

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
EXECUTION APPLICATION (L) NO. 39969 OF 2025**

Arch Construction Co. ... Applicant
Versus
Union of India ... Respondent

Ms. Fleur D'Souza i/b Asahi Legal for the Applicant.

CORAM : ABHAY AHUJA, J.
DATE : 17th JUNE, 2026

ORAL ORDER:-

1. Circulation of this matter has been sought and the matter is listed as the Registry has raised an objection that the Execution Application filed by the Applicant on 8th December, 2025 is barred by the law of limitation, as the period of 12 years from the date of enforceability of the award viz. from 19th July, 2013 has expired on 19th July, 2025.

2. Ms. D'Souza, learned Counsel appears for the Applicant and submits that in view of the decision of the Hon'ble Supreme Court in the case of *Cognizance For Extension of Limitation, In Re¹*, which learned Counsel tenders across the bar, since the period between 15th March, 2020 till 28th February, 2022 has stood excluded for the

1 (2022) 3 SCC 117.

purposes of limitation, the limitation period for filing of the execution application would expire on 4th July, 2027.

3. In support of her contentions, Ms. D'Souza also tenders across the bar another decision of the Hon'ble Supreme Court in the case of ***IL & FS Financial Services Limited Vs. Adhunik Meghalaya Steels Pvt. Ltd.***², where in paragraph 47 the Hon'ble Supreme Court has clearly held as under:-

“47. We have no manner of doubt that par 5.1 of the order of this Court dated 10-1-2022 would apply and the entire period from 15-3-2020 to 28-2-2022 would stand excluded, which would mean that the limitation would, reckoning the acknowledgment of 12-8-2020, commence on 1-3-2022 and continue till 28-2-2025. Since the application has been filed on 15-1-2024 the same is within time. Limitation, in view of the acknowledgment as found above, having commenced only on 12-8-2020, the question of limitation expiring between 15-3-2022 and 28-2-2022 cannot arise. Hence, para 5.3 of the order of this Court dated 10-1-2022 has no application to the facts of this case.”

4. Ms. D'Souza submits that in the facts of the case before the Hon'ble Supreme Court, the limitation period would have expired on 11th August, 2023, however, since the entire period from 15th March, 2020 to 28th February, 2022 stood excluded, the limitation was reckoned by the Hon'ble Supreme Court from 1st March, 2022 to continue till 28th February, 2025 and that since the Application had

2 (2026) S SCC 794.

been filed in that case on 15th January, 2024, the Hon'ble Supreme Court held that the same was within time.

5. Ms. D'Souza submits that applying the same logic and the law as settled by the Hon'ble Supreme Court, this Court may direct the Registry to waive the objection of limitation as the limitation period in the facts of this case would expire on 4th July, 2027.

6. In the facts of this case, the award was passed on 19th April, 2013 and keeping in mind Section 34 (3) of the Arbitration and Conciliation Act, 1996, the said award became enforceable on 19th July, 2013. Under Section 36 of the Limitation Act, the period of limitation for enforcing of the award is 12 years from the date of enforceability of the award. However, considering that in view of the decision of the Hon'ble Supreme Court in the case of *Cognizance For Extension of Limitation, In Re (supra)*, in paragraph 5.1, whereby it has been directed that the period from 15th March, 2020 till 28th February, 2022, shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect all judicial or quasi-judicial proceedings, I am of the view that the Execution Application filed on 8th December, 2025, is filed within the period of limitation, as the period between 15th March, 2020 to 28th February, 2022 is to be excluded for

the purposes of computation of limitation and the new expiry date for filing of the Execution Application would be 4th July, 2027.

7. My aforesaid view, finds support from the decision of the Hon'ble Supreme Court in the case of *IL & FS Financial Services Limited Vs. Adhunik Meghalaya Steels Pvt. Ltd. (supra)* as cited by the learned Counsel for the Applicant.

8. This being so as the order of the Hon'ble Supreme Court although entitled cognizance for extension of limitation in *Cognizance For Extension of Limitation, In Re (supra)*, in fact in paragraph 5.1 clearly directs that the period from 15th March, 2020 till 28th February, 2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings which reiterated in paragraph 5.4.

9. Under the Section 3 of the Limitation Act, 1963 entitled bar of limitation, it is provided that subject to the provisions contained in Sections 4 to 24 (both inclusive), every suit instituted, appeal preferred and application made after the prescribed period shall be dismissed although limitation has not been set up as a defence. This means that by virtue of Section 3 of the Limitation Act, it is obligatory on the part of the Court to dismiss a proceeding if made after the prescribed period

even though the limitation is not set up as a defence and there is no plea to raise the issue of limitation, even at appellate stage as limitation may go to the root of the matter. What is pertinent to observe is that under the Limitation Act, particularly Sections 12 to 15, which are under part III of the said Act entitled “Computation of period of Limitation”, are in respect of exclusion of time in contradistinction to extension of time. The said provisions clearly require the dates or periods mentioned therein to be excluded in computing the period of limitation. These provisions, in my view, are distinct and distinguishable from the provisions under the Limitation Act, which permit computation of a fresh period of limitation in cases of acknowledgment of liability or payment of a debt as in those cases the essential pre-condition is that the acknowledgment in writing or payment of a debt should be before the expiry of the prescribed period of limitation, whereas in the case of exclusion, the period excluded completely stands excluded for the purposes of computation of limitation. The Hon’ble Supreme Court in the case of *Cognizance For Extension of Limitation, In Re (supra)* has clearly excluded the period from 15th March, 2020 till 28th February, 2022 for the purposes of limitation prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings. And further as noted above, the

Hon'ble Supreme Court in the case of *IL & FS Financial Services Limited Vs. Adhunik Meghalaya Steels Pvt. Ltd. (supra)* has also clearly observed that paragraph 5.1 of the order entitled *Cognizance For Extension of Limitation, In Re (supra)* would apply and the entire period from 15th March, 2020 to 28th February, 2022 would stand excluded and the limitation would commence on 1st March, 2022 and continue till 28th February, 2025, further holding that paragraph 5.3 of the cognizance order of the Hon'ble Supreme Court which provides for cases where limitation would have expired during the period between 15th March, 2020 till 28th February, 2022, would have no application as the limitation did not expire during that period.

10. Accordingly, under the Scheme of the Limitation Act for a period to be excluded for computation of limitation, it is not necessary that the period of limitation should have commenced or expired during the said period. The period excluded has to be simply excluded. It is only when fresh limitation has to commence for extending the limitation in situation such as acknowledgment of liability or payment of debt, that the said acts should have occurred before the expiry of the prescribed period of limitation and that there is no such requirement for excluding the period of limitation.

11. In this view of the matter, the Registry is directed to waive the objection of limitation and to register Execution Application, subject to other objections, if any.

(ABHAY AHUJA, J.)

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signed by
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