HC-KAR

NC: 2026:KHC:61123
WP No. 21581 of 2026

CNR: KAHC010483432026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 21581 OF 2026 (GM-CPC)

BETWEEN:

M/S S.S. EXPORTS
HAVING OFFICE AT
NO.19, SHIVASHANAKAR PLAZA
RICHMOND CIRCLE,
LALBAG ROAD
BANGALORE -560 027
REP. BY MANAGER
SRI GUNASHEKARAN

...PETITIONER

(BY SRI.M.S.SHYAM SUNDAR, SENIOR COUNSEL FOR
SMT. VANDANA P.L., ADVOCATE)

Digitally signed by SUVARNA T
Location: HIGH COURT OF KARNATAKA

AND:

M/S ARK SHIPPING CO. LTD.,
A COMPANY INCORPORATED
UNDER THE LAWS OF KOREA
HAVING ITS REGISTERED OFFICE
AT 8TH FLOOR,
HAN-YOGA BUILDING
57-9 SEOSOMUN-DONG

CHUNG-GU SEOUL

KOREA

REP. BY ITS PA HOLDER AND
LOCAL PERSON
MR A.Z.MOOKTHIAR
AGED ABOUT 58 YEARS
RESIDING AT
C/O SHARAD SHRIKHANDE
NO.6104 ANRIA
DWELLINGTON DOLLARS COLONY
RMV EXTENSION II STAGE
BANGALORE -560 094

…RESPONDENT

(BY SRI.FARHAN QUAZI, ADVOCATE)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER, OR DIRECTION, QUASHING THE IMPUGNED ORDER DATED 01.07.2026 PASSED BY THE XXIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, MAYOHALL, BENGALURU, IN EXECUTION PETITION NO.15180/2005, DISMISSING THE PETITIONERS APPLICATION FILED UNDER ORDER III RULE 2 READ WITH SECTION 47 AND SECTION 151 OF THE CODE OF CIVIL PROCEDURE, 1908 VIDE ANNEXURE A.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 18.08.2026, COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CNR: KAHC010483432026

CAV ORDER

The present writ petition is filed aggrieved by the order dated 01.07.2026 passed in Execution Petition No. 15180/2005 by the XXIII Additional City Civil and Sessions Judge, Mayohall, Bengaluru, whereby the court dismissed the petitioner's application filed under Order III Rule 2 read with Section 47 and Section 151 of the CPC.

2. The facts of the case are that the respondents have filed an execution petition seeking enforcement of a Foreign Arbitral Award. The said petition was instituted by one Mr. A.Z. Mookhtiar, purportedly acting as the Power of Attorney holder of the respondent company. The petitioner/judgment debtor specifically contended before the Executing Court that no Board Resolution authorising the institution of execution proceedings in India had been produced. Further, no Board Resolution authorising the execution of the Power of Attorney in favour of Mr. A.Z. Mookhtiar was placed on record. Consequently, the alleged Power of Attorney lacked the necessary legal foundation, and the execution petition itself had been instituted by a person without established authority. Such an objection

squarely falls within the ambit of Section 47 of the Code of Civil Procedure, 1908, as it relates to the competence and authority of the person prosecuting the execution proceedings. It is pertinent to note that the respondent is a foreign company incorporated under the laws of the Republic of Korea and does not have any registered office or principal place of business in India. Therefore, strict proof of the authority of the person instituting and prosecuting the execution proceedings assumes greater significance. In these circumstances, the petitioner filed an application under Order III Rule 2 read with Sections 47 and 151 of the Code of Civil Procedure, 1908. However, the Executing Court, by the impugned order, rejected the said application filed by the petitioner.

3. Learned Senior Counsel representing the learned counsel for the petitioner submits that the impugned order is devoid of reasons, illegal, arbitrary, perverse and liable to be set aside. The order impugned records no findings on the substantial questions of law and fact raised by the petitioner. The application raised fundamental issues concerning the maintainability of the execution proceedings and the authority

of the person representing the foreign decree-holder, none of which have been considered or addressed by the Executing Court. The impugned order is bereft of any reasons whatsoever, thereby rendering it legally unsustainable. The petitioner's detailed objections, raising several legal and factual issues, have been rejected without any discussion, consideration or reasoning. Such an unreasoned rejection deprives the petitioner of meaningful judicial scrutiny and grossly violates the principles of natural justice. Section 47 of the Code of Civil Procedure, 1908, obligates the Executing Court to determine all questions arising between the parties to the proceedings relating to the execution, discharge, or satisfaction of the decree. The objections raised by the petitioner directly concern the competence and authority of the person instituting and prosecuting the execution proceedings, the validity of the authority purportedly conferred by the foreign decree-holder company, and the very maintainability of the execution petition. These are substantial issues that warrant proper consideration and reasoned adjudication by the Executing Court. However, instead of examining these issues,

the Executing Court disposed of the application in a mechanical manner, thereby failing to exercise the jurisdiction vested in it by law. The petitioner had specifically pleaded in the application that no Board Resolution had been produced authorizing the institution of execution proceedings in India and that no valid authorization had been established in favor of the alleged Power of Attorney holder. The Executing Court was, therefore, required to examine these material objections and record its findings thereon and Court ought to have considered all thses aspects.

4. Learned Senior Counsel had relied on the judgment of the Apex Court in the case of ***State Bank Of Travancore Vs M/S Kingston Computers(I) Pvt.Ltd***[1]***.*** He relied on paragraph Nos.12 and 13 which read as follows:

> ***"12. The trial Court then referred to the judgment of the Delhi High Court in M/s. Nibro Limited v. National Insurance Company Limited AIR 1991 Delhi 25, Shubh Shanti Services Limited v. Manjula S.Agarwalla and others (2005) 5 SCC 30, Delhi High Court (original side) Rules, 1967 and proceeded to observe:***

[1] 2011 (11) SCC 524

".....As already stated, it has not been averred in the plaint nor sought to be proved that any resolution had been passed by the Board of Directors of the plaintiff company authorising Shri A.K. Shukla to sign, verify and institute the suit. It has also not been averred that the memorandum/articles of the plaintiff company give any right to Shri A.K. Shukla to sign, verify and institute a suit on behalf of the plaintiff company. It, therefore, follows that the plaint has been instituted by Shri A.K. Shukla only on the authority of Sh. Raj K.Shukla, CEO of the plaintiff company. Such an authority is not recognized under law and, therefore, I held that the plaint has not been instituted by an authorised person. Issue No.1 is accordingly, decided against the plaintiff and in favour of the defendants."

13. The Division Bench of the High Court did take cognizance of the fact that the company had not summoned any witness from the office of the Registrar of Company to prove that Shri Ashok K.Shukla was a Director of the company and that the minute book of the company had not been produced to prove the appointment of Shri Ashok K.Shukla as a Director, but reversed the finding of the trial Court on issue No.1 on the basis of the authority letter issued by Shri Raj K.Shukla and resolutions dated 14.2.2001 and 19.4.2001, by which the Board of Directors of the company had authorised some persons to operate the bank account."

5. Learned counsel relied on the judgment of the Delhi High Court in the case of ***Nibro Ltd. Vs National Insurance Co. Ltd***[2] He relied on para 14 which reads thus:

> ***"14. Order 29, rule 1 of the Code of Civil Procedure provides for subscription and verification of pleadings and states that in suits by or against the corporation, any pleadings may be signed and verified on behalf of the corporation by the secretary or by any director or other principal officer of the corporation who is able to depose to the facts of the case."***

He also relied on the judgment of the Court of Appeal of Tanzania at Dar ES Salaam arising out of Civil Appeal No.280 of 2017. He relied on page 39 of the booklet and also on page No.44 of the judgments booklet, which read as follows:

> ***"We now proceed to deal with the main appeal beginning with the 4th and 5th grounds complaint as earlier paraphrased. The High Court is faulted in entertaining the suit filed on behalf the respondent company without its authority by way of the Board of Director's resolution and holding that the involvement in fraudulent transactions by 2nd respondent warranted the suit to be filed without a Board of Director's resolution. Mr. Kahendaguza submitted this to be irregular adding that, as the respective plaint was neither signed nor verified by the respondent, is an indication that the company did not give authority to institute on its behalf any case against the***

[2] AIR 1991 Delhi 25

> ***appellant. In this regard, he argued that besides the suit not being competent for lack of authority of the respondent company, it was not in order for the learned trial judge to treat the respondent as a minority shareholder entitled to institute a case without the resolution of the Board of Directors merely because of the alleged fraudulent transactions which were not pleaded at all.***
>
> ***Therefore could the company which according to the record before us had 5 directors, commence a suit without the authority of the company? We do not think so, On this, we borrow a leaf from the case of BUGERERE COFFEE GROWERS LTD VS. SEBADUKA [1970] 1 EA 147 (HCU) which dealt with an akin situation. In that case, an advocate instituted a suit in the name of the company challenging_the appointment of new directors following the removal of old directors. As the Court found that there was no evidence adduced to prove authority of the company to institute the suit, it held the suit defective. In particular,it-states:***
>
> ***"When companies authorize the commencement of legal proceedings a resolution have to be passed either at a company Board of Directors' meeting and recorded in the minutes; no such resolution had been passed authorizing these proceedings".”***

Relying on these judgments, it is submitted that the order impugned needs to be set aside.

6. Learned counsel appearing for the respondent submits that the Court had rightly rejected the application. It is submitted that no grounds are made out under Section 47 of

CPC. He relied on the judgment of the Apex Court in the case of ***Periyammal (Dead Thr. Lrs.) vs V. Rajamani And Anr[3].*** Further he had relied on another judgment of the Supreme Court in the case of ***Rahul S Shah vs Jinendrakumar Gandhi & others[4].*** He had also relied on the judgment of this Court in the case of ***M/s.SS Exports Vs M/S Ark Shipping Co Ltd[5]*** and also relied on another judgment in case of ***M/S SS Exports vs M/S Ark Shipping Co Ltd[6].*** The Supreme Court had passed an order in respect of the very same company arising out of SLP(Civil)No.9125/2026 and also placed before the court the power of attorney dated 06.09.2004.

7. It is submitted by the learned counsel appearing for the respondent that the Arbitral Tribunal passed a Foreign Arbitral Award dated 21.02.2005 in favour of respondent No. 1. Pursuant thereto, the Decree Holder instituted Execution Petition No. 15180/2005 before the competent Executing Court at Bengaluru through its duly constituted Power of Attorney holder, acting under a duly executed, notarised and apostilled

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[3] (2025) 9 SCC 568; 2025 INSC 329
[4] (2021) 6 SCC 418
[5] WP No.24623/2009 dated 03.08.2011
[6] WP No.12646/2023 dated 15.12.2025

Power of Attorney dated 06.09.2004. The said Power of Attorney has remained on record continuously since 2005, without any objection whatsoever from the judgment debtor for nearly 21 years. The petitioner filed I.A. No. 5 in Ex.P. No. 15180/2005 under Section 48 of the Arbitration and Conciliation Act, 1996, on 07.07.2007, challenging the enforceability of the Foreign Arbitral Award. The Executing Court, by order dated 14.07.2009, dismissed I.A. No. 5, holding that the Foreign Arbitral Award was enforceable. Aggrieved by the said order, the petitioner preferred W.P. No. 24623/2009 before this Hon'ble Court. By order dated 03.08.2011, this Hon'ble Court set aside the order dated 14.07.2009 and remanded the matter to the Executing Court for fresh consideration. Upon remand, the Executing Court, by order dated 16.09.2022, once again dismissed the application, affirming the enforceability of the Foreign Arbitral Award. The Executing Court held that the Foreign Arbitral Award dated 21.02.2005, passed by the Sole Arbitrator with the seat of arbitration at Singapore, was valid and enforceable. Thereafter, on 29.11.2022, the respondent/Decree Holder (DHR) filed I.A.

No.13 seeking attachment of the schedule properties of the judgment debtor under Order XXI Rule 54 of the Code of Civil Procedure, 1908. On 14.06.2023, the petitioner once again challenged the order dated 16.09.2022 by filing W.P. No. 12646/2023 before this Hon'ble Court. Meanwhile, on 17.06.2023, the Executing Court allowed I.A. No. 13 and ordered attachment of the schedule properties under Order XXI Rule 54 of the CPC. Subsequently, this Hon'ble Court, by order dated 15.12.2025, dismissed W.P. No. 12646/2023, thereby affirming the order passed by the Executing Court. Thereafter, the petitioner filed I.A. No. 14 under Order III Rule 2 read with Section 47 of the CPC in Ex.P. No. 15180/2005, for the first time raising an objection regarding the authority of the duly constituted Power of Attorney holder of the respondent/Decree Holder to institute and prosecute the execution proceedings. It is submitted that the execution petition was instituted through a duly executed, notarised, apostilled and duly stamped Power of Attorney, which has remained on record since 2005 without any objection from the judgment debtor. The present application has been filed after an inordinate delay of nearly

two decades and is unsupported by any documentary evidence challenging either the validity of the Power of Attorney or the authority of the constituted attorney. It is therefore contended that the objection is barred by the principles of waiver, acquiescence and constructive res judicata.

8. Learned counsel appearing for the respondent further submits that Order III Rule 2 of the CPC, 1908, does not mandate the production of a Board Resolution where the constituted attorney is duly authorised under a validly executed and apostilled Power of Attorney. The Executing Court accepted the said contention while rejecting I.A. No. 14. It is further submitted that the petitioner had participated in the execution proceedings since 2005 without raising any objection whatsoever regarding the authority of the constituted attorney, thereby waiving its right to raise such an objection at a belated stage. It is further submitted that, being aggrieved by the order passed in W.P.No.12646/2023, the petitioner preferred a Special Leave Petition before the Hon'ble Supreme Court, which came to be dismissed by order dated 10.04.2026. Thereafter, the Executing Court, by order dated 01.07.2026, dismissed I.A.

No. 14, holding that no case had been made out under Order III Rule 2 read with Section 47 of the CPC. The Executing Court further observed that the Decree Holder had been represented throughout the execution proceedings by the same duly constituted attorney and that the objection raised by the petitioner after nearly two decades was merely an attempt to delay and protract the execution proceedings. It is submitted that the Executing Court has assigned clear and cogent reasons for rejecting I.A. No. 14. The impugned order is a well-considered and reasoned order, passed after taking into account the relevant facts and circumstances of the case, and does not warrant any interference by this Hon'ble Court.

9. Having heard the learned Senior Counsel representing the counsel for the petitioner and learned counsel appearing for the respondent, perused the entire material on record. The execution proceedings arise out of a Foreign Arbitral Award passed in the year 2005. The judgment debtor filed several applications challenging the enforceability of the said award. The challenges arising out of those proceedings traveled through various judicial forums, including the Hon'ble Supreme

Court, and were ultimately dismissed. Despite the conclusion of the said proceedings, the award remains unenforced. At this stage, the present application came to be filed, questioning the authority of the person representing the award holder. The petitioner contends that, since the respondents are corporate entities, they are required to establish that the institution of execution proceedings in India and the execution of the Power of Attorney were duly authorised by a resolution of the Board of Directors, duly authenticated in accordance with law. According to the petitioner, in the absence of such authorisation, the execution proceedings cannot be maintained. The question that arises for consideration is whether such an objection furnishes a legally sustainable ground to terminate or suspend the execution proceedings until the documents demanded by the petitioner are produced. Order III of the Code of Civil Procedure, 1908, regulates appearances, applications and acts by parties through recognised agents and pleaders. Rule 1 permits a party to appear, apply or act in person, through a recognised agent or through a duly appointed pleader. Rule 2 identifies recognised agents, including persons holding a Power

of Attorney authorising them to act on behalf of the parties. The object of these provisions is to ensure that a person representing a litigant before the Court possesses the requisite authority. These provisions regulate the manner of representation before the Court and do not determine the substantive entitlement of a decree-holder to enforce a decree or an arbitral award. A company, being a juristic person, necessarily acts through natural persons. It may authorise its officers, directors, attorneys or other representatives to act on its behalf in accordance with the applicable law and its governing documents. The authority of such a representative may be established through legally acceptable material. Order III Rule 2 of the CPC does not impose an inflexible requirement that every execution petition instituted on behalf of a corporate entity must invariably be accompanied by a separately authenticated Board Resolution in the specific form demanded by the judgment debtor. A distinction must be maintained between the substantive right of the award-holder to enforce the award and the authority of the individual representing it before the Court. The former emanates from the award and the

applicable statutory provisions, whereas the latter concerns the manner in which such a right is pursued before the Court. An objection relating to the authority of the person representing the award-holder does not, merely by being raised, extinguish or automatically suspend the substantive right to enforce the award. In ***United Bank of India Vs. Naresh Kumar***[7], the Hon'ble Supreme Court considered objections relating to the authority of persons instituting proceedings on behalf of corporate entities. The Hon'ble Supreme Court recognized that defects concerning corporate authorization are not necessarily fatal to the proceedings and that acts performed on behalf of a company may, in appropriate circumstances, be ratified by the company. The said decision reiterates the principle that substantive rights should not ordinarily be defeated merely on account of a curable procedural or technical defect.

10. The fact that the proceedings concern a Foreign Arbitral Award does not create an additional statutory obligation under Order III Rule 2 CPC to produce a board resolution specifically authorizing the initiation of execution

[7] (1996) 6 SCC 663

proceedings in India in every case. Whether a representative is duly authorized must be determined with reference to the applicable law and the authority actually conferred upon the person. If a genuine dispute arises as to whether the proceedings are being prosecuted on behalf of the award holder, the executing court is competent to examine the relevant documents and satisfy itself regarding the authority of the representative. However, the mere demand for a board resolution cannot be treated as establishing that the proceedings are unauthorized, nor does the non-production of a particular document, without demonstrating a material defect in authority, justify rejection of the execution petition. Section 47 CPC provides for the Executing Court to determine questions arising between the parties relating to the execution, discharge, or satisfaction of the decree. The provision is intended to ensure that disputes genuinely concerning enforceability are resolved within the execution proceedings themselves. An objection concerning the authority of the person representing the award holder may require examination. It may generally raise a question whether the proceedings have been instituted

by or on behalf of the person entitled to enforce the award. However, every procedural objection concerning representation cannot be elevated into a challenge to the executability of the award itself. In the present case, the petitioner's application does not raise a question concerning the satisfaction or discharge of the award, nor does it disclose any fresh legal impediment affecting its enforceability. The objection is confined to the alleged absence of a duly authenticated board resolution and authority underlining the power of attorney. The petitioner seeks a declaration that the entire execution proceedings are not maintainable. Alternatively, the petitioner seeks production of the documents demanded and a stay of all proceedings until such production.

11. The petitioner initially contended that the order passed by the Executing Court was a one-line order, devoid of any reasons or proper consideration of the objections raised. However, a detailed and reasoned order was subsequently placed before this Court, wherein the Executing Court had categorically considered the scope and applicability of Order XXI Rule 29 and Section 47 of the CPC. The Executing Court

observed that, if the judgment debtor entertained any apprehension or confusion regarding compliance with the international arbitral award passed against it, the judgment debtor had the option of satisfying the decree by paying the decretal amount and obtaining appropriate indemnity in that regard, in accordance with the applicable provisions of law. The Executing Court further observed that the judgment debtor was bound by the enforceable Foreign Arbitral Award and that the averments made in the application, on a plain reading, disclosed that the petitioner had filed the application with the intention of stalling and delaying the execution proceedings. Accordingly, the Executing Court rejected the application. Even assuming that a further period of proof of authorization were necessary, the consequence would not be automatic termination of the execution proceedings. A defect capable of being cured or ratified cannot, without more, be treated as rendering the entire enforcement process invalid. The request to stay all further proceedings is equally untenable. The award holder has already faced prolonged litigation concerning executability. The judgment-debtor cannot secure another suspension merely by raising an objection concerning corporate

authorization unless it is established that the alleged deficiency presents a genuine legal impediment to the continuation of the proceedings. This Court do not find any reasons to interfere with the well-considered order passed by the trial court.

12. The present case raises serious concerns regarding the effectiveness of the judicial process in enforcing international arbitral awards. The award in question was rendered in the year 2005, and more than two decades have elapsed since then. However, the award-holder has not yet been able to realise the benefits of the award. During this period, the award-holder has been compelled to contest multiple proceedings concerning the enforceability of the award, including proceedings that ultimately culminated before the Hon'ble Supreme Court. The object of arbitration is to provide parties with an effective alternative to prolonged adjudication through ordinary civil proceedings, particularly in international commercial disputes. Parties opt for arbitration with the expectation that their disputes will be resolved through a neutral and effective adjudicatory process. These objectives cannot be achieved merely by rendering an arbitral award. The

true measure of the effectiveness of arbitration lies in whether the successful party is able to obtain the relief granted under the award within a reasonable period. An arbitral award that remains unenforced for an inordinate period of time loses much of its practical value. A party may succeed before the Arbitral Tribunal and thereafter succeed in proceedings concerning the recognition and enforcement of the award, yet remain unable to realise the amount awarded. Such a situation reduces the finality of arbitration to a matter of form rather than substance. The successful party is thereby compelled to continue bearing the burden of litigation long after its rights have been adjudicated.

13. The Arbitration and Conciliation Act, 1996, particularly Part II thereof, which deals with the enforcement of foreign awards, reflects India's commitment to the international framework governing the recognition and enforcement of arbitral awards. The grounds on which enforcement of a foreign award may be refused are specifically circumscribed by statute. Once the objections to enforcement have been considered and rejected by the competent courts, the execution proceedings

must ordinarily proceed towards giving effect to the award. The law undoubtedly recognises the right of a judgment debtor to raise legitimate objections in accordance with law. Access to judicial remedies cannot be denied merely because a party has been unsuccessful in earlier proceedings. However, a clear distinction must be drawn between pursuing a legitimate legal remedy to protect an enforceable right and repeatedly invoking procedural provisions in a manner that prevents the successful party from obtaining the benefit of an adjudication that has attained finality. Judicial proceedings cannot be permitted to become an endless sequence of objections in which the nature of the challenge changes, but the practical consequence remains the same, namely, the continued postponement of enforcement. Once the questions concerning the enforceability of the award have travelled through various judicial forums, including the Hon'ble Supreme Court, and have attained finality, subsequent objections must be examined with particular care to ensure that they do not indirectly reopen issues already concluded or unnecessarily obstruct the implementation of the award. The passage of more than two decades is not merely a matter of chronology. It represents a

substantial period during which the award-holder has been deprived of the benefits of an adjudication rendered in its favour. Every additional round of litigation imposes further financial burdens on the parties, consumes valuable judicial time and postpones the final resolution of a dispute that the parties had entrusted to arbitration. The consequences of such prolonged delay extend beyond the immediate interests of the parties, particularly in the context of international commercial transactions. The credibility of a legal system is assessed not merely by the quality of its adjudication but also by the certainty, consistency and effectiveness of its enforcement mechanism. If a Foreign Arbitral Award rendered in 2005 remains incapable of being effectively enforced even after successive challenges to its enforceability have been rejected, including by the highest judicial forum, it inevitably raises concerns regarding the efficacy of the enforcement mechanism. Confidence in the Indian judicial system depends upon its ability to protect both the right of a party to contest an unlawful claim and the right of a successful litigant to enjoy the benefits of a lawful adjudication. Courts must, therefore, remain vigilant against attempts to convert execution proceedings into a

continuation of the original dispute. Procedural safeguards are undoubtedly necessary to ensure fairness and compliance with law. However, such safeguards cannot be permitted to become instruments through which an unsuccessful party indefinitely postpones compliance with an enforceable arbitral award.

14. This Court cannot remain oblivious to the consequences of repeated and successive proceedings upon a successful award-holder. The award of costs is not intended merely to penalise a party for approaching the Court; rather, it serves the dual purpose of compensating the opposite party for being compelled to defend unnecessary litigation and discouraging the misuse of judicial process. The principle that costs should bear a reasonable relationship to the conduct of the litigant assumes particular significance in cases where successive proceedings have prevented the enforcement of an arbitral award for an exceptionally prolonged period. In ***Salem Advocate Bar Association, T.N. Vs. Union of India***[8], the Hon'ble Supreme Court emphasised the importance of awarding realistic costs in judicial proceedings. Similarly, in ***Vinod Seth***

[8] (2005) 6 SCC 334

Vs. Devinder Bajaj[9]**,** the Hon'ble Supreme Court considered the principles governing the award of costs and the necessity of discouraging frivolous and vexatious litigation. These decisions recognise that a successful litigant should not invariably be compelled to bear the financial consequences of unnecessary proceedings initiated by the opposing party. The present case warrants the imposition of costs. Having regard to the prolonged history of litigation, the nature of the objections raised and the resultant prejudice caused to the award-holder, this Court is of the considered view that the present proceedings warrant an appropriate order as to costs.

15. This Court deems it appropriate to impose costs of Rs.5,00,000/- (Rupees Five Lakhs only) upon the petitioner, payable to the award-holder. In that view of the matter, this Court is passing the following:

ORDER

i. Accordingly, the writ petition is ***dismissed*** with costs of Rs.5,00,000/- payable to the

[9] (2010) 8 SCC 1

award holder within 4 weeks from the date of receipt of the copy of the order.

ii. Considering the fact that the Foreign Arbitral Award was rendered in 2005 and has remained unenforced for more than 2 decades, the Executing Court is directed to accord priority to the execution proceedings, avoid unnecessary adjournments, and take all permissible steps to secure the award's enforcement expeditiously, strictly in accordance with law. The entire execution proceedings shall be concluded within a maximum period of 6 months.

iii. Pending I.As if any in this petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

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