



**PAPER ON:  
EXPEDITING EXECUTION: STRATEGIES FOR SPEEDY  
DISPOSAL**

**WITH SPECIAL REFERENCE TO  
PERIYAMMAL (DEAD) THROUGH LRS & ORS. VS. V.  
RAJAMANI & ANR. ETC. CIVIL APPEAL NOS. 3640-  
3642 OF 2025 (ARISING OUT OF SLP (C) NOS. 8490-  
8492 OF 2020)**

**AND  
OVERCOMING EXECUTION HURDLES**

**DIVISIONAL JUDICIAL SEMINAR, RAIPUR DIVISION  
ON 27.07.2025 AT RAIPUR, C.G.**

**PRESENTATION BY:** DISTRICT & SESSIONS COURT, DISTRICT RAIPUR, C.G.

**UNDER THE ABLE GUIDANCE OF:**  
Shri Balram Prasad Verma  
Principal District & Sessions Judge, Raipur

**A TEAM WORK BY:**

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## INTRODUCTION

*“...persons are and can be dragged till the last ladder of the said hierarchy for receiving justice but even here he only breathes fear of receiving the fruits of that justice for which he has been aspiring to receive. To reach this stage is in itself an achievement and satisfaction as he, by then has passed through a long arduous journey of the procedural law with many hurdles replica of mountain terrain with ridges and furrows. When he is ready to take the bite of that fruit, he has to pass through the same terrain of the procedural law in the execution proceedings, the morose is writ large on his face...”*

Such was the observation made by the Hon’ble Supreme Court in Periyammal (Dead) through LRs & Ors. vs. V. Rajamani & Anr. Etc. <sup>1</sup> When we move to society, it is sometimes heard from the mouth of the successful litigant as well as the wrongdoer in the society that a decree has been traveling a number of years and lastly the winning party lose their interest to execute as they think that it is not possible. Courts having decreed a remedy, it must follow up to ensure that it is being adhere to. It is high time the interest of bonafide civil litigants were saved and this is only possible when a court not only decrees a remedy but also follow it up to ensure that it reaches it logical and fair conclusion.

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<sup>1</sup> 2025 SCC OnLine SC 507

## **A SUMMARY OF THE PERIYAMMAL CASE**

### **Factual Matrix**

The case involves a civil appeal concerning the execution of a decree for specific performance of a sale agreement related to a property. The appellants are the legal representatives of the original plaintiff, while the respondents are individuals claiming possession of the property as cultivating tenants.

The background of the dispute is such that the original suit was filed by Ayyavoo Udayar against the vendors along with respondent no. 01 & 02 who are daughter and son of vendor's sister for specific performance of a sale agreement. The suit was decreed in favor of Ayyavoo Udayar, directing the vendors to execute the sale deed and deliver possession of the property. The case had travelled to Hon'ble High Court and Hon'ble Supreme Court and ultimately the decree was affirmed by the Hon'ble Supreme Court.

Thereafter, the appellants filed execution petitions to enforce the judgment. Sale deed was executed by the execution court however the Respondent no. 01 & 02 approached the High Court for omission of their names from the sale deed, which was in turn allowed by the High Court. Thereafter, the execution faced obstruction from the respondents, who claimed they were in possession of the property and had no knowledge about the execution proceedings. The respondents filed an application under S. 47 CPC, arguing that they were not served notice regarding the execution and that the decree was not binding upon them due to deletion of their names from the sale deed.

The executing court upheld the respondents' objections, stating that they had established their possession of the property and that the appellants had not made a proper claim against them in the execution petition. The High Court affirmed the executing court's decision, emphasizing the lack of notice

to the respondents and the need for the appellants to amend their execution petition to include claims against the respondents.

## Observations of the Hon'ble Supreme Court of India

The Supreme Court found that the lower courts had erred in their assessments. It emphasized that the obstruction by the respondents was not bona fide and indicated collusion with the vendors to frustrate the decree. The Court directed that the appellants be granted possession of the property. The Supreme Court ordered the executing court to ensure that vacant and peaceful possession of the suit property is handed over to the appellants within two months, with the possibility of police assistance if necessary.

The Supreme Court acknowledged the longstanding nature of the dispute and the repeated procedural hurdles that had delayed the enforcement of the decree. The judgment emphasized the difficulties faced by decree-holders in execution proceedings and the necessity of ensuring that procedural laws do not become instruments of injustice.

The Court also delved into the statutory scheme governing execution proceedings, particularly the interplay between Section 47 CPC and Order XXI Rules 97 to 101 CPC. The Court reaffirmed that an executing court is competent to decide all questions relating to execution, discharge, or satisfaction of the decree, including those concerning possession, without requiring the decree-holder to initiate fresh litigation. It was observed that once a decree for specific performance and possession is passed, the decree-holder should not be compelled to undertake additional proceedings merely because the judgment-debtor or third parties attempt to obstruct its enforcement.

In this case, the appellants' attempt to amend the execution petition to explicitly include relief against Respondent Nos. 1 and 2 was deemed to be within the permissible framework. The Court criticized the High Court's

rigid approach in rejecting the amendments on technical grounds, emphasizing that procedural rules should serve the cause of justice rather than frustrate it. While addressing the conduct of the parties, the Court observed that Respondent Nos. 1 and 2 had failed to assert any independent right in a timely manner and had only sought to obstruct execution when it was at the final stage. Their non-participation in the original suit, the appellate proceedings, and the earlier execution proceedings demonstrated a clear pattern of delaying tactics. The Court reiterated that execution proceedings should not be converted into a forum for relitigating issues that had already been settled by a final decree.

In strong terms, the Court criticized the technical approach adopted by the High Court, particularly its refusal to allow amendments in the execution petition. It reiterated that procedural laws should be interpreted in a manner that facilitates justice rather than obstructs it. The Court also expressed its disapproval of the inordinate delay in execution proceedings, emphasizing that a decree-holder must not be compelled to engage in multiple rounds of litigation merely to enjoy the fruits of a decree lawfully obtained.

In view of aforesaid observations, the Hon'ble Supreme Court has issued directions to all courts that execution proceedings must be completed within 6 months from the date of institution.

The corresponding legal provisions for execution of decrees are - Code of Civil Procedure - Section 36 to section 74 read with Order XXI rules 1 to 106. And Chhattisgarh Civil Rules & Orders chapter X rules 184 to 242.

## **TYPES OF DECREES AND MODES OF EXECUTION**

Different types of decrees for execution are as under:

1. Money decree:
2. Decree for specific movable property : order 21 rule 31
3. Decree for specific immovable property: order 21 rules 35 & 36
4. Decree passed against a firm : order 21 rule 50. A decree also can be executed against partners of firm whose names were not mentioned in the plaint in their individual capacity only after obtaining leave of the decretal court as provided in order 21 rule 50 (2) of CPC.
5. Decree for specific performance by execution of a document or a negotiable instrument: order 21 rules 32 & 34. In execution of a decree for specific performance by executing a document, the decree holder has to deposit the amount as per terms of the decree, draft of the document to be executed by the judgment debtor and also the amount required for the general stamps.
6. Decree for unascertained amount: order 21 rule 42. It provides for attachment in cases where future rent, mesne profits or damages for use and occupation or such recurring amounts which have to be ascertained as per 3 the preliminary decree to prevent the judgment debtor from alienating his properties before final ascertainment and passing of a preliminary decree.
7. Decree for restitution of conjugal rights: order 21 rule 33
8. Execution of cross decrees: order 21 rule 18. In such a case a person holding a decree for higher amount can execute decree after giving credit to the amount payable to the judgment debtor in the other decree and proceed against him for the remaining amount.

## Modes of execution

1. By arrest and detention in civil prison (sections 51, 55 to 69, 135,135 (A), order 21 rules 37 to 40 of CPC.
2. By attachment and sale of movable properties.(order 21 rule 43).
3. By attachment and sale of standing crop and agricultural produce (order 21 rules 44& 45)
4. By attachment of debt, share or other movable property not in the possession of judgment debtor (order 21 rule 46-otherwise known as garnishee proceedings).
5. By attachment of salary of government servant (order 21 rule 48)
6. By attachment of salary of private employees (order 21 rule 48A)
7. By attachment of debtor's share in a partnership firm (order 21 rules 49 & 50)
8. By attachment of a negotiable instrument (order 21 rule 51)
9. By attachment of a decree obtained by the judgment debtor in another case (order 21 rule 53)
10. By attachment and sale of immovable property (order 21 rules 54 to 69)
11. Execution of Money Decree:- Money order credit slip, Arrest, Imprisonment and Release, Attachment and Sale
12. Decree for specific performance for restitution of conjugal rights - attachment of property (order 21 rule 32)
13. Decree for specific performance or Injunction - by his detention in the civil prison, or by the attachment of his property, or by both (order 21 rule 32).

### Mode of Attachments of different kinds of properties:

S.no.	Type of Property	Mode of Attachment
1	Movable property in possession of judgement debtor	by actual Seizure and sale if the property is subject to speedy and natural decay.
2	Movable property not in possession of judgement debtor	by order prohibiting person in possession from giving it to judgement debtor.
3	Negotiable instrument	by actual seizure and bringing it to court.
4	Debt not secured by a negotiable Instrument	By an order-prohibiting creditor from recovery of the debt and debtor from paying the debt with a directive to deposit the amount in court.
5	Share in a company	by an order prohibiting the holder from transferring it or receiving dividend.
6	Share or interest in movable property	by notice to the judgement debtor prohibiting him from transferring or charging it.
7	Salary or allowance of employee	by an order that amount shall be withheld from such salary or allowances.
8	Partnership property	by making an order of 1. Attaching the interest share of the partner and partnership. 2. Appointing a receiver of the share. 3. Directing production of accounts. 4. Ordering sale of such interest.

9	Property in custody of other court or officer	by notice requesting that such property may be held subject to order of the court
10	Decree for payment of money or Sale in enforcement of a mortgage or a charge.	By an order of such court.
11	Agricultural produce	By affixing copy of warrant on the land and on the house where judgement debtor resides.
12	Immovable property	By an order prohibiting judgement debtor from charging or transferring it.

## EXPEDITING EXECUTION: STRATEGIES FOR SPEEDY DISPOSAL

### Filing / Limitation

Limitation must be strictly followed. S. 5 of the Limitation Act is not applicable in execution applications. S. 5 of the Limitation Act, 1963 itself provides that the prescribed period of limitation for applications of execution cannot be extended under this section.

Another important thing to note is the doctrine of merger. The Hon'ble Supreme Court in **Balbir Singh v. Baldev Singh**<sup>2</sup> held that:

*“27. The doctrine of merger is founded on the rationale that there cannot be more than one operative decree at a given point of time. The doctrine of merger applies irrespective of whether the appellate court has affirmed, modified or reversed the decree of the trial court.”*

In **Chandi Prasad v. Jagdish Prasad**<sup>3</sup>, the Hon'ble Apex Court held that:

*“20. It is not disputed that all decrees, be they original or appellate, are enforceable. Once a decree is sought to be enforced for the purpose of execution thereof irrespective of being original or appellate, the date of the decree or any subsequent order directing any payment of money or delivery of any property at a certain date would be considered to be the starting period of limitation.”*

Therefore, the period of limitation for filing an execution application is to be counted from the date of the decree drawn up by the Appellate Court.

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<sup>2</sup> 2025 SCC OnLine SC 103

<sup>3</sup> 2004 SCC OnLine SC 1244

## Notice -

If execution application is filed within 2 years from the date of decree, no notice under Order 21 Rule 22 CPC is required to be sent, orders may be passed straight away. In cases where the last orders in previous execution applications were passed within 2 years of fresh execution applications, same rule is applicable. (See Or 21 R22 Proviso)

Also, as per Order 21 Rule 22(2), “notice not necessary if court feels that unreasonable delay will be caused”. In cases of attachment of salary, no notice to pay disbursing officer is necessary. It is sufficient if warrant of attachment is sent to him, he need not be added as respondent as is done in some places.

Regarding the service of processes, use of technology may be very helpful. Video and photographs may be helpful not only in execution but may also be helpful for executing court also. National Serving and Tracking of Electronic Processes (NSTEP) may also be used.

## Legal Representatives in execution proceedings -

If execution application is filed against LRs of the judgment debtor, no separate application to implead them is required to be filed along with the application. If notice is sent to LRs and their reply is taken, inquiry made, order passed and then again application is taken on file, then it will be a waste of time. It is not necessary, it is sufficient if execution application is filed under Order 21 Rule 11 read with S. 50 CPC.

If the judgment debtor dies during the pendency of the execution application, then application needs be filed under S. 50 CPC. Order 22 Rules 3, 4 and 8 are not applicable to execution proceedings as per Order 22 Rule 12.

It was held by the Hon'ble Supreme Court in the case of **V. Uthirapathi v. Ashrab Ali**<sup>4</sup> that:

*“15. It is clear, therefore, that if after the filing of an execution petition in time, the decree-holder dies and his legal representatives do not come on record — or the judgment-debtor dies and his legal representatives are not brought on record, then there is no abatement of the execution petition. If there is no abatement, the position in the eye of law is that the execution petition remains pending on the file of the execution court. If it remains pending and if no time-limit is prescribed to bring the legal representatives on record in execution proceedings, it is open in case of death of the decree-holder, for his legal representative to come on record at any time. The execution application cannot even be dismissed for default behind the back of the decree-holder's legal representatives. In case of death of the judgment-debtor, the decree-holder could file an application to bring the legal representatives of the judgment-debtor on record, at any time. Of course, in case of death of judgment-debtor, the Court can fix a reasonable time for the said purpose and if the decree-holder does not file an application for the aforesaid purpose, the Court can dismiss the execution petition for default. But in any event the execution petition cannot be dismissed as abated. Alternatively, it is also open to the decree-holder's legal representatives, to file a fresh execution petition in case of death of the decree-holder; or, in case of death of the judgment-debtor, the decree-holder can file a fresh execution petition impleading the legal representatives of the judgment-debtor; such a fresh execution petition, if filed, is, in law, only a continuation of the pending execution petition — the one which was filed in time by the decree-holder initially. This is the position under the Code of Civil Procedure.”*

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<sup>4</sup> SCC OnLine SC 774

## Stay of Proceedings -

This is where the proceedings get stuck without any progress. If we strictly follow the provisions and the decisions of the Hon'ble Supreme Court and High Court, the delay would be considerably cut down and the justice will be done in time. A court can stay execution of its own decree under Order 41 Rule 5 but only for a fixed time. Order 21 Rule 29 is for a specific purpose when another suit is pending against the decree holder filed by judgment debtor or other person interested in the same subject matter.

In the absence of stay, execution application must be proceeded with. Normally the parties would approach the executing court for stay under S. 151 CPC. But inherent powers cannot be invoked as per **Damodaran Pillai v. South Indian Bank Ltd.**<sup>5</sup> in which it was held that it is well settled that when a power is to be exercised by a civil court under an express provision, the inherent power cannot be taken recourse to.

Insolvency petitions pending in other courts is not a ground to stay the execution application. The judgment debtor must obtain interim protection order from the Insolvency Court.

## Claims in Execution -

Petitions will be filed making various claims under the provisions S. 47, Order 21 Rules 58, 59, 97 to 100, 105, 106 CPC. Quick disposal of these petitions will consequently reduce the delay in disposal of execution applications. There should be no inquiry in the absence of prima facie case; if obstruction is not bonafide, the objection petition is liable to be rejected, if the obstructionist does not project the obstruction without any just cause, his claim could not be entertained and executing court is not obliged to make an inquiry into the claim of the objector as provided under Rules 97 to 101 CPC. A good example would be the application of doctrine of Lis Pendens in a case

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<sup>5</sup> 2005 SCC OnLine SC 1311

where a person purchasing the property from the judgment debtor during the pendency of the suit has no independent right to property to resist, obstruct or object execution of decree, which is reiterated in Rule 102 as per which claim petition is not maintainable by the person who purchased the property pendente lite.

Under S. 47, the court cannot go behind the decree. Court can interfere only if the decree is null and void without jurisdiction. According to the proviso of Sub-rule 1 of Rule 58, the executing court may refuse to entertain a claim petition i) Where before the claim is preferred or objection is made, the property attached has already been sold ii) Where the court considers that the claim or objection was designedly or unnecessarily delayed.

Any settlement or adjustment or discharge of decree has to be certified by the court under Order 21 Rule 2 CPC. The time limit for invoking this rule is 30 days from the date of payment, adjustment or satisfaction as per Article 125 Limitation Act. The court cannot recognize any such adjustment or satisfaction if it is not certified under Order 21 Rule 2. This prohibition is made under Order 21 Rule 3 as “A payment or adjustment which has not been certified or recorded as aforesaid shall not be recognized by any court executing the decree”. Petitions are filed under S. 47 claiming adjustment or satisfaction or record the said adjustment or satisfaction. Since specific provision under Order 21 Rule 2 and Rule 3 CPC is there, the general provision of S. 47 is not applicable.

The petitions under Order 21 Rules 58, 59 have to be dealt with immediately and with strict consideration of limitation. Only if stay is granted under Order 21 Rule 59 the proceedings must be stayed. A person who has raised his claim once under Order 21 Rule 58 CPC unsuccessfully, cannot re-agitate the same claim under Order 21 Rule 97 CPC. For petitions under Order 21 Rule 97 to 100, Short adjournments shall be given and

removal of obstruction in cases of delivery and the proceedings shall be expedited.

Under Order 21 Rule 72, the decree holder or his benami shall not bid or buy property in court auction sale without permission from court. If the decree holder or his benami is found to have purchased the property in court auction without permission or when permission is rejected, the sale has to be necessarily set aside under Order 21 Rule 72(3). On the other hand, under Order 21 Rule 90, sale can be set aside only when substantial injury is pleaded and proved.

The Hon'ble Supreme Court in case of **Brahmdeo Chaudhary v. Rishikesh Prasad Jaiswal**<sup>6</sup>, observed that court should not insist that possession should be handed over first and then an application under Order 21 Rule 99 be moved to complain about dispossession. In the execution of decree by way of attachment and sale of immovable property, where the objection is set up contending the independent title, distinct or different from that of the judgment debtor, in respect of the property sought to be attached, in such cases, the court is duty bound to protect the interest of such genuine parties.

In the case of **N.S.S. Narayana Sarma v. Goldstone Exports (P) Ltd.**<sup>7</sup>, it has been held that with regard to resistance or obstruction to possession made in execution, all relevant issues arising in the matter on an application under order XXI Rule 97 or Rule 99 shall be determined by the executing court and not by separate suit.

### General Delays –

If there is delay in paying process fee and it is not paid within reasonable time, the execution proceeding may be dismissed. If attachment

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<sup>6</sup> (1997) 3 SCC 694

<sup>7</sup> 2001 SCC OnLine 1388

is already made, an order making attachment to continue for 3 months shall be made. This will reduce the formality of the second application. The second petition can be filed straight away for sale within the period of 3 months.

The petition for payment of amount by instalments must be made within 30 days from the date of decree. The courts shall direct substantial payment as way of part satisfaction on regular hearings. The courts shall be strict in enforcing payment since if small amounts are allowed to be paid, it will take more time and execution application will pending.

In case of arrest under Order 21 Rule 40, instances are there that the decree holder also colludes with the judgment debtor to recover money from him instead of sending him to jail by paying process fee. In such cases, the execution application must be dismissed. On the event of arrest of judgment debtor and when he is produced before the court, the court has only two options either to sentence him to civil prison upon permitting the judgment debtor to show cause against detention and on payment of jail fee or to dismiss the application for non-payment of fee.

For sale adjournment petitions under Order 21 Rule 69 CPC, long adjournment of sale should not be allowed. The petitioner must forego fresh proclamation when he seeks sale adjournment. Short adjournment like two weeks or three weeks alone shall be granted for sale if substantial amount is paid as part satisfaction.

## **DIRECTIONS REGARDING EXECUTION PROCEEDINGS**

In order to expedite execution proceedings, the Hon'ble Supreme Court, in the case of **Rahul S. Shah v. Jinendra Kumar Gandhi**<sup>8</sup>, has laid down significant guidelines aimed at streamlining the execution proceeding and ensuring timely enforcement of decrees, which are mentioned hereinafter:

*“42. All courts dealing with suits and execution proceedings shall mandatorily follow the below mentioned directions:*

*42.1. In suits relating to delivery of possession, the court must examine the parties to the suit under Order 10 in relation to third-party interest and further exercise the power under Order 11 Rule 14 asking parties to disclose and produce documents, upon oath, which are in possession of the parties including declaration pertaining to third-party interest in such properties.*

*42.2. In appropriate cases, where the possession is not in dispute and not a question of fact for adjudication before the court, the court may appoint Commissioner to assess the accurate description and status of the property.*

*42.3. After examination of parties under Order 10 or production of documents under Order 11 or receipt of Commission report, the court must add all necessary or proper parties to the suit, so as to avoid multiplicity of proceedings and also make such joinder of cause of action in the same suit.*

*42.4. Under Order 40 Rule 1 CPC, a Court Receiver can be appointed to monitor the status of the property in question as custodia legis for proper adjudication of the matter.*

*42.5. The court must, before passing the decree, pertaining to delivery of possession of a property ensure that the decree is unambiguous so as to not*

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<sup>8</sup> 2021 SCC OnLine SC 341

*only contain clear description of the property but also having regard to the status of the property.*

**42.6.** *In a money suit, the court must invariably resort to Order 21 Rule 11, ensuring immediate execution of decree for payment of money on oral application.*

**42.7.** *In a suit for payment of money, before settlement of issues, the defendant may be required to disclose his assets on oath, to the extent that he is being made liable in a suit. The court may further, at any stage, in appropriate cases during the pendency of suit, using powers under Section 151 CPC, demand security to ensure satisfaction of any decree.*

**42.8.** *The court exercising jurisdiction under Section 47 or under Order 21 CPC, must not issue notice on an application of third party claiming rights in a mechanical manner. Further, the court should refrain from entertaining any such application(s) that has already been considered by the court while adjudicating the suit or which raises any such issue which otherwise could have been raised and determined during adjudication of suit if due diligence was exercised by the applicant.*

**42.9.** *The court should allow taking of evidence during the execution proceedings only in exceptional and rare cases where the question of fact could not be decided by resorting to any other expeditious method like appointment of Commissioner or calling for electronic materials including photographs or video with affidavits.*

**42.10.** *The court must in appropriate cases where it finds the objection or resistance or claim to be frivolous or mala fide, resort to sub-rule (2) of Rule 98 of Order 21 as well as grant compensatory costs in accordance with Section 35-A.*

**42.11.** *Under Section 60 CPC the term “... in name of the judgment-debtor or by another person in trust for him or on his behalf” should be read*

*liberally to incorporate any other person from whom he may have the ability to derive share, profit or property.*

*42.12. The executing court must dispose of the execution proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay.*

*42.13. The executing court may on satisfaction of the fact that it is not possible to execute the decree without police assistance, direct the police station concerned to provide police assistance to such officials who are working towards execution of the decree. Further, in case an offence against the public servant while discharging his duties is brought to the knowledge of the court, the same must be dealt with stringently in accordance with law.*

*42.14. The Judicial Academies must prepare manuals and ensure continuous training through appropriate mediums to the court personnel/staff executing the warrants, carrying out attachment and sale and any other official duties for executing orders issued by the executing courts.”*

In compliance of said guidelines, by High Court of Chhattisgarh has issued directions No. 6834/Rules/2021, Bilaspur dated 15.07.2021.

## CONCLUSION

The execution of decrees is not merely a mechanical extension of adjudication but the very culmination of justice delivery. A decree without effective execution is nothing more than a paper order. The Supreme Court in **Periyammal v. Rajamani**<sup>9</sup> has underlined the deep-rooted systemic delays and procedural rigidities that often obstruct decree-holders from enjoying the fruits of their hard-earned judgments. It is now imperative that courts adopt a proactive and purposive approach to streamline execution proceedings, eliminate technical roadblocks, and hold obstructive litigants accountable.

The court must also adopt a proactive approach in facilitating and suggesting amicable solutions between the parties, in consonance with the spirit and provision of Code of Civil Procedure. Such an approach not only upholds the objective of effective dispute resolution but also contributes to reducing the burden of prolonged litigation.

Application of provisions under Section 47 and Order XXI CPC, expeditious disposal of objections under Rules 97 to 101, strict adherence to limitation periods, and effective service through technological tools like NSTEP can greatly reduce delays. The principles laid down in **Rahul S. Shah v. Jinendra Kumar Gandhi**<sup>10</sup> provide a practical roadmap to follow. Most importantly, the focus must shift from procedural formalism to substantial justice. A decree granted must be a decree enforced—swiftly, effectively, and justly.

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<sup>9</sup> Supra 1

<sup>10</sup> Supra 8