

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 16685 of 2025**

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CHANDRIKA DAIRY INDUSTRIES PRIVATE LIMITED & ORS.

Versus

M/S MADHU SILICA PRIVATE LIMITED & ANR.

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Appearance:

MR DIPAN DESAI(2481) for the Petitioner(s) No. 1,2,3

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CORAM:**HONOURABLE MR. JUSTICE NIRAL R. MEHTA****Date : 08/12/2025****ORAL ORDER**

1. Heard learned advocate Mr. Dipan Desai for the petitioners.

2. At the outset, Mr. Desai, learned advocate for the petitioners, submitted that the petitioner is the judgment-debtor against whom an arbitral award dated 25.06.2016 has been passed by the learned Sole Arbitrator for an amount of Rs.53,02,370/- along with interest. Being aggrieved by the said award, the petitioner has preferred an application under Section 34 of the Arbitration and Conciliation Act, 1996 before the competent Civil Court, and the same is presently pending for adjudication. It was further submitted that during the pendency of the aforesaid proceedings, the decree-holder instituted an Execution Application before the Civil Court seeking recovery of the principal amount of Rs.53,02,370/- along with accrued interest of Rs.47,50,924/- and execution expenses of Rs.2,17,130/-, aggregating to a total sum of

Rs.1,02,70,424/-. Learned counsel further submitted that the principal amount has already been deposited in proceedings under Section 138 of the Negotiable Instruments Act, out of which a sum of Rs.10,00,000/- has already been permitted to be withdrawn by the decree-holder. It was pointed out that before the Executing Court, the petitioner has made an unequivocal statement that during the pendency of the Section 34 proceedings, he has no objection if the remaining amount of Rs.43,00,000/- deposited before the Criminal Court is also allowed to be withdrawn by the decree-holder. Despite the aforesaid position, the Executing Court has issued a warrant of possession by way of the impugned order.

3. Considering the submissions advanced and keeping in view the statement made on behalf of the petitioner that he does not object to the withdrawal of the entire principal amount of Rs.53 lakhs by the decree-holder during the pendency of the statutory appeal, this Court is inclined to issue **Notice**, returnable on 09.01.2026.

4. In the meantime, there shall be ad-interim relief in terms of paragraph 6(B) of the petition.

Direct service is permitted.

(NIRAL R. MEHTA,J)

MAYA