IN THE HIGH COURT OF JHARKHAND AT RANCHI

C.M.P. No. 1159 of 2025

1. Senior Division Commercial Manager (Sr. DCM), Office of Sr. Division Manager (Commercial) South Eastern Railways, Hatia, P.O. –Hatia, P.S.-Jagarnathpur, Dist. Ranchi
2.Senior Divisional Finance Manager, South Eastern Railways Hatia, P.O.Hatia, P.S.Jagarnathpur, Dist. Ranchi
Petitioners are represented through Assistant Commercial Manager, S.E. Railways, Hatia P.O.& P.S.Hatia, Dist. Ranchi Sri Anil Jerai, aged about 53 years, S/o Late D.S. Jerai Resident of Railway quarter No. DS/IV/8-A, P.O.-Hatia,P,S.-Jagannathpur, Ranchi ... Petitioners/Applicants

Versus

M/s. Om Prakash Upadhyay a partnership firm represented through its partner Shankar, S/o Late Motilal Sharma situated and working at village Om Prakash Nagar, Baragarh, PO HatiaTupudana, P.S. Hatia, District- Ranchi

... Opposite Party/ Respondent

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MANOJ PRASAD

For the Petitioners: Mr. Prabhat Kumar Sinha, Advocate
Mr. Parth Jalan, Advocate
Mr.Aditya Mazumdar, Advocate
For the Respondents: Mr.Rahul Kumar Gupta, Advocate
Mr.Shubham Kumar, Advocate

03/Dated: 28.09.2026

1. Heard Mr Prabhat Kumar Sinha, who appears with Mr Parth Jalan and Mr Aditya Mazumdar for the petitioners and Mr Rahul Kumar Gupta, who appears with Mr. Shubham Kumar for the respondents.

2. This C.M.P. challenges the order dated 07.10.2025 passed in Commercial Appeal No. 05 of 2025, dismissing the petitioners' application for a stay of execution of the Award made by the

Facilitation Council under the provisions of the Micro, Small and Medium Enterprises Development Act, 2006 (MSMED Act).

3. Mr Prabhat Kumar Sinha, learned counsel for the petitioners, has raised two grounds in support of this petition.

4. First, by referring to Rule 8 of the Jharkhand Micro, Small & Medium Enterprises Development Rules, 2017, which provides that the Collector of the respective district will recover the amount referred to in the Award of the Facilitation Council "*As like land revenue arrear,"* He submitted that execution proceedings before the Commercial Court were not maintainable.

5. Secondly, Mr Sinha contended that the respondent was registered as a Micro Enterprise in 2015, i.e., on 26.3.2015, and that the claim which was the subject matter of the Arbitral Award related to the years 2004-2009. Therefore, relying on **Jharkhand Urja Vikas Nigam Ltd. v. State of Rajasthan & Ors.,** ***2021 19 SCC 206***, Mr Sinha contended that the Award was a nullity and that the execution proceedings were not maintainable.

6. Mr Rahul Kumar Gupta furnished a chronology of dates and events and submitted that the very institution of this C.M.P. was an abuse of the judicial process, intended to unreasonably delay the execution proceedings on frivolous grounds. Accordingly, he

submitted that this petition should be dismissed with exemplary costs.

7. The rival contentions now fall for our determination.

8. In this case, the MSME Council passed its Award on 28.06.2018, directing the petitioners to pay Rs.12,22,976/- with interest to the respondent. From June 2018 onwards, the petitioners have successfully evaded payment of this amount to the respondent, and this petition is yet another attempt to further that objective.

9. The petitioners challenged the MSME Award by instituting W.P. (C) No.4676 of 2018 directly before this Court. It is reasonable to presume that the ground of nullity must have been raised in W.P. (C) No. 4676 of 2018. In any event, even if such ground was not raised, the principle of constructive res judicata would prima facie apply. This writ petition was dismissed.

10. The petitioners filed L.P.A. No. 258 of 2020, and the L.P.A. was dismissed as withdrawn, with liberty to avail the alternate remedy. Thus, two years passed, and though no interim relief was granted, no payments were made. The respondent was forced to file Commercial Execution Case No.50 of 2019 before the learned Judicial Commissioner, Ranchi, for execution of the Award.

11. This execution proceeding was transferred to the Court of the learned Civil Judge, Senior Division, due to a question of pecuniary jurisdiction.

12. In 2022, the petitioners filed original Arbitration Case No. 10 of 2022, invoking the provisions of Section 34 of the Arbitration and Conciliation Act, 1996, to challenge the award dated 28.06.2018. The Court dismissed it on 12.06.2023 because the appellant, notwithstanding the provisions of Section 19 of the MSMED Act, 2006, failed to deposit 75% of the awarded amount.

13. Petitioners did not appeal the order dated 12.06.2023 but filed a fresh Commercial Arbitration Case No. 15 of 2023, again attempting to invoke Section 34 of the Arbitration and Conciliation Act, 1996. This was dismissed on 27.03.2025 as being hopelessly barred by limitation.

14. Against the order dated 27.03.2025, the petitioners preferred Commercial Appeal No. 5 of 2025, in which they applied for a stay of the Execution Proceedings. By the impugned order dated 07.10.2025, the learned Commissioner rejected this application. Hence, the present C.M.P.

15. From the above narration of facts, it is more than apparent that the petitioners are filing multiple proceedings only to stall the execution of the Award. At least prima facie, it is questionable whether such multiple proceedings were maintainable at all, given the principles of res judicata and constructive res judicata.

16. The petitioners seem bent on raising all possible pleas, however frivolous, to “waste the valuable judicial time” and to take a chance of obtaining a stay of the execution proceedings. By these methods, the petitioners have succeeded in delaying the execution of an Award made in 2018.

17. The argument based on ***Jharkhand Urja Vikas Nigam Ltd***. (Supra) must have been raised in W.P. (C) No. 4676 of 2018, by which the Award was challenged. After the rejection of this petition, the petitioners invoked an alternate remedy. Such invocation was made without even compliance with the statutory provisions of Section 19 of the MSMED Act; therefore, the same was dismissed. Thereafter, the petitioners filed a fresh application, which was barred by limitation.

18. Now the attempt is to argue the challenge on merits by completely disregarding the limitation bar or statutory compliances under the MSMED Act. This attempt is sought to be furthered by instituting repeated proceedings, perhaps with the confidence that disposal of such proceedings, however frivolous, takes considerable time and harasses the award holder into opting for a settlement out of sheer frustration.

19. Considering the conduct of the petitioners and facts and circumstances as borne out from the record, this petition deserves to be dismissed with exemplary costs.

20. Even the argument based on Rule-8 is frivolous, and on that basis, execution cannot be held to be barred, nor can the petitioners delay execution of the Award any further.

21. For all the above reasons, we dismiss this petition with costs of Rs.50,000/- payable by the petitioners to the respondent within two weeks from today. The petitioners are directed to deposit this amount before the executing Court within two weeks from today.

22. If the petitioners have indeed deposited 75% of the awarded amount before the Commercial Court at Ranchi, then such Court should immediately pay this amount to the respondent together with interest, if any, that shall have accrued on this amount.

23. However, it is clarified that such payment shall ultimately abide by any further orders in Commercial Appeal No. 5 of 2025 instituted by the petitioners herein.

24. This petition is dismissed with costs of Rs.50,000/-.

(M.S. Sonak, C.J.)

(Manoj Prasad, J.)

September 28, 2026

Pramanik/Anjali

Uploaded on 01.10.2026