

**IN THE COURT OF THE LEARNED ADDITIONAL DISTRICT AND SESSIONS
JUDGE, 18TH COURT, ALIPORE
SOUTH 24-PARGANAS**

Arbitration Execution Case No. 85 of 2019

In the matter of:

Tarit Bhattacharjee

... Award Holder/Petitioner

-versus-

1. Dulal Dutta

2. Barun Dutta

3. Mrityunjoy Dutta

4. Gobinda Dutta

5. Tula Roy

... Award Debtors/Judgment Debtors

ORDER No. 67

Date: 31.07.2026

The matter is taken up today for consideration of the application filed by the Award Holder on **31.07.2026** under **Order XXI Rule 64 read with Section 151 of the Code of Civil Procedure, 1908**, praying, inter alia, for:

- a) directing sale of the attached immovable properties of the Award Debtors/Judgment Debtors in exercise of the powers conferred under Order XXI Rule 64 of the Code of Civil Procedure;
- b) settling the sale proclamation under Order XXI Rule 66 of the Code of Civil Procedure;
- c) directing issuance and publication of the sale proclamation in the manner prescribed by law; and
- d) passing such further or other order or orders as may be deemed fit and proper.

1. FACTUAL BACKGROUND

The present execution proceeding has been instituted by the Award Holder, namely, **Tarit Bhattacharjee**, against the Award Debtors, namely, **Dulal Dutta, Barun Dutta, Mrityunjoy Dutta, Gobinda Dutta and Tula Roy**, for realization of the amount due and payable under the arbitral award.

It is the case of the Award Holder that an amount of **Rs.5,00,000/-** was awarded in his favour together with interest @ **8% per annum from 21.08.2018 till realization.**

As stated in the execution petition, upon calculation of the principal award amount together with accrued interest up to **20.11.2025**, the amount payable under the award has stood at **Rs.7,90,191.78/-**, apart from further interest and other amounts, if any, accruing in accordance with the terms of the award till the date of actual realization.

The execution proceeding has remained pending for realization of the decretal/award amount.

2. ATTACHMENT OF THE IMMOVABLE PROPERTIES

It appears from the record that the Award Holder had prayed for attachment of the immovable properties belonging to the Award Debtors and described in the schedule to the relevant petition.

Upon consideration of the prayer, this Court, vide **Order No. 62 dated 10.03.2026**, was pleased to direct attachment of the properties described in the schedule of the petition and issued necessary directions upon the Award Debtors. The **Nazir/Bailiff of this Court** was further directed to execute the writ of attachment in accordance with law and to submit a return of execution within the stipulated period.

Pursuant thereto, the Nazir/Bailiff of this Court has submitted a **report dated 27.07.2026**, wherein it has been reported that the schedule properties mentioned in the writ of attachment have been duly attached after following the procedure prescribed by law.

Thus, the attachment of the schedule properties has already been effected and the factum of attachment is borne out from the report submitted by the executing agency of this Court.

3. CONTENTION OF THE APPLICATION

By filing the present application dated **31.07.2026**, the Award Holder has approached this Court seeking the next consequential step in execution, namely, sale of the attached immovable properties for realization of the amount payable under the arbitral award.

The substance of the contention of the Award Holder is that despite the award having attained enforceability and despite initiation of the execution proceeding, the amount payable under the award has not yet been realized. The Award Holder has already obtained an order of attachment in respect of the immovable properties belonging to the Award Debtors, and pursuant to the writ of attachment issued by this Court, the said properties have in fact been attached by the Nazir/Bailiff after observance of the prescribed procedure.

It is further contended that as on **20.11.2025**, the amount due under the award, inclusive of interest calculated in terms of the award, stood at **Rs.7,90,191.78/-**, and that further interest continues to accrue until actual realization. Therefore, unless the attached properties are brought to sale, the Award Holder would be deprived of the fruits of the award.

The Award Holder has accordingly prayed that the attached properties be directed to be sold in exercise of the jurisdiction under **Order XXI Rule 64 CPC**, that the sale proclamation be settled in accordance with **Order XXI Rule 66 CPC**, and that thereafter the sale proclamation be issued and published in accordance with law so that the attached properties may be brought to public auction and the sale proceeds appropriated towards satisfaction of the award.

It has also been prayed that such other consequential directions as are necessary for effective execution of the award may be passed by this Court.

4. SUBMISSIONS OF THE LEARNED ADVOCATE FOR THE AWARD HOLDER

The learned Advocate appearing on behalf of the Award Holder has submitted that the present application is a bona fide step towards realization of a legally enforceable award and that the Award Holder has already exhausted the stage of attachment.

It is submitted that the properties sought to be sold have already been attached pursuant to the specific order of this Court dated **10.03.2026**, and the report of the Nazir/Bailiff dated **27.07.2026** confirms that the attachment has been duly carried out in accordance with law.

Learned Advocate has further submitted that the Award Debtors have failed to satisfy the award and the amount due thereunder remains outstanding. According to him, the Award Holder cannot be compelled to wait indefinitely after obtaining an enforceable award, particularly when identifiable immovable properties of the Award Debtors have already been attached.

It is argued that **Order XXI Rule 64 CPC** empowers the executing Court to order sale of the attached property, or such portion thereof as may appear necessary to satisfy the decree/award, and that the present case has reached the appropriate stage for exercise of such jurisdiction.

Learned Advocate has further submitted that the prayer for settlement of the sale proclamation under **Order XXI Rule 66 CPC** is a consequential and necessary step before the attached properties can be put to auction. He has accordingly prayed for allowing the application, settling the sale proclamation after obtaining the necessary particulars and valuation in accordance with law, and directing its publication in the prescribed manner.

It is also submitted that the Award Debtors have not appeared before this Court to contest the present prayer.

5. NON-APPEARANCE OF THE AWARD DEBTORS

Perused the record.

It appears that despite the pendency of the execution proceeding and the filing of the present application seeking sale of the attached properties, **none of the Award Debtors has turned up before this Court to oppose the prayer.**

No objection has been filed on behalf of any of the Award Debtors against the proposed sale of the attached properties.

The absence of the Award Debtors, however, does not dispense with the statutory safeguards governing execution by sale of immovable property. The Court, being an executing Court, is required to ensure that the attached property is sold only in the manner prescribed by the Code and only to the extent necessary for satisfaction of the award.

6. POINT FOR CONSIDERATION

The question which therefore arises for consideration is whether, in the facts and circumstances of the present case, the attached immovable properties should be brought to sale under **Order XXI Rule 64 CPC**, and whether consequential directions for settlement and publication of the sale proclamation under **Order XXI Rule 66 CPC** should be issued.

7. DISCUSSION AND FINDINGS

I have carefully considered the application dated **31.07.2026**, the execution petition, the order dated **10.03.2026**, the writ of attachment, the report of the Nazir/Bailiff dated **27.07.2026**, the materials available on record and the submissions advanced by the learned Advocate for the Award Holder.

There is no dispute, at this stage, that the Award Holder is seeking realization of an amount payable under an arbitral award and that the present execution proceeding has been instituted for such realization.

It is equally apparent from the record that the amount payable under the award has not yet been realized in full. The Award Holder has stated that the award amount of **Rs.5,00,000/-**, together with interest @ 8% per annum from **21.08.2018 till realization**, amounted to **Rs.7,90,191.78/- as on 20.11.2025**, as calculated in the execution petition. The exact amount payable on the date of sale shall, however, necessarily be worked out in accordance with the award and the orders passed in the execution proceeding.

The attachment of the schedule properties is also no longer a matter of mere apprehension or proposal. By **Order No. 62 dated 10.03.2026**, this Court had directed attachment of the properties described in the schedule, and the Nazir/Bailiff has subsequently submitted his report dated **27.07.2026** stating that the properties have been attached after following due procedure.

The purpose of attachment in execution is not merely to immobilize the property indefinitely but, where necessary, to facilitate realization of the decretal/award amount in accordance with law.

8. POWER UNDER ORDER XXI RULE 64 CPC

Order XXI Rule 64 CPC empowers the executing Court to order sale of the attached property, or such portion thereof as may seem necessary to satisfy the decree.

The expression “**such portion thereof as may seem necessary to satisfy the decree**” is of considerable significance. The object of execution is to satisfy the decree/award and not to deprive the judgment debtor of property beyond what is reasonably necessary for such satisfaction.

Accordingly, while this Court finds that the attached properties are liable to be proceeded against by way of sale, the sale must be regulated by the principle that **only such property or portion thereof as is necessary to satisfy the outstanding amount should ordinarily be brought to sale.**

The Court must also ensure that the sale proclamation contains the material particulars contemplated under Order XXI Rule 66 CPC and that the prospective purchasers are placed in a position to know the identity, location, nature and relevant particulars of the property proposed to be sold.

The present stage, therefore, warrants initiation of the process of sale, but the actual sale shall remain subject to compliance with all statutory requirements and safeguards.

9. SALE PROCLAMATION UNDER ORDER XXI RULE 66 CPC

Order XXI Rule 66 CPC contemplates issuance of a proclamation of the intended sale and requires the Court to settle the terms thereof after notice to the decree-holder and judgment-debtor in the manner prescribed by law.

The sale proclamation is not a mere formal document. It is intended to provide prospective bidders with material information concerning the property and the proposed sale and to ensure transparency and fairness in the auction process.

Therefore, before final settlement of the proclamation, the executing agency shall place before this Court all relevant particulars available regarding the attached properties, including their precise description, identification, boundaries, area and nature of the property, the interest of the Award Debtors therein, and such other particulars as may be necessary for proper identification and valuation.

The valuation of the property/properties shall also be placed on record so that this Court may determine, to the extent possible, the appropriate property or portion thereof which needs to be sold for satisfaction of the award amount.

It is clarified that the Court is not, by this order, directing sale of the entirety of the attached properties irrespective of their value. The sale shall be restricted, as far as practicable, to the property or portion thereof necessary to satisfy the outstanding award amount, together with permissible interest and costs.

10. NECESSITY OF VALUATION AND IDENTIFICATION

Since the amount presently claimed is substantially lower than the possible value of immovable property, it would not be proper to direct an indiscriminate sale of all attached properties without first determining what property or portion thereof is sufficient for realization of the outstanding amount.

The Nazir/Bailiff shall therefore place before the Court a proper valuation report, insofar as the same is practicable in accordance with law, and shall also furnish a clear description and identification of the attached property/properties.

If the attached properties consist of separate and severable parcels, the Court shall consider whether sale of one or more such parcels would be sufficient to satisfy the award, rather than directing sale of the entirety.

This approach would balance the right of the Award Holder to enjoy the fruits of the award with the statutory protection available to the Award Debtors against an excessive or unnecessary sale.

11. PUBLICATION AND CONDUCT OF SALE

Upon settlement of the sale proclamation, the same shall be issued and published in the manner prescribed under the Code of Civil Procedure and the applicable rules governing execution sales.

The proclamation shall contain the material particulars required under Order XXI Rule 66 CPC and shall clearly indicate, inter alia, the amount sought to be recovered, the description and identification of the property proposed to be sold, the encumbrances, if any, brought to the notice of the Court, the valuation, the reserve/appropriate upset price, if

determined by the Court, and such other particulars as may assist prospective purchasers in making an informed bid.

The sale shall thereafter be conducted by the officer authorized by this Court in accordance with the provisions governing execution sales.

The sale proceeds shall be appropriated towards satisfaction of the outstanding award amount and the permissible costs of execution in accordance with law, subject to accounting and further orders of this Court.

12. CONCLUSION

Having regard to the facts and circumstances of the case, this Court finds that the Award Holder has made out sufficient grounds for proceeding with the sale of the attached properties.

The award remains unsatisfied; the Award Holder has approached this Court for realization thereof; the attached properties have already been attached pursuant to **Order No. 62 dated 10.03.2026**; and the Nazir/Bailiff has confirmed such attachment by his report dated **27.07.2026**.

The Award Debtors, despite opportunity, have not appeared before this Court to oppose the prayer.

Accordingly, the prayer of the Award Holder deserves to be allowed, subject to strict compliance with the statutory safeguards under Order XXI CPC.

ORDERED

The application dated 31.07.2026 filed by the Award Holder under Order XXI Rule 64 read with Section 151 CPC is hereby allowed.

The following directions are accordingly passed:

1. The attached immovable properties described in the schedule to the writ of attachment, which have been reported to have been duly attached by the Nazir/Bailiff vide report dated **27.07.2026**, shall be proceeded against for sale in execution of the award, subject to the further directions contained herein.

2. The Nazir/Bailiff of this Court is directed to furnish, within **30 days** from the date of this order, a detailed report in respect of the attached properties, clearly mentioning their identification, area, boundaries, nature and other relevant particulars, together with the available valuation thereof.

3. The Nazir/Bailiff shall also ascertain and report, insofar as practicable, whether the attached properties are free from encumbrances or whether any encumbrance, tenancy, charge, lien or other interest has been brought to his notice. Any such information shall be specifically incorporated in the report.

4. The Award Holder shall file, within the aforesaid period, an updated statement of account showing the principal amount, interest @ 8% per annum from **21.08.2018**, the amount already realized, if any, and the amount actually outstanding as on the date of the proposed sale.

5. Upon receipt of the aforesaid report and statement, the sale proclamation shall be prepared and placed before the Court for settlement under **Order XXI Rule 66 CPC**.

6. Before final settlement of the proclamation, the Court shall consider whether the whole of the attached property or only such portion thereof as may be necessary is required to be sold for satisfaction of the award. The sale shall, as far as practicable, be confined to such property or portion thereof as is sufficient to satisfy the outstanding amount, interest and permissible costs of execution.

7. The sale proclamation shall contain all material particulars required by law, including the description and identification of the property, the amount for realization, valuation, material encumbrances, if any, and such other particulars as may be necessary for protecting the interest of the Award Debtors and informing prospective purchasers.

8. After the sale proclamation is duly settled by this Court, the same shall be issued and published in accordance with **Order XXI Rules 66 and 67 CPC** and other applicable rules, including by publication in the manner directed by this Court and by affixation at the property and at the places prescribed by law.

9. The proclamation shall also clearly mention the date, time and place/mode of auction and the terms and conditions of sale as settled by this Court.

10. The sale shall thereafter be conducted by the Nazir/Bailiff or other officer authorized by this Court in accordance with the provisions of **Order XXI CPC** and the applicable rules relating to sale of immovable property in execution.

11. The Nazir/Bailiff shall submit a report after completion of each stage of the execution process, including publication of the sale proclamation and thereafter the result of the auction.

12. The sale proceeds, upon realization, shall be deposited before this Court and shall be dealt with in accordance with law towards satisfaction of the outstanding award amount, interest and costs, subject to the orders of this Court.

13. It is made clear that the present order permitting the sale process does not dispense with any statutory notice, proclamation, valuation, publication or other requirement mandated under the Code of Civil Procedure or the applicable rules.

14. The Award Debtors shall be at liberty to take such steps as may be available to them in law for satisfaction of the award and/or for avoiding the proposed sale by making payment of the amount due, together with permissible interest and costs, subject to the orders of this Court.

The application is accordingly **disposed of in the above terms.**

Let a copy of this order be supplied to the learned Advocate for the Award Holder.

Let the Nazir/Bailiff take necessary steps in terms of this order.

Fix 05-10-2026 for submission of the Nazir/Bailiff's report and updated statement of account.

Dictated and corrected.

Sd/-

**Additional District & Sessions Judge
18th Court, Alipore
South 24-Parganas**

Memo No :

Sd/-

**Additional District & Sessions Judge
18th Court, Alipore
South 24-Parganas**

Dated :

Copy of this order be supplied/sent to the Ld Adv for the Award Holder/ District Nazir/Bailiff, South 24 Parganas for information and necessary action.

**Additional District & Sessions Judge
18th Court, Alipore
South 24-Parganas**