

# **DIVISIONAL JUDICIAL SEMINAR OF BASTAR DIVISION**

**ON 14.09.2025 AT JAGDALPUR, (C.G.)**

*PAPER ON:*

**EXECUTION OF DECREE BY ARREST AND DETENTION IN  
THE CIVIL PRISON AND ATTACHMENT OF PROPERTY.**

**STRATEGIES FOR TIMELY AND EFFICIENT  
ENFORCEMENT**



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## INTRODUCTION

*It is said that “A Decree without enforcement is like a body without a soul.”*

Out of various stages of a civil suit, execution is the final stage of litigation. In simple terms, “execution” refers to the act of putting the court’s decree or judgment into effect by requiring the judgment debtor to follow the directives in the decree or order and allowing the decree holder to retrieve the item that was awarded to him by the decree. The success and failure of the civil justice dispensation system depends on the successful execution of the decree which in real sense provides relief to the litigant. A decree may be carried out in a number of ways, our topic is limited to two of such modes of execution namely Arrest and Detention, and Attachment of Property.

One of the modes of executing a decree is arrest and detention of the judgment debtor in civil prison. Though arrest and detention are a part of criminal justice system but it finds a place in the civil procedural law also. This mode seeks to enforce a decree by putting a restriction on the personal liberty of the person against whom a decree is passed. Since this mode of enforcement of the decree affects the personal liberty of a person, there has to be a high threshold of satisfaction for the court to order for arrest or detention. This presentation further deals with the legal framework and other nuances of this mode of execution.

Furthermore, a decree may also be executed by way of attachment of the property of the judgement debtor. The main purpose of attaching property is to bring to the notice of the judgment-debtor that the property cannot be transferred or disposed of, and to caution the public against purchasing or otherwise dealing with the attached property during execution proceedings. At the same time, the law safeguards the judgment-debtor by exempting certain categories of his property from attachment and sale.

## PART - I

# EXECUTION OF DECREE BY ARREST AND DETENTION

Article 11 of the International Covenant on Civil and Political Rights (ICCPR) expressly provides that “*no one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.*” This provision reflects that civil debt should not result in deprivation of personal liberty, and it places a restriction on arrest and detention in failure to fulfil civil obligation including as a means of execution of decrees. Section 55 of the Code of Civil Procedure 1908, permits arrest and detention of judgment-debtors as a kind of execution of a decree, such measures, however, must be brought into use sparingly and only where it is established that it is a case of wilful neglect or fraudulent evasion of payment, and not a genuine inability.

### THE FOLLOWING DECREES MAY BE EXECUTED BY THE WAY OF ARREST AND DETENTION:

- I. A decree for the payment of money can be executed by the arrest and detention of the judgment debtor.<sup>1</sup>
- II. Where the decree is for a specific moveable property , it can be executed by the arrest and detention of the judgment; debtor.<sup>2</sup>
- III. Where the decree is for specific performance of the contract or an injunction, the court can execute the decree by arrest and detention of the judgment debtor.<sup>3</sup>

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<sup>1</sup> Rule 30 of Order 21 of CPC

<sup>2</sup> Rule 31 (1) of Order 21 of CPC

<sup>3</sup> Rule 32 (1) of Order 21 of CPC

## LEGAL FRAMEWORK

Sections 55 to 59 and Rules 30 to 41 of Order 21 of the Code of Civil Procedure deals with arrest and detention of the judgment-debtor in civil prison as a mode of execution.

When an application is made seeking the arrest or detention of the judgment-debtor, the burden of proof lies heavily on the decree-holder to establish the circumstances specified under Section 51 of the Code of Civil Procedure, exists for carrying out the arrest and detention of the judgment debtor. Such an application must also be necessarily accompanied by an affidavit setting out the specific grounds on which the arrest or detention is sought.

When a decree is passed for the payment of money and an application is filed seeking the arrest and detention of the judgment-debtor, the court, instead of directly issuing a warrant, first issues a notice requiring the judgment-debtor to appear and show cause as to why he should not be committed to civil prison in execution of the decree. This requirement of issuing notice and providing an opportunity to be heard embodies the principle of natural justice, which mandates that no person shall be condemned without being heard.

A judgment-debtor may be arrested in execution of a decree at any time, on any day, and must be produced before the court as soon as possible. His detention may take place in the civil prison of the district where the court ordering such detention is located, or, if that such prison facility is not available, in another place designated by the State Government for keeping persons so detained by the orders of courts in that district.

The following procedure needs to be adopted while carrying out arrest and detention in execution of a decree:

- I. For the purpose of making an arrest under this section, no dwelling-house shall be entered after sunset and before sunrise;
- II. No outer door of a dwelling-house shall be broken open unless such dwelling-house is in the occupancy of the judgment-debtor and he refuses or in any way prevents access thereto, but when the officer authorized to make the arrest has duly gained access to any dwelling-house, he may break open the door of any room in which he has reason to believe the judgment-debtor is to be found;
- III. If the room is in the actual occupancy of a woman who is not the judgment-debtor and who according to the customs of the country does not appear in public, the officer authorized to make the arrest shall give notice to her that she is at liberty to withdraw, and, after allowing a reasonable time for her to withdraw and giving her reasonable facility for withdrawing, may enter the room for the purpose of making the arrest;
- IV. Where the decree in execution of which a judgment-debtor is arrested, is a decree for the payment of money and the judgment-debtor pays the amount of the decree and the costs of the arrest to the officer arresting him, such officer shall at once release him.

If the decretal amount exceeds five thousand rupees, an individual cannot be detained for more than three months, and that detention for amounts between two and five thousand rupees cannot exceed six weeks. No order for detention of the judgment debtor may be made if the total is less than two thousand rupees.<sup>4</sup>

The purpose of arrest and detention is to provide a remedy to the decree-holder by committing the judgment-debtor to civil prison if he wilfully neglects to pay the decretal amount despite having the means to do so. At the same time, it safeguards genuine debtors whose inability to pay arises from justifiable reasons. To uphold fairness, the court is required to grant the debtor an

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<sup>4</sup> Section 58 of CPC

opportunity to be heard. This provision serves as a corrective mechanism, ensuring that once a decree is passed in favour of the decree-holder, an effective remedy is available against a judgment-debtor who fails to comply, which may include arrest and imprisonment.

### **PERSONS EXEMPT FROM ARREST:**

There are certain classes of persons that are exempted from arrested or detained in execution of a decree which is provided in The Code of Civil Procedure,1908:

- A woman.
- Legal representative of deceased Judgment-debtor.
- Judicial Officers, while going to, presiding in, or returning from their courts.
- The parties, their pleaders, mukhtars, revenue agents and recognised agents and their witnesses acting in obedience to a summons, while going to, or attending or returning from the court.
- Members of Legislative bodies.
- Any person or class of persons, whose arrest, according to the State Government, might be attended with danger or inconvenience to the public.
- A judgment debtor, where the decretal amount does not exceed rupees two thousand.

### **RELEVANT JUDICIAL PRONOUNCEMENTS:**

#### **❖ N. Ramachandra Iyer vs Thomas Mathai<sup>5</sup>**

As per the Interpretation laid down in this judgment, while dealing with execution of money decree by arrest and detention, four situations are expressly and specifically mentioned in the Civil Procedure Code, where the execution court could order arrest and, even in these situations it has to be seen whether the judgment-debtor is actually liable to be arrested.

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<sup>5</sup> AIR 1966 KER 65

The first such situation is if the court is satisfied that the debtor is likely to abscond or leave the jurisdiction to delay execution, arrest can be ordered without prior notice.<sup>6</sup>

The second situation is if the debtor fails to appear in response to a notice under Rule 37(1), the court may issue a warrant for arrest.<sup>7</sup>

The third situation is that after an enquiry under Rule 40(1) and subject to Section 51, the court may order detention in civil prison and arrest if the debtor is not already in custody.<sup>8</sup>

The fourth situation is that a judgment-debtor released under Rule 40 may be re-arrested.<sup>9</sup>

Even In the above said four cases, before arrest order could be passed, the court should find that any one of the reasons mentioned in the proviso to Section 51, C.P.C. exists, in order to justify the arrest of the judgment debtor.

❖ **Jolly George Varghese and another vs. The Bank of Cochin**<sup>10</sup>

In this landmark judgment relating to execution by arrest and detention in civil prison, it was held that "the simple default to discharge is not enough. There must be some element of bad faith beyond mere indifference to pay, some deliberate or recusant disposition in the past or alternatively current means to pay the decree or substantial part of it. The provision under Section 51 of C.P.C emphasis the need to establish not mere omission to pay but an attitude of refusal on demand verging on dishonest disowning of the obligation under the decree. Here consideration of the debtor's other pressing needs and straitened circumstances will play prominently".

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<sup>6</sup> Order 21, Rule 37(1), C.P.C

<sup>7</sup> Order 21, Rule 37(2), C.P.C.

<sup>8</sup> Order 21, Rule 40(3), C.P.C.

<sup>9</sup> Order 21, Rule 40(4), C.P.C

<sup>10</sup> (1980) 2 SCC 360

❖ **G. Sudhakara Reddy v. M/S. Jahnvi Chit Fund Pvt. Ltd. And Others**<sup>11</sup>

*6... which is contra to the intendment of Section 51 CPC lays down that it is for the decree holder to establish to the satisfaction of the Court that the judgment debtor has means to pay the decree amount and is refusing or neglecting to pay the same”.*

❖ **Xavier vs Canara Bank**<sup>12</sup>

While harmoniously construing execution of arrest and Article 11 of ICCPR Hon’ble High Court of Kerala held that if the debtor has the means but refuses to pay, it is not violative of Article 11 of the ICCPR.

❖ **Kalidindi Rama Raju Vs. Vijaya Bank (Nationalised), Bhimavaram, W.G.Dist.**<sup>13</sup>

*10. “4. The courts may also examine whether other modes of recovery are available to the decree holder and it is necessary order arrest for recovery of amount and whether the Judgment Debtor are wilfully and intentionally neglecting to discharge the decree debts and courts may examine the relevant circumstances also in this regard”.*

❖ **Korada Narayana Rao Vs. Kudara Mutyalu**<sup>14</sup>

*4. “As held by Courts on many earlier occasions, unless there is a deliberate intention not to pay despite possessing sufficient means, an order of arrest should not be granted.”*



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<sup>11</sup> 2006 ALT 4 665

<sup>12</sup> 1969 SCC Online Ker 147

<sup>13</sup> 2002 AIHC 1627

<sup>14</sup> 2018 (0) Supreme (AP) 899

## Part - II

# ATTACHMENT OF PROPERTY

### LEGAL FRAMEWORK

Attachment is provided in the Civil Procedure Code at Two Stages: (i) One is stage before passing of Judgment which is provided under Order-38 of CPC from Rules 5 to 13; (ii) Second is after passing of decree by way of attachment of movables, attachment of Salary Attachment of a decree attachment of Negotiable Instruments, 9 attachment of Immovables. This presentation concerns only about the second form of attachment mentioned hereinbefore.

Before the order for attachment is passed, the court must be satisfied itself that the Judgment debtor has attachable interest in the property, and that the property is not exempt from attachment. The court must than determine the mode of attachment. Attachment can be made by seizure or by an order prohibiting the judgment debtor or other person from dealing with the property or by charging the debtor's interest in the property.

According Section 64 where attachment has been made any private transfer or delivery of the property attached or transfer of interest in such property is prohibited. When shares or Negotiable Instruments are attached any payment made to the Judgment debtor of any debt or payment of dividends or other monies contrary to attachment is void as against all claims of enforcement under the attachment. If there is a contract entered into and registered before attachment, this will not come in the way of making private transfer of property or delivering the property which is attached or transfer of interest of the property.

If, in a suit where attachment has been made, and subsequently the court finds that the attachment was sought on insufficient grounds, it may, upon the defendant's application, order payment of reasonable compensation to the defendant, not exceeding Rs. 50,000.<sup>15</sup>

### **HOW ATTACHMENT IS AFFECTED?**

In order to proclaim the order of attachment shall be proclaimed adjacent to the property sought to be attached by beat of Drum, or other customary mode. A copy of the order should also be displayed at the following locations:

1. On a conspicuous part of the property.
2. In the courthouse.
3. In the District Collector's office and Tahsildar's office if the property is liable to government revenue.
4. In the Gram Panchayat office if the property is land situated in a village.
5. In the municipal office if the property lies within municipal limits.

### **WHAT PROPERTY CAN BE ATTACHED?**

In Execution Proceedings provided for attachment of the property of the Judgment debtor is provided under different Rules of Order 21 of Civil Procedure Code. It also provides for the manner of the attachment of movables and agricultural property and custody of the movables and agricultural property.

#### **The following items can be attached:**

- 1) Movables (R. 43 and 43-A)
- 2) Agricultural produce (R. 44 and 45)
- 3) Debt, Shares and movable property not in the possession of the Judgment debtor (R. 46).
- 4) Attachment of share in the movables (R. 47)

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<sup>15</sup> Section 95 of CPC

- 5) Attachment of Salary of Govt. Employees, Railway Company or Local Authority (R. 48).
- 6) Attachment of salary or allowances of private employees (R. 48 A)
- 7) Attachment of partnership property - (R. 41)
- 8) Attachment of Negotiable Instruments (R. 51)
- 9) Attachment of property in the custody of Court or Public Officer (R. 52)
- 10) Attachment of Decree (R. 53)
- 11) Attachment of Immovable property (R. 54).

**PROPERTY WHICH CANNOT BE ATTACHED:**

- I. The necessary wearing apparel, cooking vessels, beds and bedding of the judgment debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;
- II. Tools of artisans, and, where the judgment debtor is an agriculturist, his implements of husbandry and such cattle and seed grain as may in the opinion of the court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section;
- III. Houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist or a labourer or a domestic servant and occupied by him;
- IV. Books of account;
- V. A mere right to sue for damages;
- VI. Any right of personal service;
- VII. Stipends and gratuities allowed to pensioners of the Government or of a local authority or of any other employer, or payable out of any service

- family pension fund notified in the Official Gazette by the Central Government or the State Government in this behalf, and political pension;
- VIII. The wages of labourers and domestic servants, whether payable in money or in kind;
- IX. Salary to the extent of the first one thousand rupees and two-thirds of the remainder in execution of any decree other than a decree for maintenance: Provided that where any part of such portion of the salary as is liable to attachment has been under attachment, whether continuously or intermittently, for a total period of twenty four months, such portion shall be exempt from attachment until the expiry of a further period of twelve months, and, where such attachment has been made in execution of one and the same decree, shall, after the attachment has continued for a total period of twenty four months, be finally exempt from attachment in execution of that decree; one-third of the salary in execution of any decree for maintenance;
- X. Any allowance forming part of the emoluments of any servant of the Government or of any
- XI. Servant of a railway company or local authority which the appropriate Government may, by notification in the Official Gazette, declare to be exempt from attachment, and any subsistence grant or allowance made to any such servant while under suspension;
- XII. A right to future maintenance;
- XIII. Any allowance declared by any Indian law to be exempt from liability to attachment or sale in execution of a decree; and
- XIV. Where the judgment debtor is a person liable for the payment of land revenue, any movable property which, under any law for the time being applicable to him, is exempt from sale for the recovery of an arrear of such revenue.

All claims or objections challenging the attachment of property on the ground that it is not liable for attachment must be filed before the executing court.

However, the court will not entertain such applications if the property has already been sold or if the claim is deliberately delayed.

## **PRECEPT**

While discussing attachment as a mode of execution it is equally important to have an insight about a concept of Precept

A precept is an order issued by the court that passed the decree, directing a court competent to execute the decree to attach property belonging to the judgment-debtor. Under Section 46, the decree-holding court may, upon the decree-holder's application, issue a precept to the court in whose jurisdiction the judgment-debtor's property is located, directing it to attach the property specified in the precept.

The main purpose of attachment by precept is to allow the decree-holder to secure an interim attachment of the judgment-debtor's property located within the jurisdiction of another court, especially when there is a chance that the decree-holder might otherwise be deprived of the benefits of the decree. Thus a precept aims to prevent the alienation of a judgment-debtor's property outside the jurisdiction of the court that passed the decree, thereby safeguarding the interests of the decree-holder. The effect of the attachment in pursuance of the precept is, as a general rule, limited to two months unless the case is covered by the proviso.

## **GARNISHEE**

Garnishee proceedings allow a decree-holder to claim money or property of the judgment-debtor that is held by a third party basically, the debtor of the judgment-debtor. Through this process, the executing court can direct the third party to pay the debt owed to the judgment-debtor directly to the decree-holder.

Any payment made by the garnishee in compliance with the court's order constitutes a valid discharge of their obligation to the judgment-debtor. The primary object of a garnishee order is to make the debt due by the debtor of the judgment-debtor available to the decree-holder in execution without driving him to a suit.



## Part - III

# STRATEGIES FOR TIMELY AND EFFICIENT ENFORCEMENT:

### CHALLENGES IN EXECUTION:

Before discussing strategies for timely and efficient enforcement, it is necessary to first understand the challenges of execution. Despite clear provisions, execution remains the weakest link in civil justice. Common challenges include:

1. Delay in Execution Proceedings – multiple adjournments, procedural technicalities.
2. Concealment of Assets by Judgment-Debtors – debtors transfer or hide property.
3. Ineffective Role of Court Officers – bailiffs, process servers, etc., often lack efficiency or integrity.
4. Multiplicity of Litigation – judgment-debtor files objections, appeals, or new suits to stall execution.
5. Inadequate Use of Technology – lack of asset-tracing mechanisms, poor inter-departmental coordination. The Supreme Court in **Rahul S. Shah v. Jinendra Kumar Gandhi**<sup>16</sup> noted these challenges and issued directions to ensure that decree-holders are not driven into another long battle after winning their case.

### STRATEGIES:

Having discussed the challenges that come across during the execution proceeding here below are the strategies which are crucial for effective and timely enforcement of the decree:

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<sup>16</sup> (2021) 6 SCC 418

## 1. Early Disclosure of Assets :

- **Why important?**

The biggest hurdle in execution is when the judgment-debtor conceals or transfers assets. If assets are disclosed early, enforcement becomes straightforward.

- **Judicial Recognition:**

- In **Rahul S. Shah v. Jinendra Kumar Gandhi**<sup>17</sup>, the Supreme Court held that trial courts should insist on **mandatory asset disclosure** at the time of filing the written statement itself.

- The Court said: “Courts must, at the first instance, demand an affidavit of assets, income and expenditure from the judgment-debtor, so that execution does not turn into a separate prolonged litigation.”

These directions have been reiterated by the Hon’ble Supreme Court in **Periyammal (Dead) through LRs & Ors. vs. V. Rajamani & Anr. Etc.**<sup>18</sup>

- **Practical Example:**

In commercial disputes, courts under the **Commercial Courts Act, 2015** already follow this practice — making it easier to enforce money decrees.

## 2. Strict Scrutiny Before Granting Stay:

- **Problem:** Many decree-holders suffer because appellate courts grant automatic stays on execution. This encourages dilatory tactics.

- **Case Laws:**

- **Asian Resurfacing of Road Agency Pvt. Ltd. v. CBI**<sup>19</sup> – The Supreme Court held that **interim orders, including stays, should not continue indefinitely**, and they should automatically lapse after six months unless specifically extended.

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<sup>17</sup> (2021) 6 SCC 418

<sup>18</sup> 2025 SCC Online SC 507

<sup>19</sup> (2018) 16 SCC 299

- In the case of **Radhey Shyam v. Chhabi Nath**<sup>20</sup>– The Court stressed that **execution should not be stalled mechanically**; reasons must be recorded.

- **Strategy:**

- Courts should insist on **deposit of decretal amount or security** as a condition before granting stay, so that the decree-holder's interests are protected.

### 3. Efficient Use of Arrest and Detention:

- **Purpose:** Not to punish poverty, but to deal with deliberate evasion.

- **Legal Safeguards:**

- **Order XXI Rule 37 CPC** – Notice before arrest.

- **Section 56 CPC** – Women cannot be arrested in money decree cases.

- **Case Laws:**

- **Jolly George Varghese v. Bank of Cochin**<sup>21</sup>– The Court held that a debtor cannot be detained merely for inability to pay. There must be proof of **bad faith or dishonest refusal**.

- **Strategy:**

Courts should use arrest as a **last but firm resort** to prevent the message that decrees can be disobeyed with impunity.

### 4. Proactive Attachment of Property:

- **Problem:** Many judgment-debtors transfer or sell their property after decree.

- **Case Laws:**

- **Shyam Singh v. Collector, District Hamirpur**<sup>22</sup> – The Supreme Court held that attachment must be real and effective, not merely symbolic.

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<sup>20</sup> (2015) 5 SCC 423

<sup>21</sup> (1980) 2 SCC 360

<sup>22</sup> (1993) supp (1) SCC 693

- **Satyawati v. Rajinder Singh**<sup>23</sup>– The Court lamented delays in execution, observing that a decree-holder should not be driven to endless litigation to realize the fruits of a decree. The Court emphasized **swift attachment and sale**.

- **Strategy:**

- Use **Order XXI Rule 41 CPC**, which empowers courts to summon the debtor for oral examination regarding assets.
- Immediate **attachment before judgment** under Order XXXVIII Rule 5 CPC if there’s likelihood of asset transfer.
- Use of **e-auction portals** for sale of attached assets.

## 5. Reducing Procedural Delays:

- **Case Laws:**

- **Rahul S. Shah (2021)**<sup>24</sup> – The Supreme Court directed all High Courts to issue practice directions to ensure time-bound execution, avoiding unnecessary adjournments.
- **Satyawati (2013)**<sup>25</sup> – Again emphasized that the decree-holder must not be left to chase justice for decades.

- **Strategy:**

- Fixing **strict timelines** for each stage of execution (attachment, auction, delivery).
- Limiting adjournments; adopting a **“zero-tolerance” approach** towards frivolous objections.
- Using **summary disposal** of objections filed under Section 47 CPC.

## 6. Technology Integration :

- **Importance:** Manual searches of assets are slow and inefficient. Digital integration can revolutionize execution.

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<sup>23</sup> (2013) 9 SCC 491

<sup>24</sup> (2021) 6 SCC 418

<sup>25</sup> (2013) 9 SCC 491

- **Case Laws:**

- **Rahul S. Shah (2021)** – Directed High Courts to frame rules for **technology-driven execution**, including linking courts with land and asset databases.

- **Strategy:**

- Integrating courts with **UIDAI, banks, land registries, RTO databases, company registrars.**
- Adoption of **e-filing and e-auctions** for attachment and sale.
- Example: The Delhi High Court has initiated **“Execution Cell” with digital records to track assets quickly.**

## **7. Capacity Building and Training:**

- **Problem:** Bailiffs and process servers often delay or mishandle execution. Judges to sometimes treat execution as a secondary matter.

- **Case Laws:**

- In **Rahul S. Shah (2021)**, the Supreme Court **stressed training of judicial officers and sensitization of staff.**

- **Strategy:**

- Regular training programs for judges on **asset tracing, handling objections, and human rights safeguards.**
- Formation of **special execution wings** in every district court.
- Accountability mechanisms for bailiffs and process servers. Clerks of the civil courts must be made aware as to what entry has to be made and what documents necessarily be attached with processes of warrants of attachment/ seizure/ delivery of possession, before sending it Nazarat for execution.

## 8. Accountability and Monitoring

- **Case Laws:**

- **A. Venkatasubbiah Naidu v. S. Chellappan**<sup>26</sup>– Supreme Court said courts have an obligation to ensure that **decree-holder gets the benefit of decree without delay.**

- **Surya Dev Rai v. Ram Chander Rai**<sup>27</sup>– Reinforced that supervisory powers under Article 227 must be exercised to check arbitrary delays in execution.

- **Strategy:**

- **Periodic monitoring** by High Courts of pending execution cases.
- Annual statistics on **Shyam Singh v. Collector, District Hamirpur** execution disposal to assess efficiency.
- Fixing accountability of court staff where deliberate delay is noticed.



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<sup>26</sup> (2000) 7 SCC 695

<sup>27</sup> (2003) 6 SCC 675

## CASE LAW REFERENCE TABLE FOR EXECUTION OF DECREE:

<b>Satyawati v. Rajinder Singh</b>	Court emphasized upon swift attachment and sale.
<b>Asian Resurfacing of Road Agency Pvt. Ltd. v. CBI</b>	Hon'ble Supreme Court held that interim orders, including stays, should not continue indefinitely.
<b>Jolly George Varghese vs. Bank of Cochin</b>	No arrest for mere inability to pay; must show dishonesty or bad faith.
<b>N. Ramachandra Iyer vs Thomas Mathai</b>	Where the execution court could order arrest and, even in these situations it has to be seen whether the judgment-debtor is actually liable to be arrested.
<b>Rahul S. Shah vs. Jinendra Kumar Gandhi</b>	Comprehensive guidelines for speedy execution.
<b>Shyam Singh v. Collector, District Hamirpur</b>	Hon'ble Supreme Court held that attachment must be real and effective, not merely symbolic.
<b>Xavier vs Canara Bank</b>	Harmoniously construing execution of arrest and Article 11 of ICCPR.
<b>Kalidindi Rama Raju Vs. Vijaya Bank (Nationalised), Bhimavaram, W.G.Dist</b>	The courts may also examine whether other modes of recovery are available to the decree holder and it is necessary order arrest for recovery of amount.
<b>G. Sudhakara Reddy v. M/S. Jahnvi Chit Fund Pvt. Ltd. And Others</b>	That it is for the decree holder to establish to the satisfaction of the Court that the judgment debtor has means to pay the decree amount and is refusing or neglecting to pay the same

# CONCLUSION

## *Interest Reipublicae ut sit finis litium*

It is in the interest of the state that there must be an end to litigation

The execution proceeding is primarily designed to enforce court decrees and ensure justice through practical implementation of judgments. Hon'ble Justice Dalveer Bhandari has said that the credibility of the entire judicial system is at stake if a decree passed by a competent court is not effectively executed. Execution of decree is not a mechanical exercise.

Among the various modes of execution, arrest and detention of the judgment-debtor and attachment of property serve as effective remedies, but their success depends on being exercised strictly within the framework of law and with due regard to the rights of both parties. Yet, procedural delays, frivolous objections, and weak enforcement mechanisms often dilute their effectiveness and hinder timely relief to the decree-holder.

Therefore, timely and effective execution requires both legal and administrative strategies, including strict adherence to procedural timelines, curbing dilatory tactics, leveraging technology for asset tracing, judicial monitoring of execution proceedings, etc. A proactive role by courts, supported by accountability from both decree-holders and judgment-debtors, is essential to prevent decrees from becoming mere orders and to ensure that justice is meaningfully delivered.

If courts, lawyers and decree holders adopt timely strategies, asset disclosure, use of technology, strict timelines and penal consequences for evasion execution can truly serve its purpose to transform judicial pronouncements into lived justice. Ultimately, the success of the justice delivery system depends not merely on adjudication of rights but on their enforcement. Strengthening the machinery of execution through practical strategies is essential to uphold the rule of law and sustain public faith in the efficacy of the civil justice system.

# **THANK YOU**



BY

**DISTRICT AND SESSIONS COURT, UTTAR  
BASTAR KANKER (C.G.)**