal, son of Hari Shankar Agarwal, of premises No. 50, Chowringhee Road, Kolkata – 700 071.	Physically found at basement portion of the building and approximate occupied area 26.04 Sq.ft.
11. Shyam Nath Shaw, son of Late Sitaram Shaw, of premises No.50, Chowringhee Road, Kolkata – 700071.	Physically found at basement portion of the building and approximate occupied area 99 Sq.ft.
12. Mahesh Mehra, son of Late Baijnath Mehra, of premises No.50, Chowringhee Road, Kolkata – 700071.	It was closed at the basement front portion of the building and approximate occupied area measured from the outside 200 Sq.ft.
13. Bablu Kumar Shaw, son of Sukhdev Shaw, of premises No.50, Chowringhee Road, Kolkata – 700071.	It was opened. Physically found at basement of the building and approximate occupied area 99 Sq.ft.
14. Ankit Agarwal, son of Late Binod Kumar Agarwal, of premises No.50, Chowringhee Road, Kolkata – 700071.	Physically found at basement front portion of the building and approximate occupied area 80 Sq.ft.
15. Anil Kumar Shaw, son of Sukhdev Shaw, of premises No.50, Chowringhee Road, Kolkata – 700071.	Ground floor 80 Sq.ft.
16. Raj Sonkar, son of Kakan Sonkar, of premises No.50, Chowringhee Road, Kolkata – 700 071.	Ground floor 24 Sq.ft
17. Ratan Lal Agarwal, son of Rajendra Agarwal, of premises No.50, Chowringhee Road, Kolkata – 700 071.	Basement Rear Building 60 Sq.ft.
18. Pushpa Agarwal, daughter of Banwarilal Agarwal, of premises No.50, Chowringhee Road, Kolkata – 700 071.	Ground floor 60 Sq.ft
19. Mohit Jindal, son of Suraj Ratan Jindal of premises No.50, Chowringhee Road, Kolkata – 700 071.	Front Building 100 Sq.ft.

Total 2122.54 Sq.ft.

8. The report inspires confidence. It demonstrates due diligence, objectivity and fidelity to the commission entrusted by the Court. Nothing has been placed before this Court which detracts from either its accuracy or its evidentiary worth. The report accordingly deserves acceptance and shall form an integral part of the record governing execution.

9. Execution of a decree for possession is governed principally by the provisions contained in Order XXI Rule 35 of the Code of Civil Procedure. The legislative intent embodied therein is plain. Once a decree for recovery of possession has attained finality, the executing Court possesses ample authority to place the decree holder in actual physical possession by removing every person bound by the decree who continues to remain in occupation. Such authority is neither discretionary nor merely symbolic; it constitutes the statutory mechanism through which judicial determinations receive practical implementation.

10. The materials placed before this Court reveal that the remaining occupants derive possession exclusively through the judgment debtor. Their occupation does not emanate from any independent title superior to or disconnected from that of the judgment debtor. No material has been produced demonstrating acquisition of any legal estate capable of surviving the decree passed by the competent civil court. Equally, save and except those persons who have already approached this Court and whose claims remain the subject matter of separate judicial consideration, no occupant has obtained any protective order restraining execution.

11. A decree of eviction cannot be rendered ineffectual merely because possession has subsequently become fragmented amongst several occupants. Such a proposition would defeat the very object of execution proceedings and diminish the authority of a judicial determination that has attained finality after due adjudication. Every person whose possession flows from the judgment debtor necessarily remains bound by the decree and cannot assert a possessory right exceeding that possessed by the judgment debtor itself.

12. The Learned Special Officers have specifically identified the remaining portions of the decretal premises occupied by persons who have neither instituted proceedings before this Court nor secured any interim protection. Their continued occupation consequently presents no legal impediment to execution. The decree holders, having established their entitlement through a decree that continues to operate with full vigour, cannot be deprived of actual possession by permitting such occupation to continue indefinitely.

13. Vide an order dated 23rd June, 2026, this Court observed as follows:-

"The Court :- On 16th June, 2026, the Learned Advocate representing the Applicant in GA/1/2025 submitted to file written instruction to the effect that the Applicant did not want to proceed with the hearing of the instant application.

However, none appeared to represent the Applicant in GA/1/2025.

Let the same be dismissed for non-prosecution.

Next date be fixed on 29th June, 2026 for hearing of GA/2/2025."

14. Since the applicants in GA/1/2025 have waived their rights to contest the application through a written instruction absolving themselves to proceed with the same, execution shall proceed only against the portions not protected by any subsisting judicial direction being 3397 Sq.ft. + 2122 Sq.ft. + 5533 Sq.ft. as elicited hereinbefore in view of the report of the Joint Special Officers as aforesaid.

15. In these circumstances, this Court finds that the decree holders have established every circumstance warranting effective execution of the decree dated 19th May, 2022. Acceptance of the report submitted by the Learned Special Officers and issuance of consequential directions constitute the natural progression of the execution proceeding.

16. Accordingly, E.C. No. 20 of 2025 stands allowed.
17. The report submitted by the Learned Special Officers is accepted and shall form part of the record.
18. The Sheriff of Calcutta is directed to take immediate and appropriate measures for securing peaceful and vacant possession of the remaining decretal premises measuring 5533 square feet, forming part of the decretal property situated at Premises No. 50, Chowringhee Road, Kolkata – 700071, more fully described in Schedule 'A' to the execution application, by removing every occupier whose possession flows through the judgment debtor and who does not possess the protection of any subsisting judicial order.
19. Should access to any portion of the premises remain obstructed, the Sheriff shall possess full authority to remove every impediment, including opening locked rooms, doors, shutters or other barriers, whenever such action becomes necessary for securing effective execution of the decree.
20. The Commissioner of Police, Kolkata, together with the Officer-in-Charge, Shakespeare Sarani Police Station, and every police authority exercising territorial jurisdiction over the premises, shall extend complete police assistance to the Sheriff for preservation of public order and for securing peaceful implementation of the decree.
21. Every movable article discovered within the premises shall be inventoried by the Sheriff in the presence of responsible witnesses, whereafter appropriate steps shall be taken strictly in accordance with law.
22. The Learned Special Officers shall continue to render assistance during execution by identifying the decretal property and supervising implementation wherever their presence becomes necessary. The remuneration of the Special Officers be fixed as 3000 GMs. each to be paid by the decree holders.
23. Upon completion of execution, the Sheriff shall submit a detailed report recording the manner of execution, the extent of possession delivered, the inventory prepared, the nature of assistance rendered by the police authorities and every circumstance bearing upon complete satisfaction of the decree.
24. The execution application accordingly stands disposed of.
25. There shall be no order as to costs.
26. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.