IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA,

ACTING CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 11th OF AUGUST, 2026

MISC. PETITION No. 701 of 2026

NITESH GOYAL

Versus

RAKESH RAJPUT AND OTHERS

Appearance:

Shri Sundaram Singh - Advocate for appellant.

Shri Anurag Gohil - Advocate for respondent.

WITH

MISC. PETITION No. 4143 of 2021

RAKESH RAJPUT

Versus

LATE SMT. SUDESH CHAWLA(DEAD)THROUGH ITS LRS PREM CHAWLA AND OTHERS

Appearance:

Shri Anurag Gohil - Advocate for the petitioner.

Shri Sundram Singh - Advocate for respondent.

Shri Praveen Kumar Chaturvedi - Advocate for responent No.4.

ORDER

Per: Pradeep Mittal J.

Since both these petitions under Article 227 of the Constitution of

India arise out of the same execution proceedings, namely Execution Case No.289/2015 (subsequently numbered as Ex.AB/1600289/2015), pending before the Court of the VII Additional District Judge/Commercial Court, Bhopal, and since the orders impugned in M.P. No.701/2026 have themselves been passed during the subsistence of the stay granted by this Court in M.P. No.4143/2021, both the petitions are being disposed of by this common judgment.

2 . **Facts giving rise to M.P. No.4143/2021** - The petitioner Rakesh Rajput had advanced a loan to Smt. Sudesh Chawla, predecessor-in-interest of respondent No.2, which culminated in Arbitration Award dated 30.10.2014 passed by the Sole Arbitrator at Mumbai, directing recovery of Rs.56,00,000/- together with interest, with a charge created over six properties, three of which are situated in District Bhopal, two in District Raisen, and one in District Ghaziabad, Uttar Pradesh. In execution proceedings registered as Ex. No.289/2015, respondent No.4-Bank raised an objection that the award was insufficiently stamped. By the impugned order dated 11.10.2021, the Executing Court held that the award, having been stamped only at Rs.100/- under the Bombay Stamp Act, 1958, was not duly stamped in terms of Article 11 of Schedule 1-A of the Indian Stamp Act, 1899, and directed the decree-holder/petitioner to pay the deficit stamp duty computed on the entire award amount, failing which the execution proceedings would stand dismissed. Aggrieved thereby, the petitioner

has approached this Court, principally contending that the award, being stamped in the State where it was made, cannot be subjected to fresh stamping under the Madhya Pradesh Stamp Rules, and that in any event the properties are not wholly situated within the jurisdiction of the Bhopal Court.

3 . **Facts giving rise to M.P. No.701/2026** : During the pendency of the stay granted in M.P. No.4143/2021, the property at E-1/203, Arera Colony, Bhopal, earlier attached and entrusted to a Receiver, became the subject-matter of a complaint by the Receiver alleging encroachment by the petitioner Nitesh Goyal. The petitioner claims to have lawfully acquired the property through settlement deeds dated 27.08.2020, 19.08.2021 and 15.09.2021, after clearing the dues of the State Bank of India, whose claim as secured creditor under the SARFAESI Act, 2002 had already been held to prevail over the arbitral award. On the Receiver's report, the Executing Court, by order dated 21.07.2025, held that the Receiver, being already in lawful custody of the property, required no separate direction to take steps for its protection, including police assistance. By further order dated 15.09.2025, the Executing Court reiterated this position and, noting the subsisting stay in M.P. No.4143/2021, consigned the execution file to the record room. The petitioner assails both orders, contending that they leave the Receiver free to dispossess him without adjudication of his objection application dated 20.08.2025 filed under Order 21 Rule 97 of the Code of Civil

Procedure, 1908, which remains pending before the Executing Court.

4. The petitioner's claim of title and lawful possession over the property is itself sub judice, being the very subject-matter of his own pending objection application dated 20.08.2025 under Order 21 Rule 97 CPC, which reads:

"97. Resistance or obstruction to possession of immovable property. (1) Where the holder of a decree for the possession of immovable property or the purchaser of any such property sold in execution of a decree is resisted or obstructed by any person in obtaining possession of the property, he may make an application to the Court complaining of such resistance or obstruction."

The impugned orders dated 21.07.2025 and 15.09.2025 do not adjudicate any question of title, possession or right qua the petitioner, they merely affirm that the Receiver, already vested with custody of the property under a subsisting order of attachment, requires no fresh direction to take lawful protective steps. Such power flows from Order 40 Rule 1(1)(d) CPC, which authorises the Court appointing a Receiver to confer upon him powers "as to bringing and defending suits and for the realization, management, protection, preservation and improvement of the property as the owner himself has", read with Section 94(e) CPC, which enables the Court to make such interlocutory orders "as may appear to the Court to be just and convenient" to prevent the ends of justice from being defeated. Being purely protective and custodial in character, the impugned orders neither bind nor prejudice the petitioner's disputed claim. A person whose title or possession is yet to be established, and who has himself invoked the very remedy provided under Order 21 Rules 97 to 101 CPC for that purpose, cannot simultaneously claim an independent locus to invoke the supervisory jurisdiction of this Court under Article 227 against an interlocutory order that leaves his claim wholly untouched. The petition is, accordingly, premature and not maintainable at the instance of the petitioner, whose remedy lies in seeking expeditious adjudication of his pending objection application before the Executing Court itself. It is further noticed that the substantive execution proceedings stand stayed by this Court's order dated 09.12.2021 in M.P. No.4143/2021, a fact expressly recorded in the impugned order dated 15.09.2025, and no coercive step against the petitioner is presently in contemplation.

5. Turning to M.P. No.4143/2021, the short question is whether the Executing Court was justified in directing the petitioner/decree-holder to pay deficit stamp duty on the arbitral award dated 30.10.2014 computed on the value of the award as a whole, notwithstanding that the award was stamped in accordance with the Bombay Stamp Act, 1958, at the place where it was made, and notwithstanding that a part of the properties covered by the award lie outside the territorial jurisdiction of the Bhopal Court.

6. Under Section 17 of the Indian Stamp Act, 1899, an

instrument must be stamped before or at the time of its execution, and an inadequately stamped award cannot be enforced. The Executing Court is bound to determine whether the award has been adequately stamped as required by Article 12 of Schedule 1-A of the Stamp Act. The award must be stamped before or at the time of its execution, and the absence of adequate stamping invalidates the execution. Stamp duty on the document must be paid according to the value of the document, or the market value of the property, whichever is higher. This does not mean that the value of the document can be split according to the territorial jurisdiction of the Executing Court. Where more than one property is involved in the award, the total value of the award must be reckoned for the purpose of stamping.

7. The quantum of stamp duty payable on any instrument depends upon the statute applicable in the State in which the instrument is executed or is brought for enforcement. An arbitral award is treated as a single, unified "instrument" under the Stamp Act stamp duty cannot be calculated by splitting the award, or by paying piecemeal, State-wise duty on a single composite award document. Where the properties covered by an award lie across multiple State jurisdictions, the award must ordinarily satisfy the stamp duty requirement of the enforcing State, often requiring payment based on the highest applicable valuation, failing which the award is liable to be impounded. The Executing Court is legally mandated to examine the sufficiency of stamping and must

impound an insufficiently stamped award before acting upon it, irrespective of where the individual properties are situated. Stamp-related statutes are, after all, fiscal instruments intended to secure revenue for the Government. The award must, accordingly, be stamped at the value of the award as a whole and not merely at the value of that portion of the property lying within the territorial jurisdiction of the Executing Court.

8. A document cannot be admitted in evidence unless and until it has been duly stamped accordance with law. Stamp duty is a levy imposed on a document as a tax payable to the Government. It is not an execution fee payable for the purpose of executing an order mentioned in the award or document.

9. Therefore, we are not persuaded by the argument advanced by the petitioner. We are of the view that the stamp duty is chargeable on the entire value of the document and cannot be apportioned or split according to the value of the individual properties comprised therein.

10. Viewed thus, no fault can be found with the impugned order dated 11.10.2021, whereby the Executing Court has directed payment of deficit stamp duty on the entire value of the award. The contention that the properties situated outside the jurisdiction of the Bhopal Court ought to be excluded from computation is contrary to the settled position noted above, since the award being a single composite instrument, its stamp duty cannot be apportioned property-wise or State-wise.

11. In the result:

(i) M.P. No.4143 of 2021 is dismissed. The order dated 11.10.2021 passed by the VII Additional District Judge, Bhopal, in Ex. No.289/2015, is affirmed. The petitioner shall pay the deficit stamp duty, computed on the entire value of the award, within a period to be fixed by the Executing Court, failing which the consequences indicated in the impugned order shall follow.

(ii) M.P. No.701 of 2026 is disposed of, holding that the petitioner Nitesh Goyal does not have the locus, at this stage, to assail the orders dated 21.07.2025 and 15.09.2025, his claim of title/possession being sub judice in his own pending application under Order 21 Rule 97 CPC.

The stay granted in M.P. No.4143/2021 stands vacated, and the execution proceedings are restored.

No order as to costs

(VIVEK RUSIA)
ACTING CHIEF JUSTICE

(PRADEEP MITTAL)
JUDGE

Praveen