



C.R.P.No.616 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.616 of 2025

Abdul Salim Ali Kunju

... Petitioner

Vs.

Lakshmi Narayanan Murthy

... Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to number the Execution Petition which is e-filed on 10.07.2024 and given filing number as ATN20230003618C202400002 on the file of the Principal District and Sessions Court, Kanchipuram.

For Petitioner : Mr.Sharath Chandran

ORDER

Challenging the order of the learned Principal District and Sessions Judge, Kanchipuram, dated 19.09.2024, returning the Execution Petition which is given filing number as ATN20230003618C202400002, filed by the



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petitioner, to enforce a foreign decree, and to number the said Execution Petition, the present revision has been filed.

2.The petitioner has filed the Execution Petition to enforce the decree passed by the Dubai Court of First Instance, dated 17.08.2022. The decree passed the said Court is as follows :

“Having reviewed the above-mentioned digital file and examining the claim contained therein, where it was found that the conditions of the payment order and notification of payment are fulfilled in accordance with the requirements of the regulations of the Civil Procedures Code, the court ruled in a Commercial Article : to oblige the defendants to pay the plaintiff an amount of AED 650,000 (six hundred and fifty thousand dirhams) with legal interest at the rate of 5% from the date of claim until full payment, and to pay fees, expenses and five hundred dirhams for attorney fees. The court rejected the expeditious execution.”

3.The above decree makes it clear that the Dubai Court has also rejected the expeditious execution, which is reflected in the same decree. When the petitioner sought to execute the decree as against the immovable property situated within the jurisdiction of the Execution Court, the



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Execution Court has returned the Execution Petition on the following

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grounds :

“Heard returned. Whether the decree enclosed herewith is passed by the superior court reciprocation territory are not to be mentioned. If the decree has been passed by the superior court necessary certificate from such superior court stating the extent at provision u/s.44(A)(2) to be enclosed. Whether the reciprocation territory comes under the purview of the central government officer goatee declare has not to be stated. All other defects to be complied with. Time one month.”

4.Challenging the same, the present revision has been filed.

5.Mr.Sharath Chandran, learned counsel for the petitioner, would submit that, as far as the query raised by the Execution Court as to whether the Court which passed the decree is a superior Court is concerned, there is a notification already in this regard. The Court which passed the decree falls within the category of superior Court. As far as the Certificate from such superior Court as per the provisions of Sub-Clause (2) of Section 44A of Code of Civil Procedure is concerned, it is his contention that no such certificate is issued normally in United Arab Emirates. Except United



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Kingdom, no such separate certificate is being issued in other countries.

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When the decree itself indicates that the Court rejected expeditious execution, it means, according to him, the Execution Petition has to be filed where the immovable property situate. It is his further contention that the Full Bench of this Court in *Sheik Ali v. Sheik Mohammed* reported in **(1966) 2 MLJ 346**, has held that Sub-Section (1) of Section 44A does not require the filing of a non-satisfaction certificate as a condition for the District Court to assume jurisdiction. According to him, the said certificate is not necessary to maintain the Execution Petition. He has also brought to the notice of this Court the judgment of the Hon'ble Supreme Court in *Bank of Baroda v. Kotak Mahindra Bank Limited* reported in **(2020) 17 SCC 798**, wherein, the Hon'ble Supreme Court has approved the view of the Full Bench in all other aspects, except with regard to limitation alone. The learned counsel has also brought to the notice of this Court the judgment of the Calcutta High Court in *Radhamani India Ltd. v. Imperial Garments Ltd.* reported in **AIR 2005 Cal 47**, wherein, it is held that no such certificate is required. In support of the above submissions, the learned counsel also brought to the notice of this Court, the Treaty between India and United Arab Emirates in this regard.



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6.I have perused the materials placed before this Court.

7.Insofar as the first query raised by the Execution Court as to whether the Court which passed the decree is a superior Court or not, the notification issued by the Ministry of Law and Justice, dated 17.01.2020, reads as follows :

“G.S.R.38(E) – In exercise of the powers conferred by Explanation 1 to section 44A of the Code of Civil Procedure, 1908 (5 of 1908), the Central Government hereby declares, United Arab Emirates to be a reciprocating territory for the purposes of the said section and the following Courts in United Arab Emirates to be superior Courts of that territory, namely :

(1) Federal :

(a) Federal Supreme Court;

(b) Federal, First Instance and Appeals Court in the Emirates of Abu Dhabi, Sharjah, Ajman, Umm Al Quwain and Fujairah;

(2) Local Courts -

(a) Abu Dhabi Judicial Department;

(b) Dubai Courts;

(c) Ras Al Khaimah Judicial Department;

(d) Courts of Abu Dhabi Global Markets;



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(e) Courts of Dubai International Financial Center.”

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The same makes it clear that Dubai Courts are also considered to be superior Courts as per the above notification.

8.Insofar as the second query raised by the Execution Court with regard to Certificate is concerned, as rightly pointed out by the learned counsel for the petitioner, the Full Bench of this Court, in ***Sheik Ali v. Sheik Mohammed*** reported in ***(1966) 2 MLJ 346***, while answering the issue has held as follows :

*“... The first is what we just now referred to, that before the filing under S.44A(1), the Indian Courts will have no jurisdiction to execute the foreign judgment and before that event. Therefore, there is no possibility of the application of the Limitation Act to foreign judgments. The second is that **Sub-S.(1) of S.44-A does not require the filing of a non-satisfaction certificate as a condition for the District Court to assume jurisdiction. Sub-S.(2) of that section does not pertain to jurisdiction but is in our view procedural; it contains besides a rule of evidence as to the conclusiveness of the certificate in the specified respect.**”*

(emphasis supplied)

9.In the above judgment, the Full Bench has also taken a view with



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regard to limitation. The Hon'ble Supreme Court, in ***Bank of Baroda v. Kotak Mahindra Bank Limited*** reported in (2020) 17 SCC 798, has not approved the view of Full Bench only in respect of limitation alone. The other aspects in the judgment of the Full Bench, particularly with regard to Section 44A(2), have not been overruled. The relevant portion of the judgment of the Hon'ble Supreme Court is extracted hereunder :

“20. Section 44-A clearly provides that it is only after the filing of the certified copy and the certificate, that the provision of Section 47 CPC will become applicable. This clearly indicates that this section only lays down the procedure to be followed by the District Court. Though we do not approve of the view taken by the Madras High Court in Sheik Ali (supra), that limitation will start running on filing of an application under Section 44A, we only approve the following observations:

“(19) To sum up of our conclusions, we are of the view that S. 44-A(1) is confined to the powers and manner of execution and has nothing to do with the law of limitation. The fiction created by the sub-section goes no further and is not for all purposes, but is designed to attract and apply to execution of foreign judgments by the District Court its own powers of execution and the manner of it in relation to its decrees, without reference to limitation...”

10. It is also relevant to note that the Calcutta High Court, on an



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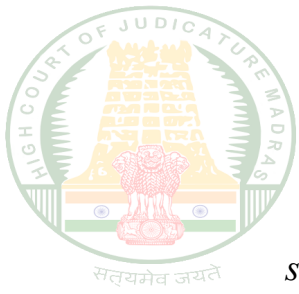
earlier occasion, in ***Radhamani India Ltd. v. Imperial Garments Ltd.***

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reported in ***AIR 2005 Cal 47***, has also held as follows :

“7. Section 44A of the CPC does not say that before filing a decree in a competent District Court in India, the decree-holder is required to put it into execution in the Court which passed it. From it, read with Section 13 of the CPC, it appears that the legislature intended to give two options to the decree-holder - (1) to execute the decree through the Court which passed it, or (2) to execute it wholly or partly through a competent District Court in India. In my view the purpose of Section 44A of the CPC will be defeated, if it is held that a decree of the nature mentioned in it cannot be filed in a competent District Court in India without first putting it into execution in the Court which passed it.

8. As to the nature and form of the certificate that is required to accompany the certified copy of the decree, I find that the statute has not prescribed any form. The purpose of the certificate has been specifically mentioned in Section 44A of the CPC. It will be a conclusive proof of the extent of satisfaction or adjustment of the decree. It is therefore clear that the certificate in any form, issued by the Court which passed the decree, will be a certificate for the purpose of Section 44A of the CPC. When the decree-holder obtains an information slip from the Court which passed the decree to



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show that the decree was not put into execution, there is no reason to say that such information slip will not be a sufficient certificate for the purpose of Section 44A of the CPC; for a decree of the nature mentioned in Section 44A of the CPC can be put into execution either in the superior Court (of the reciprocating territory) which passed the decree, or in a competent District Court in India.

...

11.I am therefore of the view that the first contention raised by learned counsel for judgment-debtor 2 has no merit. The information slip dated April 7th, 2002 produced by the decree-holder together with the certified copy of the decree can be accepted as the certificate required under Section 44A of the CPC. In the information slip (issued by the Court which passed the decree), it has been stated that the decree-holder did not apply for execution of the decree to the Court that passed it. The purport of the information slip is therefore very clear. On the basis of this information slip the decree-holder is entitled to say that no part of the decree has been satisfied, and the decree-holder is entitled to execute it for realization of the entire decreed amount."

(emphasis supplied)

11.A combined reading of the judgments of the Full Bench and Calcutta High Court, makes it clear that a certificate from the superior Court



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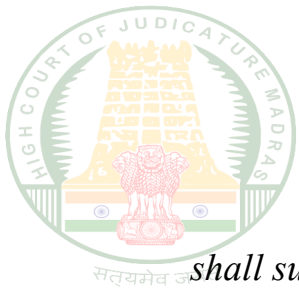
for satisfaction as per the provisions of Section 44(A)(2) is not at all required to maintain a Execution Petition. It is also stated before the Court that such certificate is not normally issued in any of the countries in United Arab Emirates, except United Kingdom.

12.The view of the Full Bench and Calcutta High Court is also substantiated by the subsequent Treaty entered into between the two countries. The Treaty entered into between the Republic of India and United Arab Emirates, dated 25th October, 1999, prescribes the nature of the procedure to be followed when the decree of the Courts in these countries are put in execution in other contracting country. Article XV deals with recognition and execution of decrees and arbitral awards. Article XVII deals with immovable properties and the same reads as follows :

“The courts of the State where immovable property is situated shall be competent to determine the rights connected with such property.”

Article XXIII reads as follows :

“The Central Authority of the Contracting Party requesting recognition or execution of a decree in the other Contracting Party,



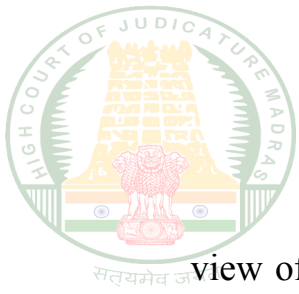
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shall submit the following :

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- i. *an official copy of the decree.*
- ii. *a certificate showing that the decree is final and executable, unless that is provided for in the decree itself.*
- iii. *in case of a decree in absentia, an authenticated copy of the summons or any other document showing that the defendant was duly summoned.*
- iv. *if the request is only for execution of a decree, an official copy in properly executable form.”*

13.The above Articles make it clear that, to execute the decree of the other country, an official copy of the decree, otherwise, an authenticated copy of the decree has to be filed along with the Execution Petition. As the very Treaty is also subsequent to the judgment of the Full Bench, setting out the procedure, the certificate of satisfaction as required under Section 44(A)(2) from the superior Court, in the view of this Court, is not required for maintaining an Execution Petition, since such practice of issuing certificate is also not followed in some countries. When an authenticated copy of the decree is filed and the Execution Petition is numbered, the execution proceedings will be taken out in the presence of other side and any previous execution, if filed anywhere in other countries, can be easily brought to the notice of the Execution Court by the contesting party. In such



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view of the matter, there is no necessity to produce the certificate from the superior Court, as required under Section 44A(2) CPC, at the time of numbering the Execution Petition and it is always open to the judgment debtor to raise such grounds as to the previous satisfaction of the decree in any other countries, in the course of execution proceedings. Therefore, this Court is of the view that the present Execution Petition filed by the petitioner can be numbered.

14. With the above observations, this Civil Revision Petition is allowed. The Execution Court is directed to number the Execution Petition filed by the petitioner and decide the same on its own merits and in accordance with law, after serving notice to the respondents in the Execution Petition. No costs.

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Index : Yes / No

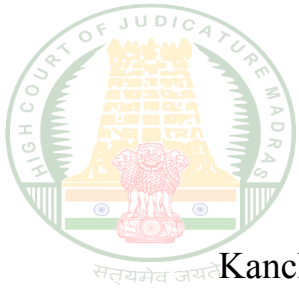
Speaking order : Yes / No

Neutral Citation : Yes / No

To

1. The Principal District and Sessions Judge,

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Kanchipuram.

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2.The Section Officer,
VR Section,
High Court, Madras.

N. SATHISH KUMAR, J.

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