

**IN THE COURT OF ADDITIONAL DISTRICT &
SESSIONS JUDGE, PORBANDAR**

Order Below Exh.1 in Special Execution Petition No.1 of 2016

- [1] The present petition is filed by the judgment creditor for recovery of Rs.12,89,67,965/- from the judgment debtor pursuant to the decree passed in C.M.A. No.30/2013.
- [2] Pending hearing of the present petition, the judgment debtor approached the Hon'ble High Court of Gujarat for an appropriate interim order during the pendency and final disposal of the main First Appeal to stay further implementation and operation of the award declared by the learned Arbitrator confirmed by the District Court, vide Civil Application (For Stay) No.2204 of 2016 in First Appeal No.487 of 2016, in which the Hon'ble High Court of Gujarat passed an order dated 15.06.2016 and was pleased to pass interim stay of further implementation, execution and operation of the impugned award passed by the learned Arbitrator confirmed by the District Court on condition that the applicant (judgment debtor) shall deposit entire amount as awarded by the learned Arbitrator with the District Court within a period of three months from the date of order and on such deposit the respondent (judgment creditor) shall be permitted to withdraw 50% of the same by furnishing the Bank Guarantee and the balance 50% on furnishing the Corporate Guarantee backed by the resolution of the Board of Directors of the respondent Company. However, the judgment debtor has not paid any amount till date before the District Court as directed by the Hon'ble High Court of Gujarat.

- [3] Thereafter, the judgment creditor has filed an application at Exh.74 under Section-51 & 58 of C.P.C. to issue warrant against the director of the company for non-payment of awarded amount till date. Learned advocate for the judgment debtor has filed an application at Exh.75 declaring that the whereabouts of judgment debtor is unknown.
- [4] Thereafter, the judgment creditor was directed to deposit Rs.30,000/- as expenses for issuance of warrant against the judgment debtor, vide order dated 01.05.2026 passed below Exh.76. However, the judgment creditor has not deposited the said amount till date even though the judgment creditor was given enough opportunities from time and again vide adjournments granted on 22.05.2026, 30.05.2026, 09.07.2026 17.07.2026.
- [5] It is evident that this matter is pending since long and non of the parties have showed due interest to proceed with the matter. Therefore, since the judgment debtor has not cared to deposit the awarded amount till date as per the direction of Hon'ble High Court of Gujarat passed on dated 15.06.2016 in Civil Application (For Stay) No.2204 of 2016 in First Appeal No.487 of 2016 as well as the judgment creditor has not cared to deposit the amount of expenses to issue warrant against the judgment debtor, this Court is of the view that the parties are not interested for prosecuting in this matter. Hence, the grant of any further adjournment in the case would be a futile exercise

inasmuch as there is clear lack of interest on the part of the parties to proceed with the matter. Hence, this Court deems fit to dismiss the matter for default on the part of the parties to prosecute the matter. Hence, following order is passed.

ORDER

- (1) This Special Execution Petition No.1 of 2016, is disposed as dismissed for default.
- (2) No order as to costs.

Date:- 08.08.2026.

Place:- Porbandar.

(D. D. Buddhdev)
Additional District & Sessions Judge,
Porbandar
(Code No.GJ00612).