

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 2497 OF 2025
IN
COMMERCIAL EXECUTION APPLICATION NO. 39 OF 2025

Ajay Ghanshyamdas Goenka

...Applicant

V/s.

Alfred Micheal Arambhan

...Respondent

Mr. Rashmin Khandekar with Mr. Abhishek Khare, Mr. Pranav Nair and
Mr. Tanishq Dube i/b Khare Legal Chambers for the Applicant.

Mr. Muttahar Khan i/b Ms. Bimal Bhabhde for the Respondent.

CORAM : ABHAY AHUJA, J.
DATE : 10th DECEMBER, 2025

PC. :

1. This Interim Application *inter-alia* seeks directions to the Judgment Debtor to forthwith surrender and deposit his passport before this Court until the final disposal of the execution proceedings.

2. Mr. Khandekar, learned Counsel appears for the Applicant-Judgment Creditor and submits that despite a decree dated 29th January, 2019 for 3,47,12,222/- along with interest at the rate of 18% in favour of the Applicant, the Judgment Debtor has till date not paid anything and today along with interest the outstanding amount is approximately Rs. 8 Crs. Mr. Khandekar submits that even the disclosures made have been insufficient and oral examination under

Order XXI Rule 41 of the Code of Civil Procedure, 1908 is still going on. Mr. Khandekar submits that on 9th January, 2025, during the cross-examination, the Judgment Debtor has admitted that he is presently residing with his daughter at Flat No. 1301, 13th Floor, Sterling Seaface at Worli, Mumbai-400 018 and is dependent on her. Mr. Khandekar tenders across the bar the order dated 9th January, 2025 and refers to answers to the questions no. 3, 32, 33 and 34 which indicate that the Judgment Debtor is residing with his daughter and dependent on her. Mr. Khandekar also draws this Court's attention to paragraph 3 at page 3 of the additional affidavit in support of his contentions. That by order dated 25th February, 2025, considering the circumstances, this Court had directed the Judgment Debtor not to leave the jurisdiction of this Court, which order has been continued from time to time.

3. It is submitted that thereafter on 11th August, 2025, this Court recorded that the Judgment Debtor has failed to comply with the terms of the decree and that there was an outstanding of over Rs. 3.8 Crs and appointed the Court Receiver in terms of prayer Clauses (a) to (d) of the Interim Application No. 2498 of 2025. Mr. Khandekar submits that against the said order an appeal came to be filed on behalf of the Judgment Debtor and by order dated 16th September, 2025, the Appeal

Court has disposed of the Appeal by consent of the parties to sell the property in Bengaluru viz. 1031/5, Gitanjali Layout, 2nd Cross HAL 3rd Stage, New Thippasandra Post Office, Bengaluru-560075, upon the terms contained therein, permitting the Judgment Debtor for the purpose of negotiations and completing the sale transaction of the said property travel to Bengaluru city with an undertaking to return to Mumbai as soon as the sale agreement is executed and registered, but not later than the end of the 45 days' period. It has been recorded in the said order that the sale transaction of the Bengaluru property would partially satisfy the decretal amount and it was open to the Applicant herein to proceed with the execution proceedings for the balance amount under the decree.

4. It has also recorded in the said order that in the event of failure of the Judgment Debtor to deposit the amounts as per paragraphs 6 and 8, the order dated 11th August, 2025 in the Interim Application No. 2498 of 2025 would stand revived automatically without further reference to the Court and the Court Receiver would proceed to take physical possession of the property.

5. Mr. Khandekar submits that although the 45 days' period has elapsed, no sale of the Bengaluru property has been effected and that

in accordance with the Appeal Court order, this execution proceedings have revived.

6. Mr. Khandekar submits that however, this is not the only reason to seek circulation before this Court, but as has been submitted in the Application before this Court today, that the daughter of the Judgment Debtor on whom the Judgment Debtor is fully dependent has obtained the Golden Residence Visa from the United Arab Emirates (“UAE”), which clearly permits the Defendant to move to Dubai and stay there for 10 years. Mr. Khandekar submits that the Applicant apprehends that in view of the obtention of the Golden Residence Visa by the daughter, the Judgment Debtor would move to Dubai completely frustrating the execution of the decree and that, therefore, this Court may direct the Judgment Debtor to deposit his Passport in this Court until the entire decretal amount is recovered.

7. Mr. Khandekar submits that although there are other prayers sought for in the Application, however, today he has instructions to only press prayer Clause (a), seeking deposit of the Passport of the Judgment Debtor.

8. On the other hand Mr. Khan, learned Counsel appearing for the Respondent-Judgment Debtor submits that some time be granted to file reply to the Interim Application.

9. Mr. Khan submits that it is due to the lien that has been marked with respect to the Bengaluru property that although there is a purchaser to the said property, the registration of the sale deed in respect of the said property has not been effected till date. That the Judgment Debtor is in the process of resolving the said issue. Mr. Khan has submitted that, however, he has instructions to undertake on behalf of his client that he would not apply for any visa to leave the country.

10. I have heard the learned Counsel at length and also perused the Application, the additional affidavit and the various orders that have been tendered across the bar.

11. It is pertinent to note that by order dated 25th February, 2025, this Court had directed that the Judgment Debtor shall not leave the jurisdiction of this Court, which order was continued from time to time. However, by the order of the Appeal Court and only for the purpose of negotiations and completing the sale transaction of the Bengaluru property, the Judgment Debtor was granted liberty to travel to

Bengaluru with an undertaking to return to Mumbai as soon as the sale agreement was executed and registered, but not later than the end of the 45 days period, as contemplated in paragraph 5 of the said order. It is, therefore, clear that not only the Execution Court but also the Appeal Court was concerned about the Judgment Debtor leaving the jurisdiction of this Court.

12. A perusal of the paragraph 3 of the additional affidavit indicates that the Judgment debtor has on 9th January, 2025 admitted on oath that he is presently residing with his daughter. Also the order dated 9th January, 2025 which contains cross-examination of the Judgment Debtor on S.A. in answers to questions no. 3, 32,33 and 34 also indicate that he is living with his daughter and his daughter is also paying for his living and is dependent on her. It is also not in dispute that the daughter has recently been issued a Golden Residence Visa by the UAE. A perusal of the annexure-A to the additional affidavit filed on behalf of the Applicant, indicates that the UAE Golden Visa entitles 10 years residency, tax free income and also family sponsorship for spouse, children and dependents.

13. From the submissions made before this Court by Mr. Khandekar and from a perusal of the material before this Court, including the

order dated 9th January, 2025 recording the cross-examination of the Judgment Debtor, this Court is of the *prima facie* view that the Judgment Debtor is dependent on his daughter, who has obtained the Golden Residence Visa from the UAE. That as the dependent, the Judgment Debtor would be entitled to travel and stay to the UAE along with her for ten years and this definitely a cause of concern.

14. In this view of the matter, this Court is inclined to grant prayer Clause (a), which reads thus:-

“(a) direct the Judgment Debtor to forthwith surrender and deposit his passport before this Hon’ble Court until the final disposal of the present execution proceedings, to ensure that he does not leave the territorial jurisdiction of this Hon’ble Court and thereby frustrate the execution of the decree.”

15. Let the Judgment Debtor forthwith surrender and deposit his Passport before this Court by depositing the same with the Prothonotary & Senior Master before leaving the Court premises today.

16. List on **28th January, 2026.**

17. Let reply be filed within a period of three weeks with copy to the others. Rejoinder in two weeks thereafter with copy to the others.