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Foreign award enforcement: Delhi High Court clarifies that executing courts cannot directly attach property outside their territorial jurisdiction

The Delhi High Court (“**Delhi HC**”) in *Daiichi Sankyo Company Limited vs. Malvinder Mohan Singh and Ors.*¹, *inter alia* held that an executing court is barred from attaching property situated outside its territorial jurisdiction. It must, instead, issue a precept under Section 46 of the Code of Civil Procedure, 1908 (“**CPC**”) to the court within whose territorial jurisdiction the property is situated, for attachment of the property.

Brief facts

A foreign arbitral award was rendered by the International Chamber of Commerce at Singapore in favour of Daiichi Sankyo Company Limited (“**Decree Holder**”) against Malvinder Mohan Singh and others (“**Judgment Debtors**”). The Decree Holder sought attachment of property in Gurugram, Haryana (“**Property**”) through execution proceedings before the Delhi HC.

To this end, the Delhi HC attached the Property and issued precepts to Civil Judge, Gurugram (“**Civil Judge**”) for attachment and its sale in 2021. On December 15, 2023, the validity of the precepts was extended by the Delhi HC and on January 11, 2024, the Civil Judge attached the Property again and issued a warrant of sale (“**Impugned Orders**”). An objection application was filed before the Delhi HC by M/s. One Qube Realtors Private Limited (“**Applicant**”) under Order 21 Rules 58 and 59 of the CPC challenging the Impugned Orders, claiming prior ownership of the Property.

The Applicant *inter alia* contended that: (a) Delhi HC lacked territorial jurisdiction to execute the award decree and issue precepts to the Civil Judge; and (b) the Applicant is a *bona fide* purchaser unconnected to the Judgment Debtors.

The Decree Holder *inter alia* contended that: (a) Delhi HC possessed territorial jurisdiction as concurrent execution is permissible when properties are situated in different jurisdictions; (b) Delhi HC was *in-seisin* of the execution proceedings and empowered to issue precepts outside its territorial jurisdiction as the Supreme Court *vide* its judgment² had placed assets in multiple jurisdictions before it for disposal; and (c) the transfer of the Property to the Applicant was designed to evade execution of the award decree.

Issue

Whether the provisions of CPC empower a court to execute an award decree against immovable property situated outside its territorial jurisdiction?

¹ EX. APPL.(OS) 181/2024 in O.M.P. (EFA)(COMM.) 6/2016 (decided on 20 August 2025)

² *Daiichi Sankyo Company Limited vs. Oscar Investments Limited and Ors.*, (2023) 7 SCC 641

Findings and analysis

The Delhi HC dismissed the objection application and *inter alia* held as follows:

1. Section 39(4) of the CPC expressly bars a court from executing a decree in respect of any property that is situated outside the local limits of its jurisdiction. Such decree must be sent for execution to another court of competent jurisdiction;
2. in the event that immovable property outside a court's territorial jurisdiction is required to be attached during execution proceedings, Section 46 of the CPC empowers an executing court to issue a precept to the competent court, i.e., the court within whose territorial jurisdiction the immovable property is situated, to attach the property specified in the precept. Pursuant to a precept being issued, the court of competent jurisdiction can proceed with the execution proceedings in relation to immovable property within its territorial jurisdiction;
3. Section 46 of the CPC also provides for a decree-holder to thereafter apply to the court to which a precept is sent, for sale of the immovable property. Therefore, the decree-holder is also required to file separate execution proceedings before the competent court having territorial jurisdiction, seeking sale of the attached property through the agency of that court. Such execution can run simultaneously with proceedings before the original executing court.
4. any objections to such attachment or sale must be adjudicated upon by the court which has attached the property, i.e., the court of competent territorial jurisdiction; and
5. accordingly, in the present case, a precept was issued to the Civil Judge to attach the Property, and the Decree Holder was given liberty to approach the court of competent territorial jurisdiction for further action.

Conclusion

This judgment underscores the strict territorial discipline embedded in the CPC for execution proceedings. The Delhi HC has clarified that a court executing a foreign award is mandated to follow the prescribed procedure under the CPC while dealing with attachment and sale of properties situated outside its territorial limits. From a commercial perspective, the ruling is significant for foreign investors and award-holders, as it clarifies how arbitral awards can be effectively enforced against assets spread across multiple jurisdictions in India. The decision is a reminder that enforcement strategy must be jurisdiction-sensitive, and procedural shortcuts run the risk of delays in execution and may jeopardise recovery.

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14 Practices and
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