



2026:DHC:4777-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment Reserved on: 21.05.2026
Judgment pronounced on: 29.05.2026
Judgment uploaded on: As per digital signature~

+ **EFA(COMM) 20/2026 CM APPL. 34939/2026 CM
APPL. 34940/2026 & CM APPL. 34941/2026**

MRS AMILA SINGHVI & ANR. Appellants

Versus

MR NITIN GUPTA Respondent

Advocates who appeared in this case

For the Appellant : Mr. Tanmay Mehta, Mr. Swapnil Gupta
and Mr. Sajal Jain, Advocates

For the Respondent : Mr. Ashish Mohan, Sr. Adv. with
Mr. Shreshth Jain, Mr. Aurito
Mukherjee, Ms. Neha Buttan and
Mr. Nadeem Malik, Advocates

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

JUDGMENT

REPORTABLE

Per VINOD KUMAR, J.

1. This execution first appeal under Section 13(1A) of the Commercial Courts Act, 2015 read with Order XXI Rule 58(4) of



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the Civil Procedure Code, 1908 (in short 'CPC') lays challenge to the order dated 06.05.2026 passed by learned District Judge (COMM)-02, South East, Saket Court, New Delhi (in short 'District Judge') in the Misc. Execution Petition No. 24/2025 titled as M/s Tirupati Paper Corporation v. International Print O Pac Ltd.

2. Vide impugned order, the Executing Court i.e., learned District Judge dismissed the following applications of the appellants:

- (i) An application under Section 47 CPC, seeking dismissal of the execution petition on the ground of award being nullity;
- (ii) An application under Order XXI Rule 58 CPC seeking setting aside of the attachment of the house; and
- (iii) An Application under Order XXI Rule 59 CPC seeking stay of direction of sale of the attached house.

3. The facts of the present case are that respondent (sole proprietor of M/s Tirupati Paper Corporation) initiated arbitration proceedings against International Print O Pac Ltd. (the company in which the appellants are the Directors) for recovery of outstanding demand for a sum of Rs.47,90,429/- pursuant to an arbitral clause mentioned in the invoices exchanged between the parties, which is reproduced hereafter:

“All disputes are subject to P.M.A. Delhi and jurisdiction of Delhi Courts.”

4. International Print O Pac Ltd. duly participated in the



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arbitral proceedings, which culminated in publication of an award dated 26.03.2022 in favour of the respondent for a sum of Rs.82,39,537.88/-.

5. On an application filed by the respondent through its proprietorship i.e. Tirupati Paper Corporation in the execution proceedings, learned District Judge vide order dated 16.02.2026 lifted the corporate veil of the Judgment Debtor i.e. International Print O Pac Limited, which is a company in which both the appellants are the only Directors and held that the appellants herein are the alter ego of the company liable to discharge the liability under the award passed by the Arbitrator. Subsequently, learned District Judge issued Non-Bailable Warrants vide order dated 10.03.2026 against the appellants under Order XXI Rule 37 CPC.

6. The appellants challenged both orders dated 16.02.2026 and 10.03.2026 by way of two petitions under Article 227 of the Constitution of India bearing **CM(M) 493/2026** titled as **International Print O Pac Ltd. v. Mr. Nitin Gupta** and **CM(M) 544/2026** titled as **Amila Singhvi & Anr. v. Nitin Gupta** respectively before Delhi High Court (which are pending consideration by a Single Judge of this Court).

7. A perusal of the trial court record would show that the appellants filed abovementioned three applications under Section 47, Order XXI Rule 58 and Order XXI Rule 59 CPC raising objections on three main counts against execution proceedings contending thus:



- i) the award is *void ab initio* as there exists no arbitration agreement/clause between the parties;
- ii) the award is illegal, null and void as the arbitrator was appointed unilaterally by the respondent;
- iii) the execution proceeding against the appellants-Directors of the International Print O Pac Ltd. is *non-est* as the Directors were never impleaded as a party to the arbitration proceedings. More so as a company is a different legal personality than its Directors.

8. Further, it was argued by the appellants before the Executing Court that the attached property being the sole residential house of the appellants cannot be ordered to be attached and sold in the execution proceedings.

9. Vide impugned order, the District Judge dismissed all these objections holding that an Executing Court can decide neither the issue of non-existence of arbitration agreement nor the issue of unilateral appointment of the Arbitrator as it cannot go behind the decree/award. On the issue of attached property being a residential house, learned District Judge held that there is nothing on record to suggest that it is the only residence of the appellants. It was held that an Executing Court cannot adjudicate matters unrelated to attachment under Order XXI Rule 58 CPC. Further, it was held that it was for the objectors/claimants to prove that property was not liable to be attached. Learned District Judge also rejected the plea of appellants herein that the company and its Directors are separate legal persons/entities and



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that liability of a company cannot be imposed upon its Directors while citing the reason that the corporate veil of the appellants' company has already been lifted.

10. Aggrieved by the impugned order dated 06.05.2026, the objectors/Directors of company International Print O Pac Limited have filed the present appeal.

11. Mr. Ashish Mohan, learned Senior Advocate for the respondent has raised a preliminary objection with regard to the maintainability of the appeal submitting that the appeal does not lie against the order passed under Order XXI Rule 58 CPC. He apprised the Court that there are already two pending petitions filed before this Court against the execution orders dated 16.02.2026 and 10.03.2026 passed by the learned District Judge and similar pleas have been put forward by the appellants seeking relief against the said orders.

12. Mr. Tanmay Mehta, learned counsel for the appellants was quick to counter this argument drawing our attention to Sub Rule 4 of Rule 58 of Order XXI CPC, which says that when any objection has been adjudicated under Order XXI Rule 58 CPC, such order shall have the same force and be subject to same conditions as to appeal as if it were a decree. Therefore, it is argued that impugned order is deemed to be a decree under Order XXI Rule 58(4) CPC and an appeal would lie under Section 96 of CPC. Resultantly, the appeal under Section 13(1A) of the Commercial Court Act, 2015 is maintainable.

13. We have considered the rival submissions. Rule 58 of



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Order XXI CPC provides that whenever any objection has been raised to the attachment of any property in execution of a decree on the ground that such property is not liable to such attachment, the Court shall proceed to adjudicate upon the claim or objection. Order XXI Rule 58(4) CPC holds that the adjudication upon such objection would be treated as a decree. The issue as to whether an appeal lies against a judgment under Order XXI Rule 58 CPC has been discussed by a three Judges Bench led by the then Chief Justice of the High Court of Andhra Pradesh at Hyderabad in the case titled as **Gurram Seetharam Reddy v. Gunti Yashoda and another** reported in **2004 SCC OnLine AP 694**. The relevant portion of this judgment is reproduced as under:

“35. When Section 96 C.P.C. specifically provides for appeals against decrees, and sub-rule (4) of Rule 58 of Order 21 directs that the order passed under sub-rule (3) thereof shall have the force of a decree, there hardly exists any basis to deny such characteristics to such an order. An interpretation to the contrary would have the effect of setting at naught, the intention of the Parliament in attributing characteristics of a decree to an order. In view of a clear mandate under sub-rule (4) of Rule 58, an order passed under sub-rule (3) thereof, partakes a character of a decree for all practical purposes, more so, in the context of availing the remedy of appeal. Same reasoning holds good for the orders passed under Rules 98 and 100 of Order 21 C.P.C. Hence, there does not exist any justification to treat the same as different, in any way from decrees, at least in the context of deciding the forum and provision for appeal. The question as to what nomenclature is to be given to the appeals, needs to be dealt with by the High Court or the District Courts, on administrative side. Hence, we are of the view that the judgment of this Court in Nookaraju's case (supra) does not lay the correct proposition of law. Once it is held that orders passed under Rule 58(3) and Rules 98 and 100 of Order 21 C.P.C., are appealable under Section 96



C.P.C., it is axiomatic that a second appeal is maintainable against the order passed in such appeals. Though this question is not referred to this Full Bench, it is dealt with, to put an end to the controversy and uncertainty.”

14. The above portion of judgment clarifies that as soon as an order gets force of a decree, it becomes appealable under Section 96 of CPC, which provides that appeal shall lie against every decree passed by a Civil Court. Section 13(1A) of the Commercial Courts Act, 2015 provides a right of appeal to a person aggrieved by the judgment passed by a Commercial Court. As the decree follows a judgment, the impugned order takes form of a judgment.

15. Therefore, we find no substance in the submissions of learned Senior Advocate for respondent and reject the preliminary objection and accordingly hold that the appeal is maintainable.

16. It was further argued by learned Senior Advocate for respondent that the Rule 58 of Order XXI CPC has limited scope and applies only to the objection to the attachment of a property. Therefore, it is argued that the objector (i.e. the appellants herein) cannot raise objection of the award being a nullity on the ground of non existence of Arbitral clause, unilateral appointment of an Arbitrator, etc.

17. We do not find merit in this argument. In our opinion, the appellants, who are Directors of the Judgment Debtor i.e. M/s International Print O Pac Limited, are within their rights to raise



any objection including the award/decree being nullity as a part of objections to the attachment order because they have now stepped into the shoes of the company as the corporate veil has now been lifted vide an order dated 16.02.2026 by the Executing Court. Therefore, they can press all the grounds, which the company was entitled to raise in Execution Petition.

18. Admittedly, the appellants have challenged the order dated 16.02.2026 vide which the corporate veil was lifted. As the petition being CM(M) 493/2026 challenging this order is pending before learned Single Judge of this Court, we would refrain from passing any observation on this issue.

19. Similarly, the other petition being CM(M) 544/2026 against the order dated 10.03.2026 directing issuance of Non Bailable Warrants (NBWs) against the appellants is pending before learned Single Judge of this Court and we would refrain ourselves from expressing any opinion on this aspect also.

20. Now this present appeal is limited to the following issues:

- (i) Whether the Execution Court was right in refusing to enter into the question of the award being nullity?
- (ii) Whether the attached property is saved from attachment and sale by Section 60(1)(ccc) CPC?

21. By now it is a settled law that the Judgment Debtor can raise the issue of decree/award being a nullity at the stage of execution. In **Mahavir Prasad Gupta and Sons v. Govt. of NCT of Delhi (2025 SCC Online Del 4241)** a judgment dated 31.05.2025 (cited by learned counsel for appellants) it was held



by the Division Bench of Delhi High Court that the plea of award being nullity can be taken even at the stage of execution. Same principle was reiterated by a Coordinate Bench of this Court in **Central Warehousing Corporation v. M/s Deen Dayal** in a judgment dated 13.11.2025 in **FAO(COMM) 107/2024**.

22. In the present case, the appellants have raised serious issues, which if answered in favour of the appellants would render the award a nullity. The issues involved are as under:

- (i) Whether the clause in question constitutes a valid arbitration agreement between the parties or not?
- (ii) If the first question is answered in affirmative, whether the appellants or the company were not a member of Paper Merchant Association Regd., Delhi ('PMA') and therefore are not bound by its arbitration mechanism?
- (iii) Whether the award passed by the Arbitrator suffers from being appointed unilaterally by the respondent, if so, its effects?

23. Perusal of the impugned order shows that these issues have not been specifically dealt with by the Executing Court.

24. Learned Counsel for the appellants argued that even if the corporate veil is held to be validly lifted, attachment of the residential house which is the sole residential property being used for residence of the appellant is in the teeth of Section 60(1)(ccc) CPC (amendment as applicable to Delhi), which is reproduced as under :



“Section 60 - Property liable to attachment and sale in execution of decree.

(1) The following property is liable to attachment and sale in execution of a decree, namely, lands, houses or other buildings, goods, money, bank-notes, cheques, bills of exchange, hundis, promissory notes, Government securities, bonds or other securities for money, debts, shares in a corporation and, save as hereinafter mentioned, all other saleable property, movable or immovable, belonging to the judgment-debtor, or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, whether the same be held in the name of the judgment debtor or by another person in trust for him or on his behalf:

Provided that the following particulars shall not be liable to such attachment or sale, namely:—

xxx xxx xxx

(ccc) one main residential-house and other buildings attached to it (with the material and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to a judgment-debtor other than an agriculturist and occupied by him.”

[Emphasis is ours]

25. It is argued by learned Senior Advocate for respondent that the appellants did not take this plea in their three applications before the Executing Court that the attached residential house is the sole house of the appellants and they have no other residence. Further, learned Senior Advocate for the respondent argued that in the case of **Sujata Kapoor v. Union Bank of India and Others.**, reported in **2019 SCC OnLine Del 12184**, the Delhi High Court had read down this provision. On the contrary, learned counsel for the appellants argued that there may be some inadvertence or mistake in drafting the application on the part of the appellants but the onus lies upon the respondent to prove that appellants have more residential house(s) other than the attached one.



26. Learned counsel for appellants cited two judgments titled **Mohinder Singh (Since Deceased) Through Lrs and Others v. Bimal Saxena, (Deceased) Through Assignee Virender Singh and Another** reported in **2024 SCC OnLine Del 6515** and **N. V. Ramami v. Government of Canada** reported in **2025 SCC OnLine Del 3246** and submits that the judgment of **Sujata Kapoor** (supra) is *per incuriam*. It is argued that till date no document has ever been produced by the respondent establishing that the appellants reside in a property other than the attached one. It is argued that the appellants cannot prove a fact in negative. He pointed out that the respondent in all of its motions has served the appellants at the very same address of the attached house at which appellants reside.

27. We have considered the contentions of learned counsels for the parties and the judgments of this Court cited by learned counsel for the appellants. On perusal of the same, we hold that the judgments cited by learned counsel for the appellants lay down the correct law on Section 60(1)(ccc) CPC.

28. Therefore, the next issue is as to whether the residential property is the **only** residential house occupied by the appellants or whether they have other residential houses.

29. It is true that the appellants in their applications did not specifically aver that the attached house was the sole residence with them, at the same time, the respondent has also not brought any material before the Executing Court to show that the appellants have other residential houses. In this scenario, it is for



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the Executing Court to render a finding of fact on the issue as to whether the appellants-Directors of Judgment Debtor (objectors before the Executing Court) do not have any house other than the attached one. In our opinion, the Executing Court should have held an inquiry and should have proceeded to take the evidence on this issue and answered as to whether the attached property is saved by Section 60(1)(ccc) CPC.

30. We would like to observe that provision of Section 60(1)(ccc) CPC, which provides immunity from attachment, clearly exempts one main residential house occupied by the Judgment Debtor. The fact that the subject property is a residential property and is occupied by the appellants is almost admitted. Because the pleadings of the execution petition and application for lifting the corporate veil filed by the Decree Holder says so. So far as other part, 'occupied by him' is concerned, there can be no quarrel because the memo of parties mentions this address.

31. Thus, while setting aside the impugned judgment, we direct that the Executing Court shall hear the parties afresh on all the three applications filed by the appellants herein before it. For disposal of the issue of exemption of residential house from attachment under Section 60(1)(ccc) CPC, the Executing Court may seek evidence from the parties and shall also decide the questions specified in para 22 of this judgment and give a verdict as to whether or not the award is a nullity.

32. Appeal is allowed accordingly.



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33. It is made clear that nothing stated herein shall tantamount to expression of any opinion on the issues to be decided by the Executing Court, as directed above.

34. Further, we have not expressed our opinion on the issues of lifting of corporate veil and issuing Non-Bailable Warrants etc., which are already under consideration of learned Single Judge of this Court in two petitions referred above.

35. The appeal alongwith the pending application(s) is disposed of.

VINOD KUMAR, J

DINESH MEHTA, J

MAY 29, 2026

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