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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	PRONOUNCED ON
03.07.2026	

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

A No. 955 of 2025

in

EP SR NO. 13383 OF 2025

Steel Authority of India Limited
Ispat Bhawan, Lodhi Road,
New Delhi-110003, India.
Represented by its Constitued Attorney
Mr.S.B.Mathur

..Applicant(s)

Vs

1. M/s. Waterbury Farrel
   200 First Gulf Boulevard, Brampton,
   Ontario, Canada L6W4T5
   Represented by its President and CEO,
   Mr.Andre Nazarian

2. M/s. Shriram EPC Ltd.,
   9, Vanagaram Road,
   Ayanambakkam, Chennai-600095.
   and also at New No.10/1, 4th Floor, Bascon
   Futura SV, Venkatnarayana Road, T.Nagar,
   Chennai-600 017 Represented by its Managing
   Director, Mr.Shariff

..Respondent(s)

PRAYER: The application is filed seeking the court to direct the Respondent to state on Affidavit, the list of movable and immovable properties available with the Respondent as along with the survey numbers and other particulars.

For Applicant(s): Mr.Sunil Kumar Jain
for Mr.Venkatesan

For Respondent(s): Mr.R.Vidhya Shankar for R1
Mr.Siddharth Khattar for R2

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The present application has been filed seeking to direct the respondents to state on the affidavit, the list of movable and immovable properties available with the respondents as of date along with the survey numbers and other particulars.

2. Heard Mr.Sunil Kumar Jain learned counsel for Mr.Venkatesan learned counsel appearing on behalf of the applicant/ decree holder, Mr.R.Vidhya Shankar learned counsel appearing on behalf of the first respondent/Judgment Debtor and Mr.Siddharth Khattar learned counsel appearing on behalf of the second respondent/ Judgment Debtor.

3. Mr.Sunil Kumar Jain the learned counsel appearing for the Applicant/Decree Holder would submit that, insofar as the contention of the Respondents/Judgment Debtors that the Arbitral Award dated 28.02.2019 suffers from deficit stamping and the same is liable to be impounded is concerned, it is submitted that the Applicant has already paid the deficit stamp duty payable on the said Award. Thereafter an order dated 12.09.2025 was passed by this court seeking clarification with regard to the rectification of deficit stamp fees paid by the applicant and to file an affidavit to understand the procedure that was adopted by the applicant to pay the deficit stamp duty and the same has been duly complied with, by filing an affidavit dated 23.09.2025.

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Therefore, it is contended that, in view of the payment of the deficit stamp duty, the Award does not require to be impounded.

4. Therefore, the learned counsel submits that the present Execution Petition is maintainable. He further submits that the present application has been filed seeking a direction towards the Respondents to disclose, by affidavit, the particulars of their movable and immovable properties, including the survey numbers and other relevant details, to enable the Applicant to seek attachment thereof. He submits that such disclosure is necessary for the Execution Petition to proceed further. The learned counsel would further contend that the Respondents, being aware of the aforesaid requirement have deliberately raised untenable objections regarding the stamping of the Award with a view to delaying the execution proceedings. Hence, he prays that the present application be allowed.

5. *Per Contra*, countering the above arguments Mr.R.Vidhya Shankar learned counsel appearing on behalf of the first respondent/ Judgement Debtor would submit that the first respondent is a foreign party who has no address in India and there is no proper service of summons on the first respondent in a manner permissible for the service of summons on the foreign persons. He submits that the first respondent does not submit to the jurisdiction of the Indian Courts with regard to the present execution proceedings. The learned counsel

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further submits that the present Execution Petition has been filed seeking the execution of an Arbitral Award dated 28.02.2019 passed by the Arbitral Tribunal constituted under the aegis of ICC, Paris in Case No.21382/CYK/PTA. He submits that this Court is neither the Court which passed the decree nor a Court within whose jurisdiction the First respondent carried on business. He further submits that the first Respondent has neither any place of business nor any branch office in India, nor owns any property within India. Therefore, it is contended that the present Execution Petition is not maintainable before this Court or any other Court in India insofar as the first respondent is concerned.

6. The learned counsel further submits that in terms of Section 36 of the Arbitration and Conciliation Act an Award is enforceable only by a Court within whose jurisdiction the Judgment debtor resides or carries on business or has properties within the said jurisdiction. In that regard he had relied upon the Hon'ble Apex Court's Judgements made in the cases of ***Sundaram Finance Vs Abdul Samad & Anr*** and ***Kotak Mahindra Bank Ltd. Vs Sivakama Sundari & Ors*** reported in ***(2011) 4 LW 745.*** He further submits that the section 42 of the Act would does not apply, whereas only the section 38 of CPC would apply to a decree passed by this Court, while in the present case no court has passed the decree. In that regard he had reliance upon the Hon'ble Delhi High Court judgment made in the case of ***Daelim Industrial Co.Ltd. Vs Numaligarh Refinery Ltd.,*** reported in ***(2009) 159 DLT 579***.

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7. Further the learned counsel submits that he had filed a memo dated 05.06.2026 before this court, intimating that the CRP.No.1138 of 2023, which was pending before this court, came to be allowed *vide* the order dated 21.04.2026. Pursuant to which a memo dated 03.06.2026 in D.No.6284 had been also filed before the Learned Principal District Judge, Salem intimating the aforesaid order dated 21.04.2026 made in the Civil Revision Petition and sought for the return of the bundle. He submits that the orders are yet to be passed upon the aforesaid memo filed and the respondents are awaiting for the return of the bundle to appropriately represent the same before this court. The learned counsel further contends from the above facts it is evident that the Arbitral Award dated 28.02.2019 had not attained the finality, against which the present execution proceedings is not maintainable.

8. Not withstanding the aforesaid contentions and without prejudice, the learned counsel contends that the first respondent has no movable or immovable assets in India against which the Applicant can proceed with the execution proceedings to seek warrant of attachment. Hence in view of the aforesaid submissions the learned counsel seeks this court to terminate the Execution Proceedings against the first respondent.

9. Mr.Siddharth Khattar, learned counsel appearing on behalf of the

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second respondent, would submit that the Arbitral Award dated 28.02.2019 has been stamped insufficiently. He further submits that the Award itself specifically records that it was made on a stamp paper of Rs.100/- and that any deficit stamp duty, if payable, is to be borne by the Claimant before enforcing the Award. The learned counsel further submits that the Applicant had earlier filed an Execution Petition before the Hon'ble Delhi Court, wherein the Second Respondent raised an objection that the Arbitral Award was insufficiently stamped and in terms of Section 35 of the Indian Stamp Act, the same could not be received in evidence and the said award liable to be impounded under Section 33 thereof. Thereafter, the Applicant/Decree Holder withdrew the said Execution Petition with liberty to approach the competent Court, pursuant to which the present Execution Petition has been instituted before this Court.

10. It is submitted that the Second Respondent, in its counter-affidavit, reiterated its preliminary objection towards the maintainability of the present Execution Petition on the ground that the Arbitral Award was insufficiently stamped, as stated *supra* and had specifically contended that, in terms of Section 35 of the Indian Stamp Act, the Award could neither be received in evidence nor acted upon until the deficit stamp duty was duly paid. Thereafter, the learned counsel for the Applicant/Award Holder submitted that the Award Holder was willing to pay the deficit stamp duty and the said submission was

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recorded by this Court in its order dated 31.07.2025. Subsequently, when the matter was listed on 12.09.2025, the learned counsel for the Applicant submitted that the requisite stamp duty had been paid and the deficit stamp duty has been duly rectified. Consequently, by order dated 12.09.2025, this Court directed the Applicant to file an affidavit setting out the procedure adopted for payment of the deficit stamp duty.

11. The learned counsel submits that, pursuant to the order dated 12.09.2025, the Applicant filed an affidavit dated 23.09.2025, however, instead of setting out the procedure adopted for rectifying the deficit stamp duty, the Applicant had merely stated that a sum of of Rs.4,39,563/- had been paid towards stamp duty. It is further submitted that the Applicant of its own accord had affixed the requisite stamp papers to the Award subsequent to the objections raised by the Respondent herein and the same does not cure the defect of insufficient stamping. The learned counsel contends that the defect of insufficient stamping ought to cured only by following the procedure prescribed by law, namely, by impounding the Award and forwarding the same to the competent Stamp Collector for adjudication of the proper stamp duty and penalty, if any. It is therefore submitted that the mere payment of an amount towards the alleged deficit stamp duty, as unilaterally calculated by the Applicant, cannot amount to a due rectification of the defect of insufficient stamping. In support of his contention, the learned counsel had placed reliance

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upon the Hon'ble Apex Court judgement made in the case of ***Hindustan Steel Ltd. Vs M/s. Dilip Construction Company*** reported in ***1969 (3) SCR 736*** and the judgement made by the Hon'ble High Court of Madhya Pradesh in the case of ***Santosh Champalal Jain Vs. Smt. Vimla Bai*** reported in ***1998 (2) MPLJ 164***.

12. The learned counsel further submits that the learned counsel for the Applicant had further relied upon the interplay between the Arbitration and Conciliation Act, 1996 and the Indian Stamp Act, 1899 and in that regard he had relied upon the judgements made in *Curative Petition (C) No.44 of 2023* reported as ***(2024) 6 SCC 1*** and ***Sundaram Finance Limited Vs. Mukesh Parasher and Another*** reported in ***2024 SCC Online MP 6630***. The learned counsel submits that the aforesaid judgment reported in ***(2024) 6 SCC 1*** deals with the insufficiently stamped Arbitration Agreement, whereas the facts of the present case rests upon the insufficiently stamped Arbitration Award. Similarly the other judgement reported in ***2024 SCC Online MP 6630*** deals with the applicability of Section 19-A of the Indian Stamp Act, which is a State specific provision which is applicable only within the state of Madhya Pradesh. Therefore he contends that the aforesaid judgements are not applicable to the facts of the present case. Hence in light of the forgoing submissions and arguments, the learned counsel prays this court to dismiss both the Application

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and the Execution Petition.

13. I have heard the submission made on both the sides and have perused the materials available on record

14. It is pertinent to note that it is neither the dispute of applicant nor the respondents, that the Arbitral Award dated 28.02.2019 was not insufficiently stamped. Further it is not the dispute of the respondents that whether the applicant has paid the deficit stamp duty or not. However it is the case of the respondents that the payment of stamp duty by the Applicant towards the defect of insufficient stamping, has not been effected inaccordance with procedure prescribed as per the law. Consequently the learned respondent counsels contended that the Arbitral Award is liable to be impounded as per the section 33 of the Indian Stamp Act. Therefore the main issue which lies before this court which needs to be determined for the proper adjudication of both the present Application and the Execution Petition is delineated hereinunder;

"Whether the Arbitral Award dated 28.02.2019 needs to be impounded for the maintainability of the Execution Petition?"

15. In order to adjudicate the above issue, it is necessary to understand the interrelation and distinction between the Section 36 of the Act and the Section

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33 of the Indian Stamps Act, 1899. Section 36 of the Arbitration and Conciliation Act, 1996 provides the statutory procedure for enforcement of an arbitral award. Upon the expiry of the period prescribed for challenging the award under Section 34 or upon such challenge having been rejected, the award becomes enforceable in accordance with the provisions of the Code of Civil Procedure, 1908, in the same manner as if it were a decree of the Court. Thus, Section 36 enables the award-holder to directly invoke the execution proceedings for enforcement of the liability already determined and crystallised in the Arbitral Award, without requiring any fresh adjudication of such liability. For better understanding the relevant portion of the section is extracted hereinunder:

> *"36. Enforcement:-*
> *(1) where the time for making an application to set aside the arbitarl award under section 34 has expired, then, subject to the provisions of sub- section(2), such award shall be enforced in accordance with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), in the same manner as if it were a decree of the Court*
> *..."*

16. The primordial contention of the learned counsel appearing for the Respondents is that the Arbitral Award dealt in the present case, having been insufficiently stamped is liable to be impounded under Section 33 of the Indian Stamp Act, 1899. Insofar as the section 33 of the Indian Stamps Act, 1899 is consider, the provisions therein are squarely applicable to Instruments. As per

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the section 2(14) of the Indian Stamps Act, every document, by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded is an Instrument. For better understanding the relevant portions of the aforesaid sections are extracted hereinunder

Section 33	Section 2(14)
33. *(1) Every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office, except an officer of police, before whom any instrument, chargeable, in his opinion, with duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.* *.....*	*Instrument- "Instrument" includes every document by which any right or liability is or purports to be created, transferred, limited, extended, extinguished or recorded* *.....*

17. An Instrument is a one which creates a right/ liability based upon a contract that is being/ had been entered between the parties. Whereas an Award which arises out of an arbitral proceedings, which had been initiated based upon the aforesaid instrument entered between the parties, only determines the rights and liabilities of the parties arising out of such an instrument. Eventhough the said Award is termed to be an Instrument, it is to be noted that it does not create a fresh right or liability, but only determines the right and liability flowing out of an instrument voluntarily executed between the parties. In that regard an Award cannot be termed to as an Instrument which falls within the rigour of

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Section 33 of Indian Stamps Act, for determining the Stamp Duty by following the guidelines to ascertain the value of the document. The Award determines the right and liability which crystalises the same. It is also to be noted that the rigour of section 33 is only to deter the parties from evading the Stamp duties which requires adjudication of the value of the document, whereas the award already crystalizes the liabilities and rights which requires no further adjudication of the Stamp Authority. That apart there can be no doubt that there is an undervaluation of the rights made in the award. In that regard this court is of the view that the procedure of contemplating the stamp duties is not applicable to the Award.

18. The contention that the Judgement Debtor does not possess any movable or immovable assets before this court, can only be gone into after there is disclosure of the same by the way of filing the affidavit. Even if the case of the Judgement Debtor is accepted there would be no prejudice in furnishing the details of the assets through affidavit, as only thereafter the jurisdiction of the court could be gone into.

19. Therefore in light of the above, the aforesaid issue is answered in favor of the maintainability of the present Execution proceedings. Hence this court is of the considered view that the present Execution Proceedings instituted by the Applicant in E.P.Sr.No.13383 of 2025 is maintainable. The respondents

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are directed to file an affidavit furnishing list of movable and immovable properties available with the respondents as of date along with the Survey Numbers and other required details within six (6) weeks from the date of this order. Accordingly the present Application stands allowed. No costs.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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K.KUMARESH BABU J.

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Pre-delivery Order made in
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in
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