IN THE COURT OF THE ADDITIONAL JUDICIAL COMMISSIONER-III-CUM-PRESIDING OFFICER, COMMERCIAL COURT, RANCHI

Commercial Execution No- 05/2024

CNR:JHRN01-007214-2024

Schedule XLII – High Court (J) 9a [Old (M) 164.]

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District-Ranchi.

IN THE COURT OF ADDL. JUDICIAL COMMISSIONER-III-CUM- PRESIDING OFFICER, COMMERCIAL COURT, RANCHI

Present;- **Akhilesh Kumar Tiwari,**
A.J.C-III-cum-Presiding Officer,
Commercial Court, Ranchi

Dated, Ranchi the 25th Day of June, 2026.

M/S Bharat Heavy Electricals Limited, a Central Government Company incorporated under the Companies Act, 1956 having its registered office at BHEL House, Siri Fort, New Delhi – 110049 through, General Manager (HoU), Renovation and Modernization Systerms Group (RMSG), Block – 7 Annexe, Piplani BHEL, Bhopal - 462022

......Plaintiff/Decree Holder

V e r s u s

1. Jharkhand Urja Utpadan Nigam Ltd. Engineering Building, Dhurwa, Ranchi – 834004, Jharkhand,

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	25/06/2026	**2. The Chairman & Managing Director, Jharkhand Urja Utpadan Nigam Ltd.** Engineering Building Dhurwa, Ranchi – 834004, Jharkhand **....... Defendants/Judgment Debtors** Counsel for the Decree Holder : - **Sri Arvind Kumar Singh,** **Sri P.R. Das, Ld. Advocates.** Counsel for the Judgment Debotrs :- **Sri Vivek Aditya,** **Ld. A.C-II,** **Sri Sachin Kumar,** **Sr. Standing Ld. Counsel,** **Sri Ravi Prakash Mishra,** **Ld. Adv.** **ORDER** A petition was filed by Judgment Debtors under Under Section 47 read with section 151 of the Code of Civil Procedure (henceforth CPC), to hold and declare that the Judgment & Decree passed by the Ld. Presiding Officer, Commercial Court, Ranchi in Commercial Suit No. 16/2025 (BHEL Vrs. JUUNL) is null and void and the present Execution filed for executing the said null and void judgment and decree cannot be executed by the process of law. Reply to this petition was also filed by the Decree-Holder.	

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	Contd.....P/2 **25/06/2026**	**CONTENTION OF Ld. COUNSEL OF JUDGMENT DEBTORS :** The learned counsel of Judgment debtors submitted that the present petition is being filed by the Judgment Debtor to hold and declare that the judgment & Decree passed by the Learned Presiding officer, Commercial Court, RANCHI in Commercial Suit No.16/2015 (BHEL versus JUUNL) is null and void and the present Execution filed for executing the said null and void judgment and decree cannot be executed by the process of law. The judgment debtor has not filed any other application with same or similar prayer. The present matter relates to a work order dated 25.04 2012 executed between the parties for a total amount of Rs. 20.87 Crores. The said work order was issued to the Decree Holder on the assurance of the decree holder that the rates quoted were same/similar works to PSU(s) and/or Government Organisations. The decree holder without any consent of the judgment debtor, engaged a sub-contractor for the execution of the work under contract. Thereafter, various complaints were received by the Judgment Debtor alleging huge irregularities committed in the rate quoted by the decree holder. In	

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	Contd.....P/3 25/06/2026	view of the said complaints, the Judgment Debtor on 26.06.2012 sought for a cost justification. On 20.07.2015, the Corporate Vigilance Department **('CVD')** of the Judgment Debtor itself revealed that **(a)** Irregularities were committed at the tender evaluation stage which facilitated the award of the Work to M/s NPEL (the sub-contractor); **(b)** Pre-bid tie up as entered into with M/s NPEL and the rate quoted by M/s NPEL was adopted as a base to quote the rate to the Petitioner **(c)** overhauling for the same machine was done by the Decree holder at Rs. 34.50 Lakh in the year 2005. The award of work to M/s NPEL at Rs. 15.32 Crore was reasonably high as compared to similar work carried out in 2005 at Rs. 34.50 Lakh **(d)** Financial irregularities in the said work was already under investigation by the Central Bureau of Investigation. Thereafter, a Commercial Suit bearing No. 16 of 2015 was filed by the Decree Holder before the Hon'ble Commercial Court, Jharkhand. The Hon'ble Court vide a Judgment and order dated 09.10.2023 in Commercial Suit No. 16 of 2015 has been pleased to hold the Judgment Debtor liable to pay an amount of Rs. 26,59,34,854/-and compound interest from 12.11.2014 at the rate of	

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	Contd.....P/4 **25/06/2026**	15.75% per annum calculated quarterly. The Plaintiff issued two legal notices dated 10.12.2014 and 15.01.2015 respectively, calling upon the Opposite Parties to clear the entire outstanding amount along with interest @ 15.75% per annum compounded quarterly, within a period of 30 days from the date of receipt of the said notices. The said notices categorically stated that failure to comply would compel the Plaintiff to take appropriate legal recourse in accordance with law. The learned counsel of Judgment debtors further submitted that Section 80 of the Code of Civil Procedure, 1908, mandates the issuance of a prior statutory notice before the institution of any suit against the Government or a public officer in respect of any act purported to be done in official capacity, and further requires that a period of two months must elapse from the date of service of such notice before the suit can be validly instituted. The legislative intent behind the said provision is to afford the Government or public authority sufficient opportunity to examine the claim and, if deemed. However, in the present case, the Opposite Parties were granted only 30 days time in the legal notice to discharge the alleged liability, and	

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	Contd.....P/5 **25/06/2026**	thereafter the Plaintiff proceeded to initiate execution proceedings, which is contrary to the mandatory requirement and spirit of Section 80 CPC. ***The ratio laid down by the Hon'ble Supreme Court in Civil Appeal No. 10047 of 2025 (Arising out of SLP (C) No. 1842 of 2023), Odisha State Financial Corporation VS. Vigyan Chemical Industries & Others,*** reinforces the principle that statutory mandates concerning procedural requirements, including service and waiting periods under Section 80 CPC, must be scrupulously complied with, particularly in matters involving public authorities, and failure to do so can vitiate subsequent proceedings. The learned counsel for the Judgment debtor cited the mandates propounded by the Hon'ble Apex Court ***in 2025 Live Law (SC) 772*** *" 25.1. A plain reading of the above provision makes it explicit that no suit can be instituted against the State, an instrumentality of the State, or a public officer acting in his official capacity, without issuance of a notice under Section 80 CPC. It is not to be forgotten that when a notice is to be given, it must also be given on the appropriate party. The object of this section is to ensure that public funds and judicial time are not wasted on unwarranted litigation. The*	

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	Contd.....P/6 **25/06/2026**	*requirement of notice provides the Government an opportunity to examine the claim, reconsider its position, and potentially resolve the dispute out of Court, thereby avoiding unnecessary proceedings. There is an express bar on a civil court from entertaining a suit against the government or its instrumentalities, without compliance with the said provision. Section 80 (2) further provides that notice under Section 80(1) may be dispensed with, but only with the leave of the court. This Court has consistently held that the requirement of notice under Section 80 is mandatory and must be strictly complied with. Failure to do so renders the suit liable to be dismissed at the threshold. The absence of such notice is treated as a formal defect, and the Court is duty bound to reject the plaint under Order VII Rule 11(d) CPC, if it discloses non-compliance with Section 80 CPC".* The learned counsel for the Judgment Debtor canvas his argument regarding the scope of Section 47 C.P.C highlighting the ratio the propound by the Hon'ble Apex Court in *"15. As per Section 47 the Executing Court is empowered to examine the questions relating to execution, discharge, or satisfaction of the*	

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	Contd.....P/7 **25/06/2026**	*decree. It cannot go beyond the decree, but at the same time, when a plea is raised that the decree is a nullity and hence, unenforceable, the executing court is bound to examine and decide such an application on its merits.* *16. It is a settled position of law that a court executing a decree cannot go behind the decree passed between the parties or their representatives, unless the decree is a nullity. The court must execute the decree according to its tenor, and cannot entertain objections on the ground that the decree is erroneous in law or on facts. Until it is set aside by an appropriate proceeding in appeal or revision, a decree, even if erroneous, rernains binding on the parties. A decree may, however, be challenged in execution proceedings, if it is a nullity for instance, if it is passed without bringing on record the legal representative of a person who was dead at the time the decree was passed, or where the cause of action was not maintainable, or if it was passed against a ruling prince without a certificate. An objection in that behalf may be raised in the execution proceedings. Similarly, when the decree is made by a court that has no inherent jurisdiction to pass it, an objection as to its validity may be raised in an execution proceeding if the*	

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	Contd.....P/8 **25/06/2026**	*objection appears on the face of the record.* *17. While dealing with the scope of interference of the Executing Court in modifying a decree or award, this Court in Brakewel Automotive Components (India) (P) Ltd. v. P.R. Selvam Alagappan, held as follows:* *"23. Though this view has echoed time out of number in similar pronouncements of this Court, in Dhurandhar Prasad Singh v. Jai Prakash University [Dhurandhar Prasad Singh v. Jai Prakash University, (2001) 6 SCC 534 AIR 2001 SC 2552), while dwelling on the scope of Section 47 of the Code, it was ruled that the powers of the court thereunder are quite different and much narrower than those in appeal/revision or review. It was reiterated that the exercise of power under Section 47 of the Code is microscopic and lies in a very narrow inspection hole and an executing court can allow objection to the executability of the decree if it is found that the same is void ab initio and is a nullity, apart from the ground that it is not capable of execution under the law, either because the same was passed in ignorance of such provision of law or the law was promulgated making a decree unexecutable after its passing"*	

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	Contd.....P/9 **25/06/2026**	*18. The validity of a decree can be challenged in execution proceedings on the ground that the Court which passed the decree, was lacking in inherent jurisdiction in the sense that it could not have seized of the case because the subject-matter was wholly foreign to its jurisdiction, or that the defendant was dead at the time the suit was instituted or the decree was passed, or on some such other ground which would have the effect of rendering the court entirely lacking in jurisdiction over the subject-matter of the suit or over the parties to it. [Vide Hira Lal Patni v. Kali Nath]* *19. From the above pronouncements of this Court, it is amply clear that at the stage of execution proceedings, objections regarding the maintainability of the suit as well as the jurisdiction of the trial Court can be raised for consideration, and the executing court is well within its powers to deal with such objections in accordance with law, if such objections, from the face of the records, do not require adjudication by trial".* In the present case, no notice u/s.80 CPC was given prior to filing of the Suit. The judgment debtor had issued demand notice granting merely 30 day' time under the legal notice to make payment of the alleged	

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	Contd.....P/10 **25/06/2026**	dues, which falls short of the mandatory statutory period prescribed under Section 80 of the Code of Civil Procedure, 1908. The demand notice issued before filing of the suit cannot be said to be a notice u/s.80 CPC. Consequently, the initiation of proceedings without strict compliance with the mandatory waiting period renders the action premature, legally untenable and liable to be set aside for non-compliance with statutory requirements. The learned counsel of Judgment debtors further submitted that in alternate, the Learned Court in the judgment and decree has awarded interest at a very high rate that too at compounding rate. The rate of interest has been awarded on the ground that the sub-contractor had filed a case before MSME Council and council has awarded interest at compounding rate. There was nothing on the record that the sub-contractor was engaged with the consent of the judgment debtor. In that view of the matter, the judgment debtor cannot be held liable for the action taken by the sub-contractor against the decree holder. The Learned Court at the best could have awarded interest in terms of section 34 CPC. The award of interest at compounding rate is beyond the	

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	Contd.....P/11 **25/06/2026**	jurisdiction of the Learned Court and is a nullity. The learned counsel of Judgment debtors further submitted that on both the counts, the judgment and decree under execution is a nullity and cannot be enforced against the judgment debtor. The judgment and decree passed by the Learned Court is null and void and is non-executable. It is prayed to hold and declare that the judgment & Decree passed by the Learned Presiding officer, Commercial Court, RANCHI in Commercial Suit No.16/2015 (BHEL versus JUUNL) is null and void and the present Execution filed for executing the said null and void judgment and decree cannot proceed further in accordance with law; **CONTENTION OF Ld. COUNSEL OF DECREE HOLDER :** The learned counsel of the Decree Holder submitted that the petition dated 12.02.2026 filed by the Judgement Debtor is misconceived, erroneous, false, taken with a mala fide intent and deserves to be dismissed at the very threshold. The Judgement Debtor are trying their best to mislead and delay the execution of the Judgment and decree passed on 09.10.2023 on one pretext or other. The present petition under Section	

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	Contd.....P/12 **25/06/2026**	47 CPC is wholly misconceived, not maintainable in law, and an abuse of process of court. The Judgement debtor, in substance, seeks to reopen and collaterally attack a decree passed after full contest on merits in commercial Suit No. 16 of 2015 on two grounds: (a) alleged non- compliance with section 80 CPC; and (B) alleged illegality in the rate and mode of interest awarded. Both grounds, even if assumed arguendo to be correct (which is denied), constitute at best errors within jurisdiction and do not render the decree a nullity amenable to challenge in execution. The executing court is not empowered to re-open the matter regarding maintainability and nullity of the Judgment and Decree passed by a competent court. It is humbly submitted that against the Judgement and decree the Judgment debtor had challenged the same upto the Hon'ble Supreme Court. It is pertinent to mention herein that the Judgement debtor failed to obtain any relief whatsoever from any of the Superior Courts. The Judgment and Decree, therefore, has attained finality and requires no further consideration by the executing court. The learned counsel of the Decree Holder further submitted that Section 47 CPC cannot be used as a	

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	Contd.....P/13 **25/06/2026**	substitute for an appeal or as a second round of merits-litigation against a final decree. The recitals regarding the work order dated 25.04.2012, the alleged irregularities in tender evaluation, the vigilance report and the CBI inquiry are either irrelevant to the narrow questions permissible under Section 47 or constitute afterthoughts; all factual and contractual disputes stood concluded by the judgment and decree in Commercial Suit No. 16 of 2015 and cannot be re-opened in execution. The learned counsel of the Decree Holder further submitted that the grievance that the sub-contractor NPEL was engaged "without consent" of the Judgment-Debtor, or that the internal vigilance findings show financial irregularities, was fully within the Judgment-Debtor's knowledge long before and during the suit; any such defense ought to have been pleaded and pressed in the written statement and at trial, and having not been so pursued to success, cannot now be re-canvassed to attack the decree's validity at the execution stage. The learned counsel of the Decree Holder further submitted that Hon'ble Court, while executing the Decree, cannot go behind the Decree and such an	

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	Contd.....P/14 **25/06/2026**	objection ought to have been taken by the Judgement Debtor in the Suit before the competent Court. Although the objection qua non-compliance of Section 80 CPC has no bearing on the present execution, the same are misconceived both on facts and in law inasmuch as the notice dated 10.12.2014 clearly states the cause of action, fully describes the plaintiff BHEL and its address, and sets out the relief claimed (payment of Rs. 26,59,34,854/- with interest @ 15.75% p.a. compounded quarterly), thereby satisfying the textual ingredients of Section 80(1) CPC. By bare reading of Section 80 of Code of Civil Procedure, 1908, it transpires that no suit shall be instituted against government or against public officer until the expiration of two month next after notice in writing has been delivered to or left at the office of the concerned Government Department. In the matter of fact, the suit was filed on 26.03.2015 after more than 60 days from the date of notice served under section 80 CPC. The learned counsel of the Decree Holder further submitted that Section 80(1) CPC requires that no suit shall be instituted until the expiration of two months next after the notice has been delivered; it does not	

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	Contd.....P/15 **25/06/2026**	require that the notice itself must grant a two-month compliance period, and in the present case the Commercial Suit was instituted much after the statutory two-month period had elapsed from service of the 10.12.2014 notice, so that the mere mention of a 30-day demand in the notice does not render it invalid or the suit premature. ***In Ghanshyam Dass v. Dominion of India, (1984) 3 SCC 46, the Hon'ble Supreme Court held that*** while Section 80 is mandatory in form, it is part of adjective/procedural law and must be interpreted so as to subserve and advance justice rather than defeat it, and further that as regards cause of action and relief the rule is one of substantial compliance the notice must not be scrutinised in a pedantic manner but is sufficient if it fairly informs the Government of the nature of the claim so as to enable it to avert litigation. In the present case the Judgment-Debtor never pleaded lack or invalidity of notice under Section 80 CPC in its written statement in Commercial Suit No. 16 of 2015 and the suit proceeded throughout on merits; Section 80 objection must be held to have been waived and cannot, after a full trial and decree, be revived for the first time in execution. It was well within the knowledge of the	

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	Contd.....P/16 **25/06/2026**	judgement debtor that sub-contractor was engaged for the completion of the work. The running bills of the sub-contractor and the decree holder were acknowledged by the judgement debtor. The learned counsel of the Decree Holder further submitted that the attempt to characterise the interest component as a jurisdictional defect ignores the clear holding that a decree suffering from illegality or procedural irregularity "cannot be termed inexecutable by the executing court"; the proper remedy for an aggrieved party is to challenge such matters in appeal or other appropriate proceedings, and, having not done so, the Judgment-Debtor "must obey the command of the decree" and cannot seek to treat it as a nullity in execution. The learned counsel of the Decree Holder further submitted that in any event, on the merits of interest, the contract between BHEL and JUUNL is a commercial transaction, and the Commercial Court has applied the contractual/policy-based rate of 15.75% p.a. with quarterly rests, which is fully consistent with the proviso to Section 34 CPC; The learned counsel of the Decree Holder further	

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	Contd.....P/17 **25/06/2026**	submitted that therefore, the interest awarded in the present decree neither exceeds the statutory ceiling under the Section 34 proviso nor is of such a nature as to be per se unconscionable; it falls well within the range of rates enforced in comparable commercial disputes, and any perceived grievance thereon could only have been agitated in an appeal from the decree, not through a collateral challenge in execution under Section 47 CPC. The learned counsel of the Decree Holder further submitted that in addition, reliance is placed on the judgment of the Madras High Court in ***Narendra Kumar v. Mrs. Sumathi, CRP (NPD) No. 2105 of 2005, reported in 2012 (2) CTC 198,*** wherein the Court held that an application under Section 47 CPC objecting to a decretal interest of 36% per annum on the ground that the transaction was not a commercial transaction was not maintainable, observing that (i) whether the transaction was commercial and whether 36% interest should be awarded are questions of fact which had been considered by the trial court in exercise of its discretion under Section 34 CPC, (ii) the executing court has no jurisdiction to go behind the decree or to sit in appeal	

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	Contd.....P/18 **25/06/2026**	over the rate of interest, and (iii) the only remedy, if any, of the judgment-debtor lay in filing an appeal against the decree and not in a collateral attack under Section 47; the High Court therefore set aside the executing court's order reducing the interest and upheld the decree-holder's entitlement to the full contractual rate of 36% per annum. The learned counsel of the Decree Holder further submitted that in the matter of fact notices were served on 10.12.2014 and 15.01.2015. It is humbly submitted that the suit was filed on 26.03.2015 after laps of 105 days, meaning thereby the period assigned in section 80 of C.P.C. has been complied because a suit was filed after 60 days. The learned counsel of the Decree Holder further submitted that petition filed by the Judgement Debtor is liable to rejected because the judgement debtor failed to make out a case or indulgence of this executing court under Section 47 CPC. The Judgement Debtor is trying to delay the disposal of the execution proceeding. It is prayed to the petition filed by the Judgement debtor on 12.02.2026 is liable to be rejected with cost.	

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	Contd.....P/19 **25/06/2026**	**FINDINGS** ***Heard both sides and perused the record.*** A Commercial Suit bearing No. 16 of 2015 was filed by the Decree Holder before Commercial Court, Ranchi, Jharkhand. The Commercial Court vide a Judgment and order dated 09.10.2023 in Commercial Suit No. 16 of 2015 has been pleased to hold the Judgment Debtor liable to pay an amount of Rs. 26,59,34,854/-and compound interest from 12.11.2014 at the rate of 15.75% per annum calculated quarterly. The Judgment debtor raised objection U/s- 47 r/w 151 of C.P.C on two crucial ground i.e. : - (a) alleged non- compliance of section 80 CPC; and (B) alleged illegality in the rate and mode of interest awarded. Scope of Section 47 read with 151 of C.P.C. is limited. In the case of ***Brakewel Automotive Components (India) Pvt. Ltd. VS P. R. Selvam Alagappan [(2017) 5 SCC 371]*** it has been held by Hon'ble Apex Court that the executing court cannot look beyond decree. The Hon'ble Apex Court held- *"19. It is no longer res integra that an Executing Court can neither travel behind the decree nor sit in appeal over the same or pass any order jeopardizing the*	

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	Contd.....P/20 **25/06/2026**	*rights of the parties thereunder. It is only in the limited cases where the decree is by a court lacking inherent jurisdiction or is a nullity that the same is rendered non est and is thus inexecutable. An erroneous decree cannot be equaled with one which is a nullity. There are no intervening developments as well as to render the decree inexecutable.* *20. As it is, Section 47 of the Code mandates determination by an executing court, questions arising between the parties or their representatives relating to the execution, discharge or satisfaction of the decree and does not contemplate any adjudication beyond the same. A decree of court of law being sacrosanct in nature, the execution thereof ought not to be thwarted on mere asking and on untenable and purported grounds having no bearing on the validity or the executability thereof."* In the Case of **Moho. Masthan VS Society of Congregation of the Brothers of the Sacred Heart [(2006) 9 SCC 344],** it was held that executing court cannot decide the matter relating to collusion. It was held that the executing court cannot look into the matter whether a decree has been obtained by collusion. Further the	

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	Contd.....P/21 **25/06/2026**	powers available under Section 47 CPC are quite different and much narrower than those available in appeal/revision or review. Executing court can neither travel behind decree nor sit in appeal over the same or pass any order jeopardising rights of parties thereunder. Decree is unexecutable only on limited grounds where it suffers from jurisdictional error/infirmity or is void and a nullity, apart from the ground that decree is incapable of execution under the law, either because the same was passed in ignorance of such provision of law or law was promulgated making a decree unexecutable after its passing. An erroneous decree cannot be equalled with one which is a nullity as explained in the case of *Brakewel Automotive Components (India) (P) Ltd.* v. *P.R. Selvam Alagappan*, [(2017) 5 SCC 371] by Hon'ble Apex Court. Further the executing court cannot go behind the decree of a court of competent jurisdiction except in the decrees void ab initio without jurisdiction. It was not a case in which the decree on the face of it was shown to be without jurisdiction. There is limitations on exercise of power by executing court. It cannot travel beyond scope of	

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	Contd.....P/22 **25/06/2026**	decree/order. Any order passed by executing court by travelling beyond decree/order under execution would render such orders as without jurisdiction as it was held in the case of *S. Bhaskaran* v. *Sebastian*, [(2019) 9 SCC 161] by Hon'ble Supreme Court. Section 80(1) CPC requires that no suit shall be instituted until the expiration of two months next after the notice has been delivered. It does not require that the notice itself must grant a two-month compliance period, and in the present case the Commercial Suit was instituted much after the statutory two-month period had elapsed from service of the 10.12.2014 notice, so that the mere mention of a 30-day demand in the notice does not render it invalid or the suit premature. On perusal of the record it is well limpid and candid that the Judgment-Debtor never pleaded lack or invalidity of notice under Section 80 CPC in its written statement in Commercial Suit No. 16 of 2015 and the suit proceeded throughout on merits; Section 80 objection must be held to have been waived and cannot, after a full trial and decree, be revived for the first time in execution. Notices were served on 10.12.2014 and	

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	Contd.....P/23 **25/06/2026**	15.01.2015. It is humbly submitted that the suit was filed on 26.03.2015 after lapses of 105 days, meaning thereby the period assigned in section 80 of C.P.C. has been complied because a suit was filed after 60 days. The objection raised by the judgment debtor on the point of Section 80 C.P.C cannot be said to be congruous and apposite because the same was not agitated during the suit proceeding and it will be deemed that any objection pertaining to Section 80 CPC was already waived by the judgment debtor in course of proceeding of Commercial Suit No. 16/2015 and it is not a apt and a apposite platform to raise any objection on point of 80 C.P.C. The plea of judgment debtor under pertaining to the regarding objection of Section 80 C.P.C appears to be enigmatic and shoddy in nature. **Another objection of the judgment debtor is on point of illegality in the rate and mode of interest awarded.** The learned counsel for the judgment debtor contended that the Learned Court in the judgment and decree has awarded interest at a very high rate that too at compounding rate. The rate of interest has been awarded on the ground that the sub-contractor had filed	

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	Contd.....P/24 **25/06/2026**	a case before MSME Council and council has awarded interest at compounding rate. There was nothing on the record that the sub-contractor was engaged with the consent of the judgment debtor. In that view of the matter, the judgment debtor cannot be held liable for the action taken by the sub-contractor against the decree holder. The Learned Court at the best could have awarded interest in terms of section 34 CPC. The award of interest at compounding rate is beyond the jurisdiction of the Learned Court and is a nullity. The objection raised on point of interest awarded by MSME Council on the basis of compounding rate appears to be adjudicated during the proceeding of Commercial Suit No. 16/2015 and the same cannot be agitated at the time of execution. It is not a congruous stage to delve into the calculation of interest and if any calculation is made on point of interest then it can be a new factor to be added in execution by executing court and it will defeat interest of justice as Execution Court cannot delve into the merit of the evidences led by parties during proceeding of Commercial Suit No. 16/2015. A decree suffering from illegality or procedural	

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	Contd.....P/25 **25/06/2026**	irregularity "cannot be termed inexecutable by the executing court"; the proper remedy for an aggrieved party is to challenge such matters in appeal or other appropriate proceedings, and, having not done so, the Judgment-Debtor and cannot seek to treat it as a nullity in execution. Reliance is placed on the judgment of the Madras High Court in ***Narendra Kumar v. Mrs. Sumathi, CRP (NPD) No. 2105 of 2005, reported in 2012 (2) CTC 198,*** wherein the Court held that an application under Section 47 CPC objecting to a decretal interest of 36% per annum on the ground that the transaction was not a commercial transaction was not maintainable, observing that (i) whether the transaction was commercial and whether 36% interest should be awarded are questions of fact which had been considered by the trial court in exercise of its discretion under Section 34 CPC, (ii) the executing court has no jurisdiction to go behind the decree or to sit in appeal over the rate of interest, and (iii) the only remedy, if any, of the judgment-debtor lay in filing an appeal against the decree and not in a collateral attack under Section 47; the High Court	

IN THE COURT OF THE ADDITIONAL JUDICIAL COMMISSIONER-III-CUM-PRESIDING OFFICER, COMMERCIAL COURT, RANCHI

Commercial Execution No- 05/2024

CNR:JHRN01-007214-2024

Schedule XLII – High Court (J) 9a [Old (M) 164.]

Serial No.	Date of Order of Proceeding	Order with signature of the court.	Office notice taken with date.
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	Contd.....P/26 **25/06/2026**	therefore set aside the executing court's order reducing the interest and upheld the decree-holder's entitlement to the full contractual rate of 36% per annum. Accordingly I cull down that all facts and contractual disputes stood concluded and adjudicated through the judgment and decree passed in Commercial Suit No. 16/2015 and the same cannot be agitated in Execution proceeding. Upon considering all these facts, I find that the obection raised and taken up by Award Debtor/Judgment Debtor/Objector is devoid of merit. These issues can neither be raised nor can be decided in this proceedings. Accordingly, all the objection raised by Award Debtor is rejected. The Decree Holder is directed to take steps for realisation of amount. Let a copy of this order be given to both sides. Put up on 15.07.2026 for hearing. *(Dictated)* *Sd/-* (Akhilesh Kumar Tiwari) A.J.C-III-Cum-P.O. Commercial Court, Ranchi JOCODE -(JH00530)	