CGHC010253552026

2026:CGHC:40702

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Reserved for orders on 02-07-2026

Order passed on 17-09-2026

WP227 No. 768 of 2026

1 - State of Chhattisgarh Through The Secretary, Government of Chhattisgarh, Public Works Department Mahanadi Bhawan, Mantralaya, Atal Nagar, Raipur Chhattisgarh. (The Petitioner No. 1 was not a party before the Learned Commercial Court (District Judge Level) Nava Raipur, Atal Nagar, District Raipur (C.G.) but has been impleaded as petitioner No. 1 in the instant petition as the proper course is to implead the State Government through the Secretary of the concerned department)

2 - The Superintending Engineer, National Highway Circle, PWD, Government of Chhattisgarh, at Pension Bada, Raipur Chhattisgarh. Email-Senhraipur@Gmail.com....... (Judgment Debtor)

... Petitioners

versus

1 - ECI-Keystone (JV) Represented by its Managing Director Shri Pratap Potluri H.No. 8-2-338/6, Road No. 3, Panchavati Colony, Banjara Hills, Hyderabad- 500034 Email Bijapur.Nh63@Keystoneinfra.com, Pratap@Keystoneinfra.com.... (Decree Holder)

... Respondent

(Cause title taken from Case Information System)

For Petitioners	:	Mr. Rahul Tamaskar, Govt. Advocate and Mr. Ghanshyam Kashyap, Deputy Govt. Advocate.
For Respondent	:	Mr. Parvesh Buttan and Mr. Pushkar Bhandarkar, Advocates.

Hon'ble Shri Justice Ravindra Kumar Agrawal, J.

C A V Order

1. The petitioner/State has filed the present writ petition under Article 227 of the Constitution of India, against the orders dated 30.04.2026, 14.05.2026, 22.05.2026, 01.06.2026 and 22.06.2026, passed by the learned Commercial Court (District Judge Level), Nawa Raipur, in Execution Case No. 06 of 2023, and prayed for the following reliefs:-

   “i. The Hon'ble Court may kindly be pleased to call for the entire records, pertaining to the orders impugned (Annexure-P-1) passed by the Learned Judge, Commercial Court (District Judge Level) Nava Raipur, Atal Nagar, District Raipur (CG) in Execution Case No. 06/2023.

   ii. The Hon'ble Court may kindly be pleased to issue appropriate writ of certiorari by setting aside the impugned orders dated 30/04/2026, 14/05/2026, 22/05/2026, 01/06/2026 and 22/06/2026 (Annexure-P-1) (Colly.) passed by the Learned Judge, Commercial Court (District Judge Level) Nava Raipur, Atal Nagar, Raipur, Chhattisgarh in Execution Case No. 06 of 2023 between parties ECI-Keystone (JV) Vs. The Superintending Engineer.

   iii. Cost of the petition be allowed.

   iv. Any other relief, which this Hon'ble Court deems fit and proper under the facts and circumstances of the case.

2. The facts, in brief, giving rise to the present petition are that the Government of India, Ministry of Road Transport and Highways (in short “MoRTH”), accorded administrative and technical sanction for construction of a two-lane road on various stretches of NH-63 (Old NH-16) in District Bastar under the Left Wing Extremism (LWE) Scheme, initially for an amount of Rs. 169.23 crores, which was subsequently revised to Rs. 211.53 crores. The project was wholly funded

by the Government of India, and the State Public Works Department, Chhattisgarh, acted as the executing agency. Pursuant to the tender process, the respondent/contractor was declared the successful bidder and, upon acceptance of the tender, the letter of acceptance was issued on 31.10.2012, followed by the work order dated 01.12.2012. The respondent completed the work on 30.06.2019 and thereafter, on 27.01.2020, raised an additional claim of Rs. 190.33 crores, which came to be rejected by the department. Consequently, the respondent invoked the arbitration clause contained in the contract and sought appointment of a sole arbitrator. Shri Rangraju was appointed as the sole arbitrator on 10.08.2020, and the arbitral proceedings commenced on 20.08.2020. During the arbitral proceedings, the State authorities repeatedly requested MoRTH to provide an authorised representative and legal assistance for conducting the arbitration and preparing the statement of defence. It is the case of the petitioners that, by communications dated 19.03.2021 and 19.07.2021, MoRTH directed that the dispute be resolved either through conciliation or before a panel of three arbitrators and indicated that approval of the competent authority was required before accepting a sole arbitrator. The respondent declined to participate in the conciliation proceedings and insisted upon continuation of the arbitration before the sole arbitrator. In the absence of an authorised representation and statement of defence on behalf of the State, the sole arbitrator proceeded ex parte and rendered an award dated 02.09.2022 directing payment of Rs. 160,30,11,411/- to the respondent along with applicable interest. The respondent thereafter initiated execution proceedings before the learned Commercial Court, registered as Execution Case No. 06 of 2023.

3. The petitioners subsequently challenged the arbitral award under Section 34 of the Arbitration and Conciliation Act, 1996 (in short, “the Arbitration Act”); however, the said application was dismissed as barred by limitation by order dated 01.11.2023. The challenge to the said order under Section 37 of the Act

was also dismissed by this Court in Arbitration Appeal No. 51/2023 vide order dated 10.06.2024. The Special Leave Petition preferred against the said order was thereafter dismissed by the Hon'ble Supreme Court on 19.01.2026 on the ground of delay of 484 days in its institution.

4. During the pendency of the execution proceedings, the petitioners also raised an objection under Section 47 of the Arbitration Act, read with Section 151 of the Code of Civil Procedure, 1908 (in short "CPC"), which was allowed by the learned Commercial Court vide order dated 23.07.2024, and the execution petition was dismissed. The said order was challenged by the respondent in W.P.(227) No. 691/2024, which was allowed by this Court on 04.07.2025. The challenge to the said judgment before the Supreme Court in SLP (C) No. 28500/2025 was dismissed on 10.02.2026. It is stated that review petitions against the orders dated 19.01.2026 and 10.02.2026 are presently pending before the Hon'ble Supreme Court.

5. In the aforesaid backdrop, the grievance of the petitioners in the present proceedings is directed against the manner in which the learned Executing Court has been proceeding with the execution of the arbitral award. Despite being apprised of the difficulties in making payment of the awarded amount and the pendency of the review proceedings before the Hon'ble Supreme Court, the Executing Court has passed coercive directions requiring personal affidavits and personal appearance of the concerned officers and has made observations regarding initiation of contempt proceedings for alleged wilful disobedience. The petitioner's contention is that such directions and observations are beyond the jurisdiction vested in an executing court while enforcing an arbitral award under Section 36 of the Arbitration Act, read with Order XXI of the CPC, giving rise to the present petition under Article 227 of the Constitution of India.

6. Learned counsel appearing for the petitioners/State would submit that the impugned orders passed by the learned Executing Court are wholly without

jurisdiction and travel beyond the powers conferred upon an executing court under Section 36 of the Arbitration Act, read with Order XXI of the CPC. He would submit that the arbitral award is a money award and the manner in which such award is required to be executed is governed by the provisions contained in Order XXI CPC, particularly Rule 30 thereof. The petitioners have already placed before the learned Executing Court the details of the accounts and properties of the award-debtor, and therefore, if the award is to be enforced, the Executing Court may adopt any of the modes prescribed under the CPC, including attachment and sale of the property of the judgment-debtor, but it cannot compel the individual officers of the department to satisfy the award from their personal resources or otherwise make them personally responsible for non-payment of the awarded amount. He would further submit that the entire project was funded by MoRTH under the Left Wing Extremism Scheme of the Government of India and the State Public Works Department was merely the executing agency. The sanctioned budget for the project has already been utilised and, consequently, the concerned officers cannot on their own make payment of the awarded amount without obtaining necessary sanction and following the prescribed governmental procedure. He would submit that the officers have been continuously corresponding with MoRTH for making arrangements for payment and a proposal has also been placed before the State Cabinet for necessary approval. Thus, there is neither wilful disobedience nor deliberate refusal to comply with the award; rather, the delay is attributable to the procedural requirements governing release and utilisation of public funds. The Executing Court cannot compel the officers to bypass such statutory and administrative procedures merely because interest continues to accrue on the awarded amount.

7. He would next submit that the learned Executing Court has exceeded its jurisdiction by repeatedly directing the concerned officers to remain personally present, furnish personal affidavits and undertakings and by threatening them

with a recommendation for initiation of contempt proceedings and personal liability. Such coercive directions are impermissible in execution of a money award, particularly when the award-debtor is a department of the State and the officers before the Court are not themselves the judgment-debtors in their personal capacity. It is submitted that the jurisdiction of contempt cannot be invoked as a substitute for the procedure prescribed for execution of a decree or award, and the Executing Court is required to remain within the statutory framework of Order XXI CPC. The observations made by the learned Executing Court in its order dated 22.06.2026 describing the review petitions pending before the Hon'ble Supreme Court as “hoping against hope” are wholly unwarranted and beyond the scope of the execution proceedings. The petitioners are pursuing a remedy lawfully available to them before the Hon’ble Supreme Court, and the merits or otherwise of the pending review petitions cannot be prejudged by the Executing Court. He would submit that the petitioners have not sought to evade the award but have placed before the Court the genuine procedural difficulties in arranging the requisite funds and have been taking steps with the competent authorities for securing the necessary approval and funds. In these circumstances, the continued issuance of coercive directions, instead of adopting the modes of execution prescribed under Order XXI CPC, amounts to an exercise of jurisdiction not vested in the learned Executing Court and, therefore, warrants interference by this Court in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. In support of his submissions, he would rely upon the judgment of “**R.N. Dey and Others v. Bhagyabati Pramanik and Others**” 2000 (4) SCC 400, “**Food Corporation of India v. Sukh Deo Prasad**” 2009 (5) SCC 665, “**Kanwar Singh Saini v. High Court of Delhi**” 2012 (4) SCC 307, and “**State of Uttar Pradesh and Others v. Dr Manoj Kumar Sharma**” 2021 (7) SCC 806.

8. Learned counsel appearing for the respondent/award-holder would submit that the arbitral award dated 02.09.2022 has attained finality, the challenge thereto having been rejected at every stage and the Special Leave Petition arising therefrom having also been dismissed by the Hon'ble Supreme Court. Therefore, there remains no legal impediment in enforcement of the award and the award-debtor cannot indefinitely postpone its satisfaction on the pretext of pursuing review proceedings or seeking further administrative approvals. It is submitted that the award amount of Rs. 160,30,11,411/- has already escalated to Rs. 2,22,06,54,058/- as on 16.06.2026 solely on account of continued non-payment, with interest accruing at approximately Rs. 4.5 lakhs per day. Despite repeated opportunities and assurances before the learned Executing Court, including the categorical statement made by the Engineer-in-Chief on 22.05.2026 that payment could be ensured pursuant to a specific direction of the Court, the petitioners have failed to make payment. It is further submitted that the plea that the State PWD is merely an executing agency of MoRTH or that the requisite budgetary approvals are awaited cannot furnish a justification for frustrating a final and executable award. The internal arrangements between the State Government, PWD and MoRTH are matters inter se and cannot prejudice the vested rights of the award-holder. The repeated correspondence with MoRTH and the subsequent proposal placed before the State Cabinet have not resulted in any concrete step towards payment. Even after the last opportunity granted on 01.06.2026, the State has merely placed before the Court a communication regarding the Cabinet decision, which does not disclose any definite arrangement for satisfaction of the award. The conduct of the award-debtor demonstrates not a genuine inability to comply but a persistent unwillingness or failure to take effective steps, resulting in substantial and continuing loss to the public exchequer. The award-holder cannot be compelled to indefinitely wait while the State authorities deliberate upon their internal financial or administrative arrangements, particularly when

the liability is crystallised, and the interest burden continues to increase every day.

9. He would further submit that the present petition under Article 227 is an attempt to obstruct the lawful execution of the award by questioning the coercive measures adopted by the learned Executing Court after repeated defaults and assurances by the petitioners. The personal appearance and affidavits of responsible officers were directed only after ordinary directions for payment had failed to produce any result and were intended to ascertain responsibility and secure compliance with the Court's orders. The learned Executing Court was, therefore, justified in expressing concern regarding the avoidable depletion of public funds and in requiring the senior officers of the department to explain the continued non-compliance. It is submitted that once the officers had appeared before the Court and represented that payment could be made pursuant to a specific judicial direction, failure thereafter to act in terms of such direction could legitimately invite appropriate consequences. The respondent would, therefore, submit that no interference is warranted in the exercise of the limited supervisory jurisdiction under Article 227, particularly when the impugned proceedings are aimed at ensuring enforcement of a final award and preventing further accumulation of interest and consequent loss to the public exchequer. He would rely upon the judgment of "**Chaduranga Kanthraj URS and Another v. P. Ravi Kumar and Others**" 2024 SCC OnLine SC 3681, and "**Pam Developments Private Limited v. State of West Bengal**" 2019 (8) SCC 112.

10. I have heard learned counsel for the parties and perused the documents annexed with the petition.

11. It is necessary here to note the various orders passed by learned Executing Court time to time. The relevant part of the order dated 30.04.2026 is as under:-

> "**Conclusion**
>
> 24. In view of above discussion, this Court feels compelled to order for presence of such officers to apprise this Court

about the efforts undertaken so far and likely to be undertaken henceforth towards immediate payment of award amount to the award-holder.

25. The award-debtor has placed on record copy of the letter dated 26/02/2026 addressed to the Chief Engineer, National Highway Zone, PWD, and letter dated 27/02/2026 shown to have been forwarded to the Secretary, Government of Chhattisgarh, PWD as also the Engineer-in-Chief, PWD. Therefore, the Engineer-in-Chief, PWD and the concerned Chief Engineer, PWD, be called in person before this Court to apprise about efforts undertaken so far for expeditious payment of award amount, and to present on affidavit a time frame within which such payment is likely to be made positively.

26. Further, following directions are also issued for compliance by the award-debtor on the next date of hearing:-

(i) The award-debtor shall file a detailed affidavit disclosing all bank accounts, including project-wise accounts, funds received, balances and receivables;

(ii) The affidavit shall disclose the complete particulars of the bank accounts, including the name of the bank, branch, account number, and IFSC code, in which the monies towards compliance of the award are to be allocated to the award-debtor.

27. In the event of failure of the award-debtor in ensuring the above compliances, this Court will have no option but to call for personal appearance of the Secretary, PWD, Government of Chhattisgarh before this Court.

28. I.A. No. 01/2026 stands disposed of accordingly.

Ordered accordingly."

12. On 14.05.2026, the learned Executing Court passed the order that:-

"Today the case has been fixed for personal appearance of Engineer-in-Chief, PWD and the concerned Chief Engineer, PWD and further proceedings.",

The affidavits of Mr. Vijay Kumar Bhatpahari, Engineer-in-Chief, PWD, Mr. Gyaneshwar Kashyap, Chief Engineer, PWD and Mr. Surendra Singh Manjhi, Superintending Engineer in terms of previous direction of this Court are placed on record.

The counsel for award-holder raised strong objections regarding non-compliance of this Court's order as the affidavits tendered today do not conform with the specific directions of this Court.

He also submitted that the award-debtor has again shown utter insincere and causal approach and not taken any effective steps towards expeditious payment of award amount.

He also highlighted that an amount of around 80 lakhs has further been accumulated in terms of interest on the award amount from the last date of hearing.

The counsel for award-debtor requested for grant of some time to come up with additional affidavits in consonance with this Court's directions.

This Court cannot but express its dismay at the sheer consistency in the conduct of award-debtor in not taking any effective steps towards ensuring expeditious payment of award amount.

It would appear that the award-debtor is simply content with writing letters to MoRTH and looking hopefully at its door for the payment, in spite of the fact that the MoRTH has shown its unwillingness in making any payment owing to the very conduct of award-debtor in suffering the ex-parte award.

As a measure of financial wisdom, the award-debtor may as well choose to make the payment of the award amount on its own at the earliest, leaving its inter se issues with MoRTH to be settled separately. This would obviate any further undesirable accumulation of hefty interest and unnecessary and totally uncalled for burdening of public exchequer.

Matter is again fixed for filing additional affidavits of Engineer-in-Chief, PWD and further proceedings on **22.05.2026.**

13. On 01.06.2026, the following order has been passed by the learned Executing Court:-

"The matter is fixed for further proceedings.

The counsel for award-debtor submitted that in pursuance to this Court's order the departmental proposal for payment to the award-debtor has been got prepared, and is now required to be approved by the State Cabinet. However, due to some unforeseen circumstances same could not be got approved. Therefore, grant of some more time has been requested by him.

The copy of departmental proposal to be placed before the Cabinet has also been placed on record.

Copy supplied to the counsel for award-holder, who has again objected to the non-compliance of this Court's order by the award-debtor.

It is submitted that in spite of this Court's categorical order the award-debtor has failed to make the payment and therefore some strict actions may be considered as per observations made by this Court in its previous order.

After hearing the parties, record has been perused.

Vide order dated 22/05/2026 this Court had directed the award-debtor to ensure payment of award amount to the award-holder. It was also observed that the failure in this regard would entail orders fixing personal responsibility of the officials of PWD for the amount of interest accrued thenceforth.

Clearly, the award-debtor has failed to comply with this Court's order leaving this Court with no option but to pass appropriate orders, which this Court intends to do on the next date of hearing.

The counsel for award-holder is not averse to grant of 2 weeks' time as requested by the counsel for award-debtor for the payment of award amount.

In these circumstances, last opportunity is granted to the award-debtor to make the payment of award amount to the award-holder.

The requisite details of the bank account of the award-holder has already been shared today with the award-debtor.

The case is now fixed for further proceedings on **16.06.2026.**”

14. On 16.06.2026, the following order has been passed by the learned Executing Court:-

> “The matter is fixed for further proceedings.
>
> The counsel for award-holder filed a fresh calculation sheet and submitted that a further amount of Rs. 66,16,967/- has accrued on account of interest.
>
> The counsel for award-debtor filed a copy of memo dated 12/06/2026 issued by under Secretary, PWD to Chief Engineer, PWD intimating about the decision of the Cabinet in its meeting dated 09/06/2026.
>
> Copy supplied to the counsel for award-holder, who strongly objected to the non-payment of award-amount in spite of this Court's clear directions.
>
> He submitted that the award-debtor has shown very little intent to make the payment of award amount and continues to show scant regard to this Court's orders. He also submitted that his party is not at all desirous of undergoing the "Vivad se Vishwas II" conciliation process as they are not willing to let go of any part of their rightful entitlement to the complete award amount.
>
> The Ld. Counsel for award-holder also requested that looking at the evasive and contumacious conduct of the award-debtor the top official of the State Government namely the Chief Secretary may be called before the Court to elicit a definitive timeline for payment.
>
> Both the parties have been heard.
>
> Matter is fixed for passing appropriate directions on **22.06.2026**.”

15. On 22.06.2026, the following order has been passed by the learned Executing Court:-

> “10. It is only when this Court has found itself compelled to resort to extreme measures in the form of calling for personal appearance of the Engineer-in-Chief and Chief Engineer of PWD that the said officers have appeared before this Court and on being prodded have cared to divulge that the

payment of award amount may in fact be ensured on Court's directions (ref.- proceedings under order sheet dated 22/05/2026).

11. Clearly, there has been an absolutely abysmal and extraordinary lack of concern and intent on the part of award-debtor and their superior authorities towards satisfaction of award amount. Even after 22/05/2026, when the Engineer-in-Chief has made a categorical statement of making the payment of the award amount in terms of this Court's specific directions, the award-debtor has simply failed to comply with the same in spite of this court's categorical and peremptory order.

12. Significantly, on 01/06/2026, the award-debtor has again made a specific submission that the departmental proposal for payment now only remains to be approved by the State Cabinet and same is going to be ensured within a period of two weeks. However, even after the said period of two weeks all that the award-debtor has managed to come up with on 16/06/2026 is a letter issued by Under Secretary, PWD to Chief Engineer, PWD informing about the decision of the State Cabinet.

13. The decision of the State Cabinet appears to have been reproduced in the said letter, wherein certain measures have been resolved to be undertaken. However, neither of those measures relate to any foreseeable desire or intention to make the payment of award amount. Rather, some potentially unproductive measures appear to have been opted for, such as seeking legal advice or any other alternative, pursuing review petition in an effective manner, attempting recourse to Vivad se Vishwas II (Contractual Disputes), and proposing actions against culpable officers.

14. The Ld. Counsel for award-holder has categorically ruled out any desire to undergo any conciliation in terms of Vivad se Vishwas II scheme. Insofar as obtaining proper legal advice or pursuit of other appropriate legal proceedings are concerned, these can only be seen to be more in the nature

of hoping against the hope, as the litigation between the parties has already attained finality. Hence, there does not appear any probable reason for the award-debtor to delay the payment of award amount any further, especially when an amount in excess of rupees 5 crores has already been laid waste to in the form of accumulated interest due to sheer apathy and indifference of the award debtor and their superior authorities.

15. It would seem that the award-debtor and their superior officers, right up to its top rung, have either not cared to grasp the severity of the matter and corresponding deleterious impact on public exchequer, or perhaps have been inexorably incompetent in properly bringing out the same before the State Cabinet. Quite discernibly, the resolution of State Cabinet as depicted in the letter dated 16/06/2026 nowhere mentions anything about the aspect of payment of award amount.

16. Unfortunately, all this has taken the present proceedings back to square one, with no end in sight to the ongoing squandering of the public exchequer. To put things in perspective, an unnecessary and completely avoidable burden in excess of rupees 5 crores on account of interest has already been allowed to accumulate on the award amount payable, despite award having attained finality vide order dt. 10/02/2026 passed by Hon'ble Supreme Court.

17. The award-debtor and their superior authorities have continued to indulge in willful disobedience of this Court's clear directions for payment of award amount. The whole conduct on the part of award-debtor has appeared to have shown very little, if any at all, deference to this Court's directions. Section 2(b) of the Contempt of Courts Act, 1971 defines civil contempt as 'willful disobedience to any judgment, decree, direction, order or other process of a Court'. The contumacious conduct on the part of award-debtor and their superior authorities does call for strictest of measures to obviate any further loss to public money. Time

is ripe for initiation of action for fixing personal financial responsibility of officials whose slumber and persistent inactions have resulted in such wasteful loss to public exchequer.

18. This Court vide order dated 30/04/2026 had directed for personal appearance of Engineer-in-Chief and Chief Engineer, PWD and had also made clear that non-compliance with this Court's order will likely entail a direction for personal appearance of the Secretary, PWD. Quite clearly, personal appearance of Engineer-in-Chief and Chief Engineer, PWD has had a profound impact on the present proceedings and helped immensely in charting a meaningful course for swift and logical conclusion of the present proceedings. This phenomenon reinforces this court in its belief that personal appearance of superior officers/authorities of the PWD may be the only way to enforce the proceedings and ensure swift payment of award amount to the award-holder and the vital prevention of uncalled-for profligacy of public money.

19. In view of what has transpired after order dated 30/04/2026, to prevent further frittering away of public money this Court, in spite of strong disinclination, feels constrained as also obligated to order for the personal appearance of the Secretary, PWD, Engineer-in-Chief and Chief Engineer, PWD, Government of Chhattisgarh, to show-cause as to why matter be not referred to Hon'ble High Court of Chhattisgarh for initiation of contempt proceedings for sustained willful disobedience to this Court's Orders and further to explain as to how exactly the award is intended to be satisfied and payment made to the award-holder expeditiously.

Ordered accordingly.”

16. There can be no dispute that the arbitral award dated 02.09.2022 has attained finality for the purposes of execution, and the award-holder is entitled to seek its enforcement in accordance with law. At the same time, the finality of the

award does not enlarge the jurisdiction of the Executing Court beyond the statutory framework governing execution. Section 36 of the Arbitration Act makes the award enforceable in accordance with the provisions of the CPC in the same manner as if it were a decree of the Court. Consequently, the Executing Court is required to enforce the award in accordance with the procedure prescribed under Order XXI CPC. It is equally well settled that an executing court cannot travel beyond the decree or adopt a mode of execution which is not sanctioned by law. The Supreme Court has reiterated that while an executing court is required to be diligent in securing the fruits of the decree, it must execute the decree as it stands and in accordance with law and cannot go beyond it.

17. In the present case, the grievance of the petitioners is not against execution of the award as such, but against the manner in which the learned Executing Court has proceeded to secure its satisfaction. From the orders extracted hereinabove, it is evident that the learned Executing Court, after noticing the continued non-payment of the awarded amount, has directed the personal appearance of senior officers of the PWD, required them to furnish affidavits and has proceeded to observe that failure to make payment would entail fixing personal financial responsibility upon such officers and even initiation of contempt proceedings. Such directions, in the considered opinion of this Court, cannot be sustained in the execution proceedings in the manner in which they have been issued. The award is against the award-debtor and not against the individual officers in their personal capacity. The liability created by the award cannot, in execution, be converted into a personal monetary liability of an officer merely because such officer happens to be responsible for processing or arranging payment on behalf of the department. If the award-debtor is a State department or authority, the Executing Court may certainly require the competent authority to disclose the position regarding assets, funds, sanctions or the steps taken for satisfaction of the award and may adopt the modes of

execution permissible under Order XXI CPC; however, it cannot, merely for securing payment of a money award, impose upon individual officers a liability which does not flow from the award or from any adjudication in which they were personally liable.

18. The distinction between execution and contempt jurisdiction is also material. Section 2(b) of the Contempt of Courts Act, 1971 contemplates "wilful disobedience" of a judgment, decree, direction, order, writ or other process of a Court. The Hon'ble Supreme Court has repeatedly held that contempt jurisdiction is not a substitute for execution and that a money decree or order is ordinarily required to be enforced through the remedy of execution available in law. In **R.N. Dey** (supra), the Hon'ble Supreme Court specifically cautioned that the weapon of contempt should not be used for execution of a decree where an alternative remedy of execution is available. In paras 7 and 8, it has been held that:-

> "**7.** We may reiterate that the weapon of contempt is not to be used in abundance or misused. Normally, it cannot be used for execution of the decree or implementation of an order for which alternative remedy in law is provided for. Discretion given to the court is to be exercised for maintenance of the court's dignity and majesty of law. Further, an aggrieved party has no right to insist that the court should exercise such jurisdiction as contempt is between a contemner and the court. It is true that in the present case, the High Court has kept the matter pending and has ordered that it should be heard along with the first appeal. But, at the same time, it is to be noticed that under the coercion of contempt proceeding, appellants cannot be directed to pay the compensation amount which they are disputing by asserting that claimants were not the owners of the property in question and that decree was obtained by suppressing the material fact and by fraud. Even presuming that the claimants are entitled to recover the amount of compensation as awarded by the trial court as no stay order is granted by the High Court, at the most they are

entitled to recover the same by executing the said award wherein the State can or may contend that the award is a nullity. In such a situation, as there was no wilful or deliberate disobedience of the order, the initiation of contempt proceedings was wholly unjustified.

8. Further, the decree-holder, who does not take steps to execute the decree in accordance with the procedure prescribed by law, should not be encouraged to invoke contempt jurisdiction of the court for non-satisfaction of the money decree. In land acquisition cases when a decree is passed the State is in the position of a judgment-debtor and hence the court should not normally lend help to a party who refuses to take legally-provided steps for executing the decree. At any rate, the court should be slow to haul up officers of the Government for contempt for non-satisfaction of such money decree."

19. The same principle has been reiterated in **Sukh Deo Prasad** (supra), in which it has been held that:-

"31. At all events, if a garnishee, or a defendant, who is directed to pay any sum of money, does not pay the amount, the remedy is to levy execution and not in an action for contempt or disobedience/breach under Order 39 Rule 2-A. This is evident from Rule 46-B of Order 21 read with Rule 11-A of Order 38 of the Code. Contempt jurisdiction, either under the Contempt of Courts Act, 1971, or under Order 39 Rule 2-A of the Code, is not intended to be used for enforcement of money decrees or directions/orders for payment of money. The process and concept of execution is different from the process and concept of action for disobedience/contempt."

20. In **Kanwar Singh Saini** (supra), it has been reiterated that:-

"**18.** In case there is a grievance of non-compliance with the terms of the decree passed in the civil suit, the remedy available to the aggrieved person is to approach the execution court under Order

21 Rule 32 CPC which provides for elaborate proceedings in which the parties can adduce their evidence and can examine and cross-examine the witnesses as opposed to the proceedings in contempt which are summary in nature. Application under Order 39 Rule 2-A CPC is not maintainable once the suit stood decreed. Law does not permit to skip the remedies available under Order 21 Rule 32 CPC and resort to the contempt proceedings for the reason that the court has to exercise its discretion under the 1971 Act when an effective and alternative remedy is not available to the person concerned. Thus, when the matter relates to the infringement of a decree or decretal order embodies rights, as between the parties, it is not expedient to invoke and exercise contempt jurisdiction, in essence, as a mode of executing the decree or merely because other remedies may take time or are more circumlocutory in character. Thus, the violation of permanent injunction can be set right in executing the proceedings and not the contempt proceedings. There is a complete fallacy in the argument that the provisions of Order 39 Rule 2-A CPC would also include the case of violation or breach of permanent injunction granted at the time of passing of the decree.

19. In Food Corporation of India v. Sukh Deo Prasad [(2009) 5 SCC 665], this Court held that the power exercised by a court under Order 39 Rule 2-A is punitive in nature, akin to the power to punish for civil contempt under the 1971 Act. Therefore, such powers should be exercised with great caution and responsibility. Unless there has been an order under Order 39 Rule 1 or 2 CPC in a case, the question of entertaining an application under Order 39 Rule 2-A does not arise. In case there is a final order, the remedy lies in execution and not in an action for contempt or disobedience or breach under Order 39 Rule 2-A. The contempt jurisdiction cannot be used for enforcement of decree passed in a civil suit.

20. The proceedings under Order 39 Rule 2-A are available only during the pendency of the suit and not after conclusion of the trial of the suit. Therefore, any undertaking given to the court during the pendency of the suit on the basis of which the suit itself has been disposed of becomes a part of the decree and breach of such undertaking is to be dealt with in execution proceedings under Order 21 Rule 32 CPC and not by means of contempt proceedings. Even otherwise, it is not desirable for the High Court to initiate criminal contempt proceedings for disobedience of the order of the injunction passed by the subordinate court, for the reason that where a decree is for an injunction, and the party against whom it has been passed has wilfully disobeyed it, the same may be executed by attachment of his property or by detention in civil prison or both.

21. The provision of Order 21 Rule 32 CPC applies to prohibitory as well as mandatory injunctions. In other words, it applies to cases where the party is directed to do some act and also to the cases where he is abstained from doing an act. Still to put it differently, a person disobeys an order of injunction not only when he fails to perform an act which he is directed to do but also when he does an act which he is prohibited from doing. Execution of an injunction decree is to be made in pursuance of Order 21 Rule 32 CPC as the CPC provides a particular manner and mode of execution and therefore, no other mode is permissible. (See Hungerford Investment Trust Ltd. v. Haridas Mundhra [(1972) 3 SCC 684].)"

21. In the case of **Dr Manoj Kumar Sharma** (supra)**,** it has been held that:-

"**18.** A practice has developed in certain High Courts to call officers at the drop of a hat and to exert direct or indirect pressure. The line of separation of powers between judiciary and executive is sought to be crossed by summoning the officers and in a way pressurising them to pass an order as per the whims and fancies of the Court.

19. The public officers of the executive are also performing their duties as the third limbs of the governance. The actions or decisions by the officers are not to benefit them, but as a custodian of public funds and in the interest of administration, some decisions are bound to be taken. It is always open to the High Court to set aside the decision which does not meet the test of judicial review but summoning of officers frequently is not

> appreciable at all. The same is liable to be condemned in the strongest words."

22. It is true that the learned Executing Court was justified in expressing concern over the continued accrual of interest on the awarded amount and in requiring the award-debtor to take expeditious steps for satisfaction of the award. The fact that the amount payable is increasing on account of post-award interest cannot, however, authorise the Executing Court to depart from the procedure prescribed by law. The Court may certainly issue appropriate directions to the award-debtor to disclose its financial position, identify attachable assets and comply with the permissible modes of execution. It may also consider the consequences contemplated under the relevant provisions of Order XXI CPC. But the Court cannot substitute such statutory modes by compelling individual officers to furnish personal undertakings or affidavits promising payment, or by threatening to make them personally liable for the interest accruing on the award amount. The Hon'ble Supreme Court has consistently maintained that the executing court's duty is to execute the decree in accordance with law and not to travel beyond the decree or create a liability which the decree itself does not impose.

23. So far as the affidavits and submissions made by the officers are concerned, the learned Executing Court was certainly entitled to ascertain from the competent departmental authorities the steps being taken for implementation of the award. However, an affidavit filed by an officer explaining the administrative or financial position cannot, by itself, be treated as an undertaking creating a personal obligation to discharge the liability of the award-debtor. Equally, a statement made during the course of hearing by an officer regarding the possibility or expected timeframe of obtaining sanction cannot be converted into a personal decree against that officer. If the department has made a categorical submission before the Executing Court that payment is subject to governmental sanction, budgetary allocation or

approval by the competent authority, the Court may examine the bona fides and adequacy of the steps taken and may require the competent authority to place the relevant record before it. However, it cannot proceed on the basis that such submission must necessarily result in personal liability of the officer if the payment is not made within the time indicated.

24. The observations contained in the order dated 22.06.2026 concerning the review petitions pending before the Hon'ble Supreme Court also require interference. The petitioners may or may not ultimately succeed in the review proceedings; that question is exclusively within the domain of the Hon'ble Supreme Court. The Executing Court was concerned with enforcement of the award and was not called upon to express an opinion on the merits or prospects of a pending proceeding before the superior Court. The expression “hoping against hope”, particularly when employed in relation to a pending judicial remedy, was therefore unnecessary and ought not to have formed part of the order under challenge. The pendency of the review petitions, however, does not by itself operate as a stay of the award; therefore, the award-holder remains entitled to proceed with execution unless there is an order of stay from the competent Court.

25. At the same time, this Court is conscious of the fact that the award-holder has been deprived of the awarded amount for a considerable period and that the liability towards interest continues to increase. The State authorities cannot indefinitely postpone execution merely by referring to internal correspondence or administrative difficulties. The finality of the award requires the competent authorities to take all lawful and expeditious steps for its satisfaction. The Executing Court, therefore, shall be at liberty to proceed with Execution Case No. 06/2023 in accordance with Section 36 of the Arbitration Act and the provisions of Order XXI CPC, including by requiring the award-debtor to disclose the particulars of its assets, funds and other means available for satisfaction of the award and by adopting such mode of execution as is

permissible under law. What the Executing Court cannot do is to convert the execution proceedings into proceedings against individual officers who are not personally liable under the award or to employ contempt jurisdiction as a mechanism for execution of the money award. The Supreme Court has expressly recognised that execution and contempt are distinct jurisdictions and that contempt cannot ordinarily be employed as a substitute for execution.

26. The decision in **Chaduranga Kanthraj Urs** (supra) does not assist the respondent to contend that the learned Executing Court could employ coercive measures in the nature of contempt for securing payment of the arbitral award. In the said case, the Hon'ble Supreme Court was examining the scope of contempt jurisdiction and held that contempt cannot be used as a substitute for execution, and that civil contempt requires a clear, conscious and wilful disobedience of an explicit direction of the Court. In the present case, there is no independent direction of this Court which the petitioners or their individual officers are alleged to have wilfully disobeyed; rather, the learned Executing Court itself is seeking to secure satisfaction of a money award through personal affidavits, personal appearance and personal liability of departmental officers. Thus, the ratio of Chaduranga Kanthraj Urs (supra) must be undertaken through the remedies prescribed by law, and that contempt cannot be utilised as a means to enforce the monetary liability of the award-debtor.

27. In view of the aforesaid discussion, this Court is of the considered opinion that the impugned orders, insofar as they require personal affidavits/undertakings from the officers, threaten to fix personal financial liability upon them for the amount of interest accruing on the award, or contemplate initiation of contempt proceedings merely for non-payment of the money award, cannot be sustained. To that extent, the said directions are **set aside**, and the writ petition is **partly allowed**.

28. However, the execution of the arbitral award shall continue, and the learned Executing Court shall proceed with the execution strictly in accordance with Section 36 of the Arbitration Act read with Order XXI CPC and pass appropriate orders by adopting the modes of execution permissible in law.

29. It is clarified that this Court has not expressed any opinion on the entitlement of the respondent to recover the awarded amount or the accrued interest, nor does this order prevent the learned Executing Court from requiring the competent authority to furnish necessary particulars or to take steps for satisfaction of the award in accordance with law.

30. No orders as to costs.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Aadil

HEAD-NOTE

The executing Court cannot convert the execution proceeding into contempt proceeding against individual officers who are not personally liable under the award, as a mechanism for execution of money award.