

GJVD050032432024



Received on :- 19/02/2026

Registered on:- 19/02/2026

Decided on :- 20/06/2026

Duration :- Y - M - D

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**IN THE COURT OF ADDITIONAL SR. CIVIL JUDGE
AT : VADODARA.**

Execution Special Petition No.1/2024

Applicant :

M/s. Nimbus Chemicals

Office Address: 792 A/B, Opp. W-130, Mhatre Pada Ph-II,
Dombivali East, Dist. : Thane 421 203.

Factory Address: 3/Gaikar Compound, Kalyan Shill Road,
MIDC Phase II, Dombivali (E) 421 203

Proprietor Shri Sanjeevkumar Vashisht

Through Power of Attorney Holder

Sanjay Bajarangi Lal Srivastava

Age: 40 years, Occupation : Service

Residing at : Plot No. 33, Dadagurudec Nagar, Near Gulab
Ranjan Devalaya, Near New Riya Public School, Sanganer,
Jaipur, Rajasthan 302029

Versus

Opponent :

M/s. Jay Agro Industries

Office Address: Plot No. 1043, GIDC Waghodia,
Vadodara 390019

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Appearance :

Mr. S. B. Parmar : Ld. Advocate for the Applicant

Mr. N. P. Shah : Ld. Advocate for the Opponent

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**Subject : Execution of the order passed by the Micro and
Small Enterprises Facilitation Council, Konkan in
Petition No.170/2019 dtd.23/08/2023**

-:: Common Order Below Exh.1 & 13 ::-

1. The present Execution Petition has been filed by the Application before this Court for execution of the order passed by the Micro and Small Enterprises Facilitation Council, Konkan in Petition No. 170/2019 dtd. 23/08/2023.
2. Brief facts of the petition are as under:

That, the applicant (Original Petitioner) has filed the petition before the Hon'ble Micro and Small Enterprises Facilitation Council, Konkan vide Petition No. 170/2019 for recovery of amount of Rs.11,71,214/- (Rupees Eleven Lakhs Seventy One Thousand Two Hundred Fourteen) from the opponent with interest on each and every due amount payable as per Section 16 of MSMED Act 2006 till realization of the amount to the petitioner within one month from receipt of the award. The Hon'ble Micro and Small Enterprises Facilitation Council, Konkan after hearing has passed the order in favour of the applicant.

- 2.1. That the opponent has failed to pay an amount of Rs.11,71,214/- along with interest on each and every due payable and also failed to deposit any amount with the Hon'ble Micro and Small Enterprises Facilitation Council, Konkan along with interest from the date of order till today.
- 2.2. That the applicant states on oath that after passing of the order original Petitioner has requested original respondent (opponent) to deposit the decretal amount passed in Original Petitioner's favor, but no avail as on to date opponent has neither paid any amount to the applicant nor deposited with the Hon'ble Micro and Small Enterprises Facilitation Council, Konkan, as such applicant has not received any amount towards the fulfillment of the order passed by the Hon'ble Micro and Small Enterprises Facilitation Council, Konkan.
- 2.3. The applicant further humbly submits that they have obtained certified copy of the order of the Hon'ble Micro and Small Enterprises Facilitation Council, Konkan, the applicant on the basis of above said decree filed the present execution application. The applicant is claiming following amount from the opponent.

Principal amount Rs. 11,71,214/- as per the Order

Interest (6.5%) Rs.46,43,808/- from dt. 15/10/2019

to dt.13/02/2024

Total amount Rs. 58,15,022/-

That the above said amount is due and payable by the opponent to the applicant towards the fulfillment of the

Award (Order) against which the applicant has not received any amount till today.

2.4. That the applicant has not filed any Execution Petition before any Court or Tribunal or any other place. That the opponent have not challenged the order of the Hon'ble Micro and Small Enterprises Facilitation Council, Konkan in any manner, as applicant has not received any notice from any Tribunal/ Court and further, there is no stay on the execution of the order from any competent Tribunal/Court. Hence, the applicant has filed the present Execution Petition before this Court.

3. Upon service of notice, opponent has appeared through their Ld. Advocate and filed their written preliminary objection to the maintainability of Arbitral Award vide Exhibit-13 in which mainly stated that

3.1. That the Decree Holder has preferred the present Execution Petition based on the Arbitral Award dtd. 28th November 2023 of the Micro and Small Enterprises Facilitation Council, Konkan of the State of Maharashtra. The said arbitral award is not sufficiently stamped as per the Maharashtra Stamp Act, 1958 and hence is void. Since the Arbitral Award itself is void on account of non-payment of requisite stamp duty, no execution proceedings can be carried out on such void award.

3.2. In the light of the above mentioned, the validity and executability of the arbitral award dtd. 28/11/2023 is required to be decided as a preliminary issue.

3.3. The judgment debtor may be permitted to file its reply/objections to the execution application after the adjudication of the present application, if required. Therefore, it is prayed that this Hon'ble Court be pleased to :-

- i. decide the validity and executability of the arbitral award dtd. 28/11/2023 as a preliminary issue.
 - ii. Allow the judgment debtor to file the reply/objection in the present execution proceedings, if and whenever required.
 - iii. Grant any other relief in favour of the judgment debtor in the interest of justice.
4. In support of the present execution petition, the applicant has produced original letter dtd. 29/11/2023 written by Government of Maharashtra, Directorate of Industries in accordance with the award/order passed in Petition No.170/2019 vide Mark -3/1 and certified copy of the order dtd.23/11/2023 vide Mark-3/2 and Affidavit of POA Sanjay B.Srivastava vide Mark -3/3 and True Copy of Power of Attorney vide Mark -3/4.
5. The Ld. Advocate for the applicant Mr. S.B.Parmar has argued that there is no necessity to affix the stamp upon the Execution Petition because it is not a suit, but it is an Award passed under Arbitration Act, hence, it is not compulsory to affix stamp upon the Award and hence, preliminary objections filed by the Opponent are not sustainable. Hence, he prayed to allow the present Execution Petition.
6. Per contra, the Ld. Advocate for the opponent Mr. N.P.Shah has orally argued and referred the Section 33 & 35 of the

Maharashtra Stamp Act and draws the attention of this Court that as per Section 33 – if instrument is not duly stamped, it is not valid in law. Also as per the Section 34 - the Instrument not duly stamped is inadmissible in evidence and in the present application, award is unstamped, therefore not enforceable. Also as per the Article 12, it is required to affix stamp of five hundred rupees and in the present case, award passed by the Micro and Small Enterprises Facilitation Council, Konkan, which is a statutory arbitration and in Gujarat, the arbitral award made on the stamp of Rupees Three Hundred. Therefore, in the present case, the arbitral award is not on the five hundred rupees stamp paper, which is insufficient stamp as per the Section 34 of the Maharashtra Stamp Act, therefore the unstamped Arbitral Award cannot be acted upon and no execution proceedings can be proceeded as per the Section 33 of the Maharashtra Stamp Act, it has to impounded. As per the Maharashtra Stamp Act, the applicant has paid adveloram Stamp fees. Therefore, the same has been decided as per the Preliminary Issue, as it is non-executable. Lastly, he has argued that as per Section 34 of the Maharashtra Stamp Act, Arbitral Award is non stamped, hence it cannot be acted upon and executed. If the instrument is non stamped, it is void under the Maharashtra Stamp Act and the Arbitral Award is an instrument, therefore it is not executable. Hence, prayed to dismiss the present execution petition.

The Ld. Advocate for the Opponent also relied on the following judgment, in support of his argument.

- M Anasuya Devi V/s M Manik Reddy
2003 LawSuit (SC) 1025 dtd. 16/10/2023

:: Reasons ::

7. It is pertinent to note that the Opponent has filed objection mainly relying upon the argument that Arbitral Award passed on dtd. 28/11/2023 at Thane by Micro and Small Enterprises Facilitation Council, Konkan which is produced at Mark-3/2 is not sufficiently stamped as per the Maharashtra Stamp Act, 1958 and hence it is void and since Arbitral Award which is void on account of non-payment of requisite stamp duty no execution proceedings can be carried out on such void Award. Hence, it is necessary to go through Section 34 of the Maharashtra Stamp Act which denotes that :

“No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of the parties authority to receive evidence or shall be acted upon registered or authenticated by any such person or by any public officer unless such instrument is duly stamped.”

8. Moreover, Section 12 of the Maharashtra Stamp Act denotes that ***“AWARD, that is to say, any decision in writing by an arbitrator or umpire, on a reference made otherwise than by an order of the Court in the course of the suit, being an award made as a result of a written agreement to submit present or future differences to Arbitration but not being an award directing partition.”*** requires affixing of proper stamp duty of rupees five hundred.
9. Now, on perusal of Section 12 and Section 34 of Maharashtra Stamp Act, it is crystal clear that Arbitration Award which is produced at Mark 3/2 is not sufficiently stamped and hence it is void. Since Arbitral Award itself is void on account of non-

payment of requisite stamp duty, no execution proceedings can be carried out on such void Award as per the Section 34 and Section 12 of the Maharashtra Stamp Act. So, it is precondition that Arbitral Award can be executed only when it is duly stamped before filing of its execution proceedings before any competent Court having jurisdiction to try the Execution Petition. Hence, considering the provision of Section 12 and Section 34 of the Maharashtra Stamp Act, the present Arbitral Award cannot be acted upon and execution proceedings cannot be proceeded as it is not sufficiently stamped. Hence, I pass the following final order for above going reasons.

ORDER

1. The present Execution Petition is hereby rejected.
2. No order as to cost.

Order signed & pronounced in open court today
on 20th June, 2026

Place :- Savli.

(Abhijit Keshav Mavalankar)

Date :- 20/06/2026

Additional Senior Civil Judge,

Savli, Dist: Vadodara.

Judge Code No.:-GJ-00677

/R. J. Chauhan/