$~3

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

\+ W.P.(C) 1950/2018 & CM APPL. 8076/2018

ASIAN PATENT ATTONRNEYS ASSOCIATION (INDIAN GROUP) .....Petitioner

Through: Ms. Swathi Sukumar, Sr. Adv. with Mr. Shrawan Chopra, Mr. Vibhav Mithal, Mr. Achyut Tewari, Ms. Krisha Baweja and Mr. Ritik Raghuvanshi, Advs.

versus

REGISTRAR GENERAL
DELHI HIGH COURT .....Respondent

Through: Dr. Amit George, Mr. Adhishwar Suri, Mr. Bhrigu A. Pamidighantam, Mr. Vaibhav Gandhi, Ms. Rupam Jha, Ms. Medhavi Bhatia and Mr. Kartikey Puneesh, Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT(ORAL)

% 30.01.2026

C. HARI SHANKAR, J.

1. This writ petition assails Administrative Order dated 17 November 2016 issued by the Registrar (Original) of this Court, the relevant part of which reads as under:

> "We have noticed that the Registry is accepting fresh Execution Petitions even in cases in which money decrees have been passed for a sum upto ₹ 2 crores. Since the pecuniary jurisdiction has been enhanced from ₹ 20 lakhs to above ₹ 2 crores in terms of section 4 of Delhi High Court (Amendment) Act, 2015 (Act 23 of 2015) which came into effect from 26.10.2015 vide Notification No. F. No. L-19015/04/2012 Jus dated 26.10.2015, we direct the Registry not to accept such matters as the Jurisdiction to hear such matters lie with the District Courts.

> As regards the pending Execution Petitions in this Court, we direct the Registry to identify such Execution Petitions which have been pending in this Court involving a sum upto ₹ 2 crores for being transferred to the concerned District Courts. A note to the above effect be also published in the Cause List."

2. Consequent on the issuance of the aforesaid administrative order, the following note was also inserted in the cause list of this Court, which reads as under:

> "Pursuant to the order passed by Hon'ble the Chief Justice dated 17.11.2016, fresh Execution Petitions in which money decrees have been passed for a sum up to ₹ 2.00 crors shall not be accepted in this Court as the jurisdiction to hear such matters lies with the District Courts in terms of Section 4 of the Delhi High Court (Amendment) Act, 2015."

3. The impugned Administrative Order was issued consequent to the enhancement of the pecuniary jurisdiction of the Original Side of this Court from ₹ 20 lakhs to ₹ 2 crores by amending the pre-existing Section 5(2)[1] of the Delhi High Court Act, 1966[2], vide Section 2[3] of the Delhi High Court (Amendment) Act, 2015[4].

4. We have heard Ms. Swathi Sukumar, leaned Senior Counsel for the petitioner and Dr. Amit George, learned Counsel for the respondent.

5. At the outset, Ms. Sukumar has restricted her challenge to the

---

[1] **5. Jurisdiction of High Court of Delhi. –**

*****

(2) Notwithstanding anything contained in any law for the time being in force, the High Court of Delhi shall also have in respect of the said territories ordinary original civil jurisdiction in every suit the value of which exceeds rupees twenty lakhs.

[2] "the DHC Act", hereinafter

[3] **2. Amendment of Section 5.** – In sub-section (2) of section 5 of the Delhi High Court Act, 1966, for the words "rupees twenty lakhs", the words "rupees two crores" shall be substituted.

[4] "the Amendment Act", hereinafter

first paragraph of the impugned Administrative Order, which directs the Registry of this Court not to accept Execution Petitions in which the decree is for a sum of ₹ 2 crores or less. She does not assail the second paragraph of the Administrative Order, which directs pending Execution Petitions to be transferred to the concerned District Court.

6. We, therefore, restrict our consideration to the legality, or otherwise, of the first paragraph of the impugned Administrative Order.

7. Ms. Sukumar has drawn our attention to Section 37[5] of the Civil Procedure Code, 1908[6] and, in particular, to the Explanation thereto. Ms. Sukumar submits that, by virtue of the Explanation to Section 37 of the CPC, consequent to enhancement of the pecuniary jurisdiction of District Courts from the pre-existing ₹ 20 lakhs to ₹ 2 crores by the Amendment Act, the position that would result would be that, in cases in which a decree for a sum of less than ₹ 2 crores was passed by this Court, a petition for execution thereof would be maintainable *both* before this Court *as well as* before the concerned District Court having pecuniary jurisdiction over the matter as on the date of filing the Execution Petition.

---

[5] **37. Definition of Court which passed a decree**. – The expression "Court which passed a decree", or words to that effect, shall, in relation to the execution of decrees, unless there is anything repugnant in the subject or context, be deemed to include,—

(a) where the decree to be executed has been passed in the exercise of appellate jurisdiction, the Court of first instance, and

(b) where the Court of first instance has ceased to exist or to have jurisdiction to execute it, the Court which, if the suit wherein the decree was passed was instituted at the time of making the application for the execution of the decree, would have jurisdiction to try such suit.

Explanation. – The Court of first instance does not cease to have jurisdiction to execute a decree merely on the ground that after the institution of the suit wherein the decree was passed or after the passing of the decree, any area has been transferred from the jurisdiction of that Court to the jurisdiction of any other Court; but, in every such case, such other Court shall also have jurisdiction to execute the decree, if at the time of making the application for execution of the decree it would have jurisdiction to try the said suit.

8. She submits that the counter affidavit filed by the High Court in this matter effectively acknowledges this position.

9. Ms. Sukumar has also drawn our attention to the judgment of a Division Bench of this Court in ***Gulab Chand Sharma v. Smt. Saraswati Devi***[7]**,** to assert that the Court of first instance can be said to "ceased to exist" within the meaning of the Section 37(b) of the CPC only if the Court is abolished altogether, and not if the Court ceased to have pecuniary jurisdiction over the subject matter of the proceedings.

10. Ms. Sukumar has also placed reliance on ***Merla Ramanna v. Nallaparaju***[8], particularly paras 20 and 21 thereof, which read as under:

> "20. The next question for consideration is whether the present suit was filed in a court which had jurisdiction to execute the decree in OS No. 25 of 1927. That was a decree passed by the Subordinate Judge of Kakinada, whereas the present suit was filed in the District Court, East Godavari to which the Court of the Subordinate Judge of Kakinada is subordinate. Section 38 of the Civil Procedure Code provides that a decree may be executed either by the court which passed it or by the court to which it is sent for execution. The District Court of East Godavari is neither the court which passed the decree in OS No. 25 of 1927 nor the court to which it had been sent for execution. But it is common ground that when the present suit was instituted in the District Court, East Godavari, it had jurisdiction over the properties, which are the subject-matter of this suit. It is true that by itself this is not sufficient to make the District Court of East Godavari the court which passed the decree for purpose of Section 38, because under Section 37, it is only when the court which passed the decree has ceased to have jurisdiction to execute it that the court which has jurisdiction over the subject-matter when the execution application is presented can be considered as the court which passed the decree. And it is settled law that the court which actually passed

---

[6] "CPC", hereinfter
[7] **AIR 1975 Del 210**
[8] **AIR 1956 SC 87**

the decree does not lose its jurisdiction to execute it, by reason of the subject-matter thereof being transferred subsequently to the jurisdiction of another court. *Vide* ***Seeni Nadan v. Muthusamy Pillai***[9], ***Masrab Khan v. Deb Nath Mali***[10] and ***Jagannath Nathu v. Ichharam Naroba Vani***[11]. But does it follow from this that the District Court, East Godavari has no jurisdiction to entertain the execution application in respect of the decree in OS No. 25 of 1927 passed by the Court of the Subordinate Judge, Kakinada?

21. There is a long course of decisions in the High Court of Calcutta that when jurisdiction over the subject-matter of a decree is transferred to another court, that court is also competent to entertain an application for execution of the decree. *Vide* ***Latchman Pundeh v. Maddan Mohun Shye***[12], ***Jahar v. Kamini Debi***[13] and ***Udit Narain Chaudhuri v. Mathura Prasad***[14]. But in ***Ramier v. Muthukrishna Ayyar***[15], a Full Bench of the Madras High Court has taken a different view, and held that in the absence of an order of transfer by the court which passed the decree, that court alone can entertain an application for execution and not the court to whose jurisdiction the subject-matter has been transferred. This view is supported by the decision in ***Masrab Khan***. It is not necessary in this case to decide which of these two views is correct, because even assuming that the opinion expressed in ***Ramier*** is correct, the present case is governed by the principle laid down in ***Vankamamidi Balakrishnayya v. Nannapaneni Linga Rao***[16]. It was held therein that the court to whose jurisdiction the subject-matter of the decree is transferred acquires inherent jurisdiction over the same by reason of such transfer, and that if it entertains an execution application with reference thereto, it would at the worst be an irregular assumption of jurisdiction and not a total absence of it, and if objection to it is not taken at the earliest opportunity, it must be deemed to have been waived, and cannot be raised at any later stage of the proceedings. That precisely is the position here. We have held that the allegations in the plaint do raise the question of excessive execution, and it was therefore open to the appellant to have raised the plea that the suit was barred by Section 47, and then, there could have been no question of waiver. We have, it is true, permitted the appellant to raise the contention that the present suit is barred by Section 47, and one of the reasons therefor is that the allegations in the plaint are so vague that the appellant might have missed their true import. But that is not a sufficient ground for

[9] AIR 1920 Mad 427
[10] AIR 1942 Cal 321
[11]AIR 1925 Bom 414
[12] ILR (1881) 6 Cal 513
[13] ILR (1901) 28 Cal 238
[14] AIR 1916 Cal 551
[15] AIR 1932 Mad 418
[16] AIR 1943 Mad 449

> relieving him from the consequence which must follow on his failure to raise the objection in his written statement."

11. Responding to the submissions of Ms. Sukumar, Dr. George has placed reliance on Section 2 of the Amendment Act read with Section 5(2) of the DHC Act, to submit that the intent of the impugned administrative order was only to further the purpose of Section 5(2) of the DHC Act as amended.

12. Having heard learned Counsel for the parties, we are of the opinion that it was not open to this Court, even with the approval of Hon'ble the Chief Justice, to impose a threshold bar on parties filing execution petitions in the Registry, in which the decree being executed, was for an amount below ₹ 2 crores, as has been done by the impugned Administrative Order.

13. There are two reasons for us so holding.

14. In the first place, first paragraph of the impugned Administrative Order purports to have been issued in exercise of the jurisdiction conferred by Section 4 of the Amendment Act. Section 4 of the Amendment Act does not envisage imposition of a threshold bar on institution of proceedings with the Registry of this Court. Nor does permit issuance of directions to the Registry not to accept proceedings which are filed before it.

15. The power vested by Section 4 of the Amendment Act is only to transfer proceedings which are pending before this Court immediately

prior to the Amendment Act to the District Court, which has territorial jurisdiction over the matter. As such, we are of the opinion that the direction to the Registry not to accept Execution Petitions in which the decree is for an amount of less than ₹2 crores, as contained in the impugned Administrative Order, cannot sustain in law.

16. The second reason for our decision is that, on first principles, no litigant can be prevented from filing a proceeding in the Registry of a Court. It is open to the Registry to raise an objection, if it is of the view that the proceeding is without jurisdiction. In case such an objection is raised, it is for the Counsel, or the party who has filed the proceeding, to answer the objection. Even if the answer which is provided by the party or the Counsel is not acceptable to the Registry, that does not empower the Registry to refuse to register the matter. If the Registry and the litigant are not able to arrive at a consensus regarding the maintainability of the proceeding, the Registry would have to place the matter before the Court to take a view as to whether the matter is within, or without, jurisdiction. It is always open to the Court, if it is of the view that a frivolous proceeding has been filed, or that the jurisdiction of a Court is being forcibly invoked, to issue deterrent directions, including awarding of costs in appropriate cases. We are firmly of the opinion that there can never be any threshold bar to a party filing a matter before the Registry of a Court.

17. There are cases, fortunately extremely few and far between, in which a litigant is found to be so cantankerous, or incorrigible, that he files, one after another, one frivolous litigation after another. Even in such cases, normally the Court does not completely foreclose the

litigant from filing a fresh proceeding, but, when matters have reached beyond acceptable limits, may mulct the litigant with punitive costs and direct that, till such costs are not deposited, no fresh proceeding should be accepted from him. We are, however, not concerned with any such instance; in any case, such an instance would be restricted to that case, and that litigant.

18. Even on the basic principle that there can be no threshold bar to access to a Court, therefore, we cannot sustain the impugned Administrative Order to the extent it directs the Registry of this Court not to accept execution petitions in which the decree is for an amount of less than ₹ 2 crores.

19. Ms. Sukumar has also endeavoured to convince the Court that, in fact, the Court which has passed the decree can never be divested of the power to hear the execution petition. Her arguments do merit consideration. However, in our view, it would be in the interests of judicial propriety to leave the aspect of whether the proceeding is within, or outside, jurisdiction, to the executing Court which would be ceased of the matter on the judicial side. We are not inclined, while dealing with the validity of the Administrative Order dated 17 November 2016, to issue pre-emptive clarificatory directions regarding the jurisdiction of the Court to entertain the matter.

20. There is a fundamental difference between the filing of a proceeding and entertainment of a proceeding. In ***Lakshmi Rattan Engineering Works Ltd v. CST***[17], the Supreme Court has approved

[17] **AIR 1968 SC 488**

the view of the High Court of Allahabad, in ***Kundan Lal v. Jagan Nath Sharma***[18], that the word "entertain" "(denotes) the point of time at which an application to set aside the sale is heard by the court", and "does not mean the same thing *as the filing of the application* or admission of application by the court".

21. The issue of whether to entertain the petition, or not to entertain the petition, therefore, vests with the Court which hears it on the judicial side. The litigant cannot, however, be barred access to the Court by an administrative direction to the Registry not to accept the petition, or any category of petitions.

22. We, therefore, do not venture any opinion on whether the execution petition would, or would not, be amenable to entertainment by the Court, which would appropriately lie within the province of the concerned learned Judge, or Judges, before whom the matter is placed on the judicial side.

Conclusion

23. Accordingly, we allow the present writ petition in part by setting aside the impugned Administrative Order dated 17 November 2016, to the extent it directs the Registry not to accept execution petitions in which the decree has been passed by this Court but is for a value of less than ₹ 2 crores.

24. It would be open to the Registry to raise an objection with

[18] **AIR 1962 All 547**

respect to jurisdiction, as it always is. However, if the litigant insists that the petition does lie, the Registry would be duty bound to list the matter before the Court on the judicial side, for a view to be taken in that regard.

25. The writ petition stands allowed to the aforesaid extent with no orders as to costs.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

JANUARY 30, 2026*/ss*