

Foreign Award Can Be Enforced And Executed By High Court In Same Proceeding Even Without Ordinary Original Civil Jurisdiction: Madhya Pradesh High Court

Authors: Vasanth Rajasekaran* and **Harshvardhan Korada****

Introduction

In a recent decision in **Moshers vs. Shri Mittal Agritech Pvt. Ltd.** [2026:MPHC-IND:23867], the High Court of Madhya Pradesh ("**High Court**"), while dealing with the execution of a foreign arbitral award which had already been declared enforceable, held that the same High Court which determines enforceability under Sections 47 and 48 of the Arbitration and Conciliation Act, 1996 ("**Arbitration Act**") can proceed to execute the award as a deemed decree under Section 49. The High Court clarified that this position is not altered merely because it does not exercise ordinary original civil jurisdiction. It further held that recognition, enforcement and execution of a foreign award need not be pursued through separate proceedings. In this article, we briefly navigate through the facts and findings in the aforesaid decision.

Facts

The petitioner sought enforcement of a foreign arbitral award dated 26.08.2022 rendered in arbitration proceedings administered by the Grain and Feed Trade Association. The application was filed under Sections 44 to 49 of the Arbitration Act.

By an earlier order dated 08.05.2026, the High Court rejected the objections raised by the respondent to enforcement and held that the foreign award was enforceable as a decree of the High Court. In doing so, the High Court had also considered whether a composite proceeding could be maintained for recognition and enforcement of the foreign award and its subsequent execution. Relying upon **Fuerst Day Lawson Ltd. vs. Jindal Exports Ltd.** [(2001) 6 SCC 356] and **LMJ International Limited vs. Sleepwell Industries Company Limited** [(2019) 5 SCC 302], the High Court held that separate proceedings were not required.

After the award had been declared enforceable, the respondent raised an oral objection to the High Court proceeding with execution. It contended that once the award became a deemed decree under Section 49 of the Arbitration Act, it was executable in accordance with the Code of Civil Procedure, 1908 ("**CPC**") and ought to be transmitted to a subordinate court for execution because the High Court did not exercise ordinary original civil jurisdiction. The respondent also submitted that the High Court did not possess the administrative machinery ordinarily associated with execution proceedings under Order XXI of the CPC.

Submissions

The respondent relied upon Sections 38 and 39 of the CPC to contend that a decree may be executed either by the court which passed it or by a court to which it is sent for execution. On this basis, it was submitted that the foreign award, having acquired the status of a deemed decree, could and should be transferred to the competent District Court or Commercial Court for execution.

The petitioner, on the other hand, submitted that the statutory scheme under Part II of the Arbitration Act contemplated enforcement and execution before the High Court itself. Reliance was placed upon **Government of India vs. Vedanta Ltd.** [(2020) 10 SCC 1], wherein the Supreme Court explained that a foreign award becomes enforceable as a deemed decree only after completion of the stages contemplated under Sections 47 and 48, and that the expression "**that Court**" in Section 49 refers to the Indian court which adjudicated upon recognition and enforcement.

The petitioner further relied upon **OCI Corporation vs. Kandla Export Corporation** [2016:GUJHC:44379-DB], where the Gujarat High Court, despite not exercising ordinary original civil jurisdiction, held that proceedings for enforcement of foreign awards were required to be dealt with by the concerned High Court following the amendment to Section 47 of the Arbitration Act. Reliance was also placed upon **Cereales Y. Servicios Agrícolas de Burgo S.L. vs. Sethi Agritech Pvt. Ltd.** [MCC No. 1834/2023, order dated 05.05.2025], in which a co-ordinate Bench of the High Court had proceeded with execution of a foreign award.

Findings

(i) Enforcement And Execution Of A Foreign Award Form Part Of The Same Proceeding

The High Court observed that the statutory scheme under Sections 47 to 49 of the Arbitration Act contemplates distinct stages within a single proceeding. At the first stage, the Court determines whether the foreign award satisfies the requirements for enforcement under Sections 47 and 48. Once the award is declared enforceable, Section 49 provides that it shall be deemed to be a decree of "**that Court**", following which effective steps for execution may be undertaken.

In this regard, the High Court relied upon **Fuerst Day Lawson Ltd. vs. Jindal Exports Ltd.** [(2001) 6 SCC 356], which held that requiring separate proceedings, first for deciding enforceability and thereafter for execution, would result in unnecessary multiplicity and would defeat the objective of speedy enforcement under the Arbitration Act. The High Court also referred to **Government of India vs. Vedanta Ltd.** [(2020) 10 SCC 1], which reiterated that an award holder is entitled to seek recognition and enforcement through a common petition and that, once enforceability is established, the Court may proceed to take further effective steps for execution.

Accordingly, the High Court rejected the proposition that the completion of the enforceability stage required the award holder to institute or pursue a separate execution proceeding before another court.

(ii) The High Court Which Declares The Foreign Award Enforceable Can Execute It

The High Court then considered the effect of the amended definition of "**Court**" under Section 47 of the Arbitration Act. It noted that, for enforcement of a foreign award, the competent court is the concerned High Court. Once such High Court is satisfied that the award is enforceable, Section 49 deems the award to be a decree of that very Court.

The High Court again referred to **Government of India vs. Vedanta Ltd.** [(2020) 10 SCC 1], which clarified that the legal fiction under Section 49 is created for enforcement of the foreign award and that the concerned High Court may thereafter enforce the award by taking recourse to Order XXI of the CPC. On this basis, the High Court held that the fact that it did not exercise ordinary original civil jurisdiction did not divest it of competence to execute the foreign award.

The High Court also found support in **OCI Corporation vs. Kandla Export Corporation** [2016:GUJHC:44379-DB], where the Gujarat High Court had treated the High Court as the competent forum for enforcement proceedings after the statutory amendment, notwithstanding the absence of ordinary original civil jurisdiction.

(iii) Absence Of Execution Machinery Does Not Require Immediate Transfer

The respondent's practical objection that the High Court lacked the machinery ordinarily used for execution proceedings was also rejected. The High Court held that such administrative or practical considerations did not affect its jurisdiction to continue with execution.

At the same time, the High Court recognised that if any practical difficulty were to arise during execution, the option of transferring the decree to a competent court under Section 39 of the CPC would remain available. However, it found no reason to direct such transfer at the threshold. In view of the earlier execution undertaken by the co-ordinate Bench in **Cereales Y. Servicios Agrícolas de Burgo S.L. vs. Sethi Agritech Pvt. Ltd.** [MCC No. 1834/2023, order dated 05.05.2025], the High Court directed that the present award also proceed to execution before it.

Consequently, the respondent's objection was rejected. The High Court directed that the matter be registered as a Miscellaneous Civil Case for execution of the award under Order XXI of the CPC and placed before the appropriate roster Bench for further proceedings.

Conclusion

The decision reinforces the streamlined enforcement mechanism contemplated for foreign arbitral awards under Part II of the Arbitration Act. Once the High Court has determined that a foreign award is enforceable under Sections 47 and 48, the award becomes a deemed decree of that High Court under Section 49, and the Court may proceed to execution without requiring the award holder to commence a fresh proceeding before a subordinate court.

The ruling is particularly significant for High Courts which do not exercise ordinary original civil jurisdiction. It clarifies that the absence of such jurisdiction, or of dedicated execution machinery, does not by itself require transmission of the deemed decree to a subordinate court. The power to transfer the decree under the CPC remains available where an actual practical difficulty arises, but that is distinct from the High Court's jurisdiction and competence to undertake execution in the first instance.

The approach is consistent with the broader legislative policy underlying the enforcement of foreign awards, namely, reducing procedural duplication and avoiding successive proceedings for recognition and execution. For award holders, the decision affirms that the same proceeding in which enforceability is determined can continue into execution, thereby preserving the efficiency intended by Sections 47 to 49 of the Arbitration Act.

* **Vasanth Rajasekaran** is the Head and Founder of Trinity Chambers, Delhi.

** **Harshvardhan Korada** is a Counsel at Trinity Chambers, Delhi.

Contact

For any query, help or assistance, please reach out at info@trinitychambers.in or visit us at www.trinitychambers.in.

Authors



Vasanth Rajasekaran
Founder & Head
vasanth@trinitychambers.in



Harshvardhan Korada
Counsel
harshvardhan@trinitychambers.in