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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ C.R.P. 52/2026, CM APPL. 13360/2026, CM APPL. 13361/2026 CM APPL. 13362/2026.

BHOPRAJ SAHU .....Petitioner

Through: Mr. Vikas Tomar, Advocate.

versus

M/S SIMPLY LOGISTICS PVT. LTD. .....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

<u>O R D E R</u>

% 27.02.2026

<u>C.R.P. 52/2026</u>

1. This petition has been filed assailing the order dated 28th January 2026, passed by the District Judge, (Commercial Courts) 01, Patiala House Court, New Delhi in ***Ex (Comm) No. 210/2023***.

2. Petitioner assails the rejection of the application under Section 47 of Code of Civil Procedure,1908 ('***CPC***') moved by petitioner [*Judgment Debtor No. 1*].

3. The execution petition had been filed by the Award Holder for execution of award dated 26th December 2022, passed by the MSME Arbitral Tribunal comprising of *Sh. Vijay Singhla* as the Sole Arbitrator.

4. The issues raised in the objections were that, petitioner, who

was a director of the company, could not be personally held liable for the acts of the company.

5. Reliance was placed on ***Hrushikesh Panda v Indramani Swain and Anr*** 1986 SCC Online Ori 92, and ***Chanumolu Anil Kumar v. Vasu Cotton and Ginning Mills,*** 1989 SCC OnLine AP 111.

6. The response from the Award Holder was that petitioner was impleaded in his individual capacity and was attempting to evade individual liability towards payment of balance of decretal amount.

7. Response by the Award Holder also stated that petitioner was attempting to escape civil liability since he had siphoned off the money. It was further stated that the goods kept in petitioner's office were his own goods, and that whatever part payments were made to associates, were paid at their instance and without any force or coercion of any kind.

8. The impugned order, relying upon the decision of the Supreme Court in ***Electrosteel Limited v. Ispat Carrier (P) Ltd*** (2025) 7 SCC 773, reached the conclusion that the objections were in nature of pointing out infirmities and errors in the award, which do not relate to any inherent lack of jurisdiction. Therefore, the scope of inquiry in *Section 47* application could not involve an assessment of the merits of the award itself.

9. *Mr. Vikas Tomar*, counsel for petitioner, seeks to draw attention of this Court to the *paragraph 4* of the Award, stating that the Tribunal was of the view that claimant had supplied/rendered goods and services to the satisfaction of the respondent, and the respondent had duly availed the same and derived benefit therefrom, and thereafter,

despite several demands, failed to discharge its liability.

10. He states that the benefit of the goods, if at all, was taken by the company and not by petitioner herein, who, he alleges was a former director, and, therefore, could not be held liable for the same.

11. In the opinion of this Court, such objections ought to have been taken in a petition under *Section 34* of the Arbitration and Conciliation Act, 1996 [***A&C Act***], which counsel for petitioner admits was never filed.

12. He states that the objections to execution were also filed in 2024, almost 2 years after the Award was rendered.

13. Having forgone the opportunity to file a *Section 34* petition, the objections taken in the *Section 47* application appear to be a desperate attempt to challenge the Award on its merits, which cannot be undertaken in execution proceedings.

14. It is well settled that the scope of inquiry in execution proceedings is narrow and circumscribed. An executing court cannot go behind the decree or examine its correctness on merits and is bound to execute the decree as it stands. The Supreme Court in ***Hiralal Patni v. Kali Nath***, AIR 1962 SC 199, held that:

> *"4. …….the validity of a decree can be challenged in execution proceedings only on the ground that the court which passed the decree was lacking in inherent jurisdiction the sense that it could not have seisin of the case because the subject matter was wholly foreign to its jurisdiction or that the defendant was dead at the time the suit had been instituted or decree passed, or some such other ground which could have the effect of rendering the court entirely lacking in jurisdiction in respect of the subject-matter of the suit or over the parties to it."*.

15. Similarly, in ***Vasudev Dhanjibhai Modi v. Rajabhai Abdul Rehman***, (1970) 1 SCC 670, the Supreme Court reiterated that an executing court cannot go behind the decree and objections relating to its legality or correctness are impermissible, save where the decree is a nullity. Relevant paragraphs are extracted as under:

> "*6. A court executing a decree cannot go behind the decree: between the parties or their representatives it must take the decree according to its tenor, and cannot entertain any objection that the decree was incorrect in law or on facts. Until it is set aside by an appropriate proceeding in appeal or revision, a decree even if it be erroneous is still binding between the parties.*
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> *7. When a decree which is a nullity, for instance, where it is passed without bringing the legal representative on the record of a person who was dead at the date of the decree, or against a ruling prince without a certificate, is sought to be executed an objection in that behalf may be raised in a proceeding for execution. Again, when the decree is made by a court which has no inherent jurisdiction to make objection as to its validity may be raised in an execution proceeding if the objection appears on the face of the record: where the objection as to the jurisdiction of the Court to pass the decree does not appear on the face of the record and requires examination of the questions raised and decided at the trial or which could have been but have not been raised, the executing Court will have no jurisdiction to entertain an objection as to the validity of the decree even on the ground of absence of jurisdiction. In Jnanendra Mohan Bhaduri v. Rabindra Nath Chakravarti [LR 60 IA 71] the Judicial Committee held that where a decree was passed upon an award made under the provisions of the Indian Arbitration Act, 1899, an objection in the course of the execution proceeding that the decree was made without jurisdiction, since under the Indian Arbitration Act, 1899,*

there is no provision for making a decree upon an award, was competent. That was a case in which the decree was on the face of the record without jurisdiction."

(emphasis added)

16. In the context of arbitral awards, the statutory framework under the A&C Act makes it clear that any challenge to the validity of an award must be brought under *Section 34* within the prescribed limitation; upon expiry thereof, the award attains finality and becomes enforceable as a decree. Recently this Court in ***Anglo American Metallurgical Coal (P) Ltd. v. MMTC Ltd***. 2025 SCC OnLine Del 105, reiterated that enforcement proceedings cannot be converted into a forum for re-agitating objections on merits, and the execution cannot assume the character of a merits review. Relevant paragraphs are extracted as under:

> "***41.*** *The principle of limited court interference, inter alia, is one of the fundamental feature of 1996 Act as it ensures that the arbitration process remains an efficient and autonomous mechanism for resolving disputes without unnecessary interference by the Courts. The Supreme Court in Vidya Drolia v. Durga Trading Corpn. [Vidya Drolia v. Durga Trading Corpn., (2021) 2 SCC 1 : (2021) 1 SCC (Civ) 549] has held that the principle of party autonomy goes hand in hand with the principle of limited court intervention, this being the fundamental principle underlying modern arbitration law. For the sake of perusal, relevant portion is extracted below : (SCC p. 70, para 72)*
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> > *"72. … By putting party autonomy on a high pedestal, the Act mandates that the parties to a valid arbitration agreement must abide by the consensual and agreed mode of dispute resolution. The courts must show due respect to*

arbitration agreements particularly in commercial settings by staying the court proceedings, unless the legislative language is to the contrary. The principle of party autonomy goes hand in hand with the principle of limited court intervention, this being the fundamental principle underlying modern arbitration law….”

………

***53.** The legislature by using the phrase “such award shall be enforced in accordance with the provisions of the Civil Procedure Code” only intends to “enforce” an award in the same manner and procedure as contemplated in CPC without altering the nature and character of an award. The provisions of the CPC are only applicable to the extent of “enforcement” of an award such as attachment, sale, auction, detention, etc. which are reflected in Order 21 CPC. The legislature did not intend to permit a challenge to an award during enforcement proceedings again on merits as this would be contrary to the objectives of the 1996 Act which aim to ensure finality and limited judicial interference. The challenge to an award is only to be made under Section 34 of the 1996 Act. Once the award passes the scrutiny under Section 34 or the period to challenge an award under Section 34 lapses, the award becomes final and binding to the parties therein by virtue of Section 35 of the 1996 Act.*

***54.** If the objections under Section 47CPC are allowed to be entertained during the enforcement proceedings of an award, it would effectively open a second round for challenging the award which the legislature did not intend to do as the same would undermine the provision of Section 34 i.e. challenge to award on limited grounds available as mentioned therein and render the finality granted by Section 35, meaningless. Further, if such interpretation is allowed, the same would defeat the purpose of the 1996 Act which is to streamline arbitration and reduce the prolonged litigation. In addition, allowing objections would not only delay the finality of disputes* *but would also nullify the basic contours of the 1996 Act. Any particular provision of a statute has to be harmoniously construed so as not to render any other provisions of the statute otiose/inconsistent with the other provisions.*"

(emphasis added)

17. Accordingly, the petition is dismissed.

18. Pending applications are rendered infructuous.

19. Order be uploaded on the website of this Court.

ANISH DAYAL, J

FEBRUARY 27, 2026/RK/tk