Ex. No. 253/26
Dalip Singh Vs. MCD

09-02-2026

Present: Sh. Junaid Ansari, advocate for DH through VC
Sh. Jitender Rohilla, Jr. Law Officer on behalf of JD

Objections have been raised on behalf of JD on the ground that execution petition is premature. Attention of this court is drawn towards Section 82 of CPC, whereby it is claimed that there is lock in period of three months and no execution petition can be filed before the expiry of three months of passing of decree by the concerned Labour court. The order of which the execution is being sought, is passed on 10-01-2026 and therefore, it is prayed that execution petition be dismissed.

On the other hand, it is submitted on behalf of DH that the decree has been passed by the concerned Labour Court by way of settlement and therefore, Section 82 of CPC is not applicable and the decree is executable in view of Section 11 (9) of The Industrial Disputes Act, 1947. It is further submitted that Junior Law Officer has no authority to raise objection on behalf of JD/ MCD.

This court has heard the rival contentions and perused the record.

Before adjudicating upon the objections, this court deems it proper to refer to provisions of law referred on behalf of the parties.

As per the contentions of Judgment Debtor, the order/ decree of the concerned Labour court is not executable in view of Section 82 (2) of CPC, which reads as under:-

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"(2) Execution shall not be issued on any such decree unless is remains unsatisfied for the period of three months computed from the date of [such decree]."

On the other hand, contention of the Judgment Debtor has been refuted on behalf of DH by referring to Section 11 (9) of The Industrial Disputes Act, 1947, which reads as under:-

"*Every award made, order issued or settlement arrived at by or before Labour Court or Tribunal or National Tribunal shall be executed in accordance with the procedure laid down for execution of orders and decree of a Civil Court under Order 21 of the Code of Civil Procedure, 1908 (5 of 1908).*"

Article 12 of The Indian Constitution reads as under:-

"*In this Part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.*"

In the case of **Rajasthan State Electricity Board v. Mohanlal, AIR 1967** wherein it was decided that "other authorities is wide enough to include within it every authority created by a statute on which powers are conferred to carry out governmental or quasi-governmental functions and functioning within the territory of India or under the control of the Government of India."

In Appeal (civil) no. 992 of 2002, **PRADEEP KUMAR BISWAS & ORS. Vs. INDIAN INSTITUTE OF CHEMICAL BIOLOGY & ORS**. dated 16/04/2002, it has been held by the Hon'ble Supreme Court of India on the aspect of 'other authority' referred in Article 12 of the Indian Constitution as follows:-

1. One thing is clear that if the entire share capital of the Corporation is held by Government it would go a long way towards indicating that the Corporation is an instrumentality or agency of Government.

2. Where the financial assistance of the State is so much as to meet almost entire expenditure of the corporation, it would afford some indication of the corporation being impregnated with governmental character.

3. It may also be a relevant factor.whether the corporation enjoys monopoly status which is the State conferred or State protected.

4. Existence of "deep and pervasive State control may afford an indication that the corporation is a State agency or instrumentality".

5. If the functions of the Corporation of public importance and closely related to government functions, it would be a relevant factor in classifying the corporation as an instrumentality or agency of Government.

6. "Specifically, if a department of Government is transferred to a corporation, it would be a strong factor supportive of this inference" of the corporation being an instrumentality or agency of Government."

It is not in dispute that JD/ MCD is performing the functions of public importance and it is a local authority. Therefore, in the opinion of this court, it is 'a State' as per Article 12 of The Indian Constitution.

It is clear from Section 11 (9) of The Industrial Disputes Act, 1947 that decree/ award passed by concerned Labour court are to be executed in accordance with the provisions of CPC i.e. Order 21. Section 82 of CPC is squarely applicable on executions to be carried out in accordance with Order 21 of CPC. Clearly, period of three months has not elapsed since the passing of award by the concerned Labour court. Thus, as per Section 82 of CPC, the execution shall not be issued on any such decree against the Government/ public officer unless it remains unsatisfied for the period of three months. Since the Junior Law Officer appearing on behalf of JD/ MCD has raised legal objections, therefore, it is immaterial whether or not he has any formal authority to represent MCD or not. The objections raised on behalf of MCD are sustainable and the contentions raised on behalf of DH to the effect that the JD is not a State or that Junior Law Officer on behalf of JD is not authorized to raise objection fails to inspire the confidence of this court.

Accordingly, the execution petition stands dismissed being premature with liberty to the DH to file it afresh after expiry of period of three months from the date of passing award by the concerned Labour Court. Original documents, if any, be released to the rightful owner after due verification of identity credentials. File be consigned to Record Room.

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District Judge-16, Central District,
Tis Hazari Courts, Delhi/09-02-2026