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Execution (Comm.) 101/24

M/s Chawla Printers Vs. M/s Shellz India Pvt Ltd

20.03.2026

Present: Sh.Aditya, ld. counsel for DH.

Ms.Surabhi Sinha, ld. counsel for JD (through VC).

An objection has been filed in terms of Order 21 Rule 58 read with 151 CPC.

Before I note down the grounds in the application, precise reference is required about the factual background. This is an execution of an arbitral award dated 20.03.2024 for sum of Rs.48,43,952/- with interest and arbitral charges. It is admitted position that the objection u/s 34 of Arbitration and Conciliation Act from JD has already been dismissed. Matter is listed for further proceedings in the execution. In the meantime above noted application has been moved.

In the instant application it is stated that JD has suffered the arbitral award in arbitral proceedings whereas decree holder had obtained MSME certificate dated 15.07.2019 from Ministry of Micro, Small and Medium Enterprises, on the basis of false information to avail the undue benefits of special legislation i.e. MSME Development Act 2006. It is stated that decree holder has filed a false claim before MSME portal whereas on the scrutiny of affairs of DH it discovered that DH has given a false information being manufacturer whereas the DH had no manufacturing unit at the address as declared in MSME certificate rather it was discovered that DH is a trader. It is mentioned that DH on 01.07.2017 upon applying for GSTIN number, itself shown as proprietorship concern in trading of

goods. It is stated that it is mentioned trader wholesaler/distributor. Whereas for availing the benefit of MSME Development Act 2006, DH also applied for MSME certificate categorizing itself to be manufacturer.

It is stated that suspicion of JD further strengthened on seeing the plant details at Sector 11, Pocket F-1, Rohini. Moreover details available on portal of GST also show that DH is a trader and not a manufacturer. It is stated that JD had also applied for information under RTI Act requiring specific information. It is stated that it is shown that DH has committed fraud in obtaining of MSME certificate. As a consequence thereof the arbitral award obtained by DH by taking the benefit of MSME Development Act was inherently nullity. Hence it is prayed that execution of the DH may be dismissed on this count.

Application has been opposed on the ground that once the objection u/s 34 of the A&C Act of the JD has already been dismissed, that fact has already been noticed by Hon'ble High Court in Writ Petition No.16359/2024 decided on 26.11.2024, present application is liable to be dismissed with cost.

Ms.Surabhi Sinha, ld. counsel for JD submits that the present application is very much maintainable as the issue raised in the same goes to very root of the decree under execution. It is submitted that DH obtained MSME certificate by claiming to be manufacturer whereas he was actually a trader. As such DH cannot avail the benefit of being MSME certificate holder and obtained a decree by fraud. Counsel for JD relied upon the judgment of Apex Court in **Odisha State Financial Corporation vs. Vigyan Chemical Industries** (SLP

No.1842/2023 decided on 05.08.2025), **T. Vijendradas and Anr. vs. M. Subramanian & ors.** (2007) 8 SCC 751.

Ld. counsel for DH submits that even as per the averment of para 11 of the application of JD an email was received from Policy Division of MSME and did not find that MSME certificate issued in favour of DH was based on any false information.

Having heard the submissions and having gone through the record carefully. First and foremost issue which needs to be raised is whether the factor that DH obtained MSME certificate by giving incorrect information, was raised before the Arbitrator or not. Moreover whether this issue was raised during the objection application u/s 34 of A&C Act filed at the instance of JD. The answer is that this issue was not raised by JD on the above said two opportunities available at first point of time. This fact has been duly noted by Hon'ble High Court in para 3 of order dated 26.11.2024 while disposing off W.P. No.16359/2024 when it was noted that Hon'ble court specifically asked regarding such issue having been raised during arbitral proceedings or in the objection u/s 34 of A&C Act. The response from JD was that no such issue was raised there.

If we go through Order 21 Rule 58 CPC, it provides that where any claim has been preferred/objection made to attachment of any property in execution, executing court would proceed on to adjudicate such objections in accordance with the provisions contained in Rule 58. It would be evident from the bare perusal of the provision that the objection under the above said provision can be filed at the instance of any third party than JD. This provision contemplates a summary adjudication of

claim of any third party against the attachment of property, ordered during execution. Evidently no such situation arises in the proceedings of the execution as yet. Moreover no objection can be entertained at the instance of JD under the above said provision and attachment orders have not been passed uptill now. Therefore on this count itself this application can be dismissed.

Now coming to the issue on merits to the effect that DH obtained MSME certificate by misrepresentation of the fact that he was actually a trader and not a manufacturer. First of all there is no material placed on record to show that the DH was not the manufacturer. Taking the documents as annexed with objection application, on the face of it, it be noted that factum that DH has also been into business of some trade, does not show that he was not a manufacturer when the certificate was obtained under MSME Development Act 2006. Moreover this aspect is a question of fact regarding which evidence ought to have been led during the arbitral proceedings which as noted above has not been done for reasons best known to the JD. Now at this belated stage when JD has already exhausted all his remedies, plea of nullity of decree cannot be entertained at this stage when there is no evidence at all showing playing of any fraud. Expression “nullity of decree on the basis of alleged fraud” cannot be ascertained only on the assertion of one party. There must be substantive unimpeachable evidence on the record establishing the fraud and nullity in the decree which is lacking in the present case. Therefore the judgments as relied upon by Id. counsel for JD are of no help in the present case. For the reasons noted above, the objection stands dismissed with cost of Rs.25,000/- to

be deposited in Prime Minister Relief Fund to be deposited within two weeks.

While proceedings ahead in the execution JD was directed to furnish details of his movable and immovable assets. Which has not been furnished. Last opportunity is being given.

Put up this matter for furnishing the details on **06.05.2026** (Date given as per convenience of counsel for JD).

(Shailender Malik)
District Judge (Commercial)-02
North District, Rohini Courts,
Delhi/20.03.2026