



2018:JKLHC-JMU:1859

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**APAA No. 6/2014 in
AA No. 1/2010
CM No. 5187/2026
c/w
APAA No. 5/2014**

Reserved on:07.08.2026.
Date of pronouncement:11.08.2026
Date of uploading: 13.08.2026
*Whether the operative part or full
judgment is pronounced:* **Full**

State of J&K

..... Petitioner(s)/Appellant(s)

Through: Mrs. Monika Kohli, Sr. AAG with
Mr. Anuj Dutta, Advocate.

vs

M/s Bhatia Builders and Anr.

.....Respondent(s)

Through: Mr. Arjun Bhatia, Advocate.

Coram: HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE

ORDER

CM No. 5187/2026

- 01.** The petitioner-State, now UT, has invoked Section 34 of the Arbitration and Conciliation Act, 1997 for setting aside of the award dated 06.10.2014 passed by the sole arbitrator on various grounds urged in the memo of petition.
- 02.** Pending consideration of the matter, respondents came up with applications; CMs No.1888/2023 and 1889/2023, in both the petitions for directing the petitioner to deposit the award amount along with interest in the Court. Since petitioner did not respond for about two years, both the applications came to be allowed by this Court vide order dated 22.07.2025 and petitioner was directed to deposit the award amount in this Court. Subsequently, petitioner filed CM No.6039/2025



for recalling the said order dated 22.07.2025 with a request to place on record the objections in the said CMs 1888/2023 and 1889/2023 on the ground that it was not aware about filing of the applications. This Court vide order dated 22.04.2026 dismissed both the applications on perusal of the Court record, which revealed that on various dates of hearing, learned Sr.AAG and her assisting counsels had sought and were granted time to deposit the award amount.

- 03.** Now petitioner has come up with the present application for extension of the time to deposit the award amount with further request that it may be allowed to deposit the award amount in the shape of bank guarantee on the sole ground that Administrative Department (Department of Disaster Management Relief, Rehabilitation and Reconstruction) has accorded approval for depositing the award amount in this Court in the shape of bank guarantee.
- 04.** Application has been opposed on the other side on the ground that petitioner cannot be allowed to re-agitate the grounds those were already considered and rejected by this Court in terms of order dated 22.04.2026.
- 05.** Heard rival contentions and perused the record.
- 06.** As stated, this Court vide order dated 22.04.2026 dismissed the application filed by the petitioner for recalling of order dated 22.07.2025, whereby it was directed to deposit the award amount in this Court, on the ground that learned Sr.AAG and her assisting counsels on various dates had already sought and granted time to deposit the award amount. The present application preferred by the petitioner-State for extension of time to deposit the award amount cannot be allowed merely because its Administrative Department has accorded approval for



depositing the award amount in this Court in the shape of bank guarantee only.

- 07.** Be that as it may, an arbitration award being in the form of a money decree is executable under the Code of Civil Procedure and can be stayed only having regard to the provisions of the code applicable to the stay of a money decree. The issue no longer remains *res integra*.
- 08.** In '*Union of India & Ors. Vs. Vipin Khanna*'; [Arbitration Petition (Arb P) No.12/2020], where a petition under Section 34 of the Jammu and Kashmir Arbitration and Conciliation Act, which is corresponding to the provisions of the Central Arbitration Act, challenging the award of the sole arbitrator came to be preferred, a submission was made on behalf of the Union of India that since petition was filed on behalf of the Government, it was not necessary to put the Government to deposit the award amount or to furnish security. The Coordinate Bench vide order dated 11.02.2021 relying upon a Supreme Court verdict in '*Pam Development Pvt. Ltd. Vs. State of West Bengal*' (Civil Appeal 5432 of 2019 decided on 12.07.2020) made it clear that though Order XXVII Rule 8-A CPC may exempt the Government of furnishing the security for seeking stay of money decree, it cannot be said to operate as an absolute clog on the discretion of the Court to direct the deposit of the decretal amount as a condition for the grant of stay of execution of a decree. Accordingly, the Court modified the initial order, whereby execution of the impugned award was stayed by directing the Union of India to deposit the principal award amount in the Court.

Relevant excerpt of the judgment for the facility of reference is extracted below:



“The submission is that since the petition is on behalf of the Government, it is not necessary to put the Government to terms of depositing the awarded amount or to furnish security. The above aspect of the matter was dealt with by the Supreme Court in Civil Appeal No.5432 of 2019, titled Pam Development Pvt. Ltd. V. State of West Bengal decided on 12.07.2020 observing that the provisions of Order XXVII Rule 8-A CPC which directs that no security shall be required from the Government in the case of money decree if taken in the literal sense, would render the amended provisions of Section 36 of the Arbitration and Conciliation Act, 1996 ineffective and would automatically revive the un-amended ones. It thus opined that although Order XXVII Rule 8-9 CPC may exempt the Government of furnishing security for seeking stay of a money decree but the said provision cannot be said to operate as an absolute clog on the discretion of the court to direct the deposit of the decretal amount as a condition for grant of stay of execution of the decree. Therefore, the court in its discretion and in the facts and circumstances of the case may proceed to grant a stay, if necessary, on its own terms and conditions even in matters relating to government.”

09. For the aforesaid reasons, present application is found devoid of merit, hence **dismissed**. Petitioner is directed to deposit the award amount in the Registry of this Court by or before the next date.
10. List the main petition on 16.09.2026.

(Rajesh Sekhri)
Judge

Jammu
11.08.2026
Eva