

2025:PHHC:037725



**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

(109)

**CR-5999-2024 (O&M)  
Decided on : 19.03.2025**

M/s ISM Focal Point

.....Petitioner

Versus

M/s Medico Abroad

.....Respondent

**CORAM : HON'BLE MS.JUSTICE LAPITA BANERJI**

Present: Mr.Raaj Malhotra, Advocate (through VC)  
Mr.Mukul Gupta, Advocate, for the petitioner.

Mr.Ritesh Chowdhary, Advocate (through VC)  
Mr.Haneesh Kumar, Advocate, for the respondent.

**LAPITA BANERJI, J. (Oral)**

CM-5318-CII-2025

This is an application for placing on record documents as Annexures P-28 to P-33 on behalf of the petitioner.

Accordingly, application CM-5318-CII-2025 is allowed. Said annexures are taken on record, subject to just exceptions.

CM-18368-CII-2024 in/and CR-5999-2024

1. Under challenge in the present revision petition are orders dated July 11, 2019 (Annexure P-1), October 3, 2024, August 23, 2024 and July 3, 2024, passed by the learned Addl.District Judge, Gurugram in Execution Petition No.1046/2019.

2. By filing of Civil Misc. application being CM-5318-CII-2025, the petitioner-applicant has placed on record orders dated October 25, 2024 (Annexure P-28), October 28, 2024 (Annexure P-29), November 20, 2024 (Annexure P-30) and December 17, 2024 (Annexure P-31). Learned

counsel for the applicant submits that the decree-holder should secure the decretal-awarded amount which has already been disbursed to them during the pendency of the application under Section 34 of the Arbitration & Conciliation Act, 1996 (for short, the '1996 Act') before the Addl.Chief Judge, City Civil Court at Telengana.

3. Learned counsel appearing on behalf of the petitioner/judgment-debtor submits that unless the awarded amount is secured by the decree-holder, the judgment-debtor will suffer irreparable loss, injury and prejudice, in the event, the Court in Telangana hearing the application under Section 34 of the 1996 Act sets-aside the award.

4. Issue notice.

5. Mr.Ritesh Chowdhary, Advocate appearing through Video Conferencing on behalf of the respondent/decreed-holder, accepts notice and submits that the judgment-debtor has left no stone unturned to deprive the decree-holder from enjoying the fruits of the arbitral award dated December 18, 2010 (Annexure P-6).

6. This Court has heard learned counsel for the parties and perused the material on record.

7. Certain facts transpire from perusal of the said record which are narrated hereinunder:-

(i) The arbitral award was passed in favour of the respondent/award-holder on December 18, 2010. An application under Section 34 of the 1996 Act was filed by the petitioner/judgment-debtor on March 5, 2015 before the City Civil Court, Telengana.

(ii) An execution application was filed by the respondent/award-holder in 2019 being EA No.5 of 2019 before

the Telengana Court and later the same was transferred to the Court of Addl.District Judge, Gurugram as assets were situate within the territorial jurisdiction of the District Court at Gurugram. The present execution application EXE 1046 of 2019 is before the District Court, Gurugram. Warrants of attachment were issued on July 11, 2019.

(iii) An application for stay of operation of the award was made by the petitioner/judgment-debtor under Section 36(2) of the 1996 Act.

(iv) Vide order dated July 3, 2024, the Executing Court directed payment of 50% of the awarded amount for setting aside of the *ex parte* directions passed vide order dated July 11, 2019 in the execution proceedings. Despite the said opportunity, nothing was deposited by the judgment-debtor. On August 8, 2019, application was made for setting aside of the *ex parte* order.

(v) Challenging the *ex parte* order dated July 11, 2019, the petitioner/judgment-debtor moved to Supreme Court. The Hon'ble Supreme Court had initially granted stay of the execution proceedings but the application before the Apex Court was withdrawn by the judgment-debtor on October 18, 2022.

(vi) It was recorded by the Executing Court that several opportunities were given to the judgment-debtor to address arguments but same was not done.

(vii) The decree-holder filed its calculation-sheet on March 16, 2024 and the same was not controverted.

(viii) The judgment-debtor kept on insisting for setting aside the *ex parte* order dated July 11, 2019. The same was allowed on July 3, 2024 upon payment of 50% of the awarded amount within a week. No compliance of the aforesaid term was made by the judgment-debtor.

(ix) Vide order dated October 19, 2024, the learned Addl.District Judge, Gurugram on the issue of territorial jurisdiction recorded that the Apex Court, in its order dated October 18, 2022 had deleted the portion of the order dated January 8, 2019 passed by a Coordinate Bench wherein it was held that the relief under Section 36 of the 1996 Act could be prayed for in the Court where the application under Section 34 of the 1996 Act was pending.

(x) Therefore, it was held that the Executing Court at Gurugram had the jurisdiction to decide the application under Section 36 of the 1996 Act.

(xi) Vide the said order dated October 19, 2024, it was also held that the competent Court had the jurisdiction to independently consider the execution application filed by the decree-holder. After discussing the provisions of Section 36(2) of the 1996 Act, the learned Court came to the finding that no stay was warranted and the application under Section 36 of the 1996 Act was dismissed.

(xii) Applications were filed by the judgment-debtor under Section 114 read with Order XLVII Rule 1 of the Civil Procedure Code for review of the orders passed by the Executing Court. It was again sought to be contended that since

application under Section 34 of the 1996 Act was pending, the Executing Court should not direct any coercive action.

(xiii) The learned Addl.District Judge held that the conduct of the judgment-debtor was evasive which warranted the proceedings to be continued *ex parte*.

(xiv) Due to the failure on the part of the judgment-debtor to comply with the condition of deposit of 50% of the awarded amount, again warrants of attachment was issued in the same terms as the order dated July 11, 2019.

(xv) The learned Addl.District Judge recorded that the judgment-debtor has filed several frivolous applications to stall the execution proceedings.

(xvi) The application under Section 34 of the 1996 Act was filed beyond the period of limitation before the Court in Telengana. The judgment-debtor also did not act diligently to comply with the orders passed by the Court hearing the Section 34 application.

(xvii) 1/4<sup>th</sup> of the arbitral award was directed to be deposited with the Court hearing the Section 34 application for stay of the arbitral award. Even that order was not complied with by the judgment-debtor.

(xviii) Several representations were made to put in personal bank guarantee instead of cash deposit of 1/4<sup>th</sup> of the arbitral award. The same were also dismissed by the Courts at Telengana.

(xix) In the circumstances, the learned Addl.District Judge came to the finding that the judgment-debtor had no respect for the

directions passed by the Courts and dismissed the applications filed by it with costs assessed @ Rs.50,000/- and Rs.1,00,000/-.

8. This Court has noticed the conduct of the judgment-debtor and does not see any reason to saddle the award-holder with any term or condition regarding furnishing of security for disbursement of the awarded amount. The same has already been disbursed and such satisfaction is recorded vide order dated December 17, 2024 passed by the learned Addl.District Judge, Gurugram.

9. It is an unfortunate case where the award-holder could not enjoy the fruits of the decree/award for more than 24 years due to the conduct of the judgment-debtor. The Hon'ble Apex Court in **Periyammal (Dead) through LRs & others Vs. Rajamani & another**, [2025] 3 S.C.R. 540 and **Rahul S.Shah Vs. Jinendra Kumar Gandhi & others**, 2021 (6) SCC 418 has directed that a decree/award needs to be executed with a period of 6 months from filing of the application and provisions of Order 21 should be strictly complied with. Nothing has been brought on record to show that the application under Section 34 of the 1996 Act was pursued diligently before the Court concerned. Accordingly, this Court finds CM-5325-CII-2025 to be a frivolous one. The same is **dismissed**.

10. In view of the aforesaid discussion, the present Civil Revision being CR-5999-2024 is also **dismissed**.

11. Pending application(s), if any, are accordingly, disposed of.

March 19, 2025  
*s/ sailesh*

(LAPITA BANERJI)  
JUDGE

Whether speaking/reasoned :  
Whether Reportable :

Yes/No  
Yes/No