2026:AHC:209260

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 13991 of 2026

Dhk Eduserve Limited

.....Petitioner(s)

Versus

Ganga Prasad Memorial Trust And Another

.....Respondent(s)

Counsel for Petitioner(s) : Tejas Singh
Counsel for Respondent(s) :

Court No. - 53

HON'BLE VIKAS BUDHWAR, J.

1. Heard Mr. Tejas Singh, learned counsel for the Decree Holder/Petitioner and learned counsel for the respondents.

2. The case of the Decree Holder/Petitioner is that it happens to be a Company incorporated under the Companies Act, 1956. Owing to certain dispute and differences, so arose between the parties, pursuant to agreement dated 10.12.2018, the matter was referred to arbitration and an award came to be passed on 07.12.2025 by the Arbitrator in an Arbitration Case No.110 of 2023 (DHK Eduserve Limited Vs. Ganga Prasad Memorial Trust and another).

3. The Judgment Debtor/Respondents challenged the award dated 07.12.2025 by filing an application under Section 34 of the Arbitration and Conciliation Act, which was numbered as Miscellaneous Case No.15 of 2026. The Decree Holder also filed an Arbitration Execution Application No.02 of 2026 ((DHK Eduserve Limited Vs. Ganga Prasad Memorial Trust and another)). The Judgment Debtor / Respondent filed a petition / application under Section 34 of the Act, questioning the award dated 07.12.2025 that however on 25.02.2026, the Presiding Officer, Commercial Court, Varanasi allowed the amendment application (41 ka) fixing the date 27.05.2026 for hearing on petition under Section 34 of the 1996 Act. The same was challenged by the decree holder while filing matter under Article 227 No.7838 of 2026 in which an interim order came to be passed on 29.05.2026.

4. Thereafter, on 23.06.2026 in Arbitration Case No 2 of 2026, the

application No. 25 (Ga) of the Judgment Debtor/Respondent came to be rejected which was subject matter of challenge in Matters under Article 227 No.9725 of 2026 which came to be disposed of on 24.07.2026.

5. Again on 31.07.2026 another order came to be passed by Commercial Court, Varanasi in Arbitration Case No.15 of 2026 (New Case No.5 of 2026) under Section 34 of the Act which was subject matter of challenge at the instance of the Decree Holder/Petitioner in Matters under Article 227 No. 10752 of 2026, which came to be allowed on 10.08.2026. Apart from the same, the report of the Munsrim dated 27.08.2026 was also subject matter of challenge at the behest of the Judgment Debtor/Petitioner being Matters under Article 227 No. 12972 of 2026 in which interim order came to be passed on 18.09.2026 and so far as the order dated 21.08.2026 is concerned, the same was also challenged by the petitioner herein in the matters under Article 227 No. 12102 of 2026 in which interim order came to be passed on 21.08.2026.

6. The present petition has been preferred with a direction to the Commercial Court, Varanasi to decide the Arbitration Case No.2 of 2026(DHK Eduserve Limited Vs. Ganga Prasad Memorial Trust and another). Reliance has also been placed upon the judgments of the Hon'ble Apex Court in **Chopra Fabricators & Manufacturers (P) Ltd. V. Bharat Pupms & Compressors Ltd.; 2023 SCC 534** and in M/s. Paramount Propbuild Pvt Ltd Vs. Uttar Pradesh State Industrial Development Authority And Another so as to contend that the execution petitions are to be decided expeditiously without granting unnecessary adjournments.

7. I have heard the submission so made across the bar and perused the record.

8. Plainly and simply the grievance of the Judgment Debtor/Decree Holder/Petitioner is that the execution petition is pending and it has not been given a logical end which ought to have been given a logical end.

9″. In **Chopra Fabricators & Manufacturers (P) Ltd. v. Bharat Pumps & Compressors Ltd.; 2023 (3) SCC 534,** the following was observed as under:

"1. This is a glaring example of frustrating the arbitration proceedings under the Arbitration Act. The Award has been passed in the year 1992 and the execution

petition is of the year 2003, which is still reported to be pending.

2. It is very unfortunate that even after a period of 30 years, the party in whose favour the Award is passed is not in a position to enjoy the fruit of the litigation/Award. Even the execution petition is also pending for more than 19 years.

3. This is a very sorry state of affairs that even the execution proceedings to execute the Award passed under the Arbitration Act are pending for more than 20 years. If the Award, under the Arbitration Act, is not executed at the earliest, it will frustrate the purpose and object of the Arbitration Act as well as the Commercial Courts Act. Even as per the new Commercial Courts Act, 2015 the commercial dispute is required to be decided and disposed of at the earliest and within the stipulated time provided under the Act, namely, one year. There must be number of such proceedings pending in the courts under the jurisdiction of the High Court of Judicature at Allahabad.

4. We direct the Registrar General of the High Court of Judicature at Allahabad and the Lucknow Bench to place on record (i) how many execution petitions to execute the Award both under the Arbitration Act, 1940 and under the Arbitration and Conciliation Act, 1996 are pending in the subordinate courts/executing courts in the entire State; (ii) how many Section 34 applications are pending in the entire State and from which year and (iii) how many Section 37 applications are pending before the High Court and from which year.

5. The aforesaid information in the form of a detailed report shall be placed before this Court on or before the next date of hearing.

6. Put up on 28.04.2022 on top of the Board.

7. Insofar as the present case is concerned, considering the fact that the Award which is sought to be executed is of the year 1992 and the execution proceedings are pending since 2003, we direct the executing court to finally decide and dispose of the execution petition within a period of four weeks from the date of receipt of the present order."

10. Further in **Periyammal (Dead) Through Lrs& Ors V. V. Rajamani & Anr.Etc.; 2025 INSC 329,** the Hon'ble Apex Court observed as under:

"73. It is worthwhile to revisit the observations in Rahul S. Shah (supra) wherein this Court has provided guidelines and directions for conduct of execution proceedings. The relevant portion of the said judgment is reproduced below:

"42. All courts dealing with suits and execution proceedings shall mandatorily follow the below mentioned directions:

42.1. In suits relating to delivery of possession, the court must examine the parties to the suit under Order 10 in relation to third-party interest and further exercise the power under Order 11 Rule 14 asking parties to disclose and produce documents,

upon oath, which are in possession of the parties including declaration pertaining to third-party interest in such properties.

42.2. In appropriate cases, where the possession is not in dispute and not a question of fact for adjudication before the court, the court may appoint Commissioner to assess the accurate description and status of the property.

42.3. After examination of parties under Order 10 or production of documents under Order 11 or receipt of Commission report, the court must add all necessary or proper parties to the suit, so as to avoid multiplicity of proceedings and also make such joinder of cause of action in the same suit.

42.4. Under Order 40 Rule 1 CPC, a Court Receiver can be appointed to monitor the status of the property in question as custodia legis for proper adjudication of the matter.

42.5. The court must, before passing the decree, pertaining to delivery of possession of a property ensure that the decree is unambiguous so as to not only contain clear description of the property but also having regard to the status of the property.
42.6. In a money suit, the court must invariably resort to Order 21 Rule 11, ensuring immediate execution of decree for payment of money on oral application.

42.7. In a suit for payment of money, before settlement of issues, the defendant may be required to disclose his assets on oath, to the extent that he is being made liable in a suit. The court may further, at any stage, in appropriate cases during the pendency of suit, using powers under Section 151 CPC, demand security to ensure satisfaction of any decree.

42.8. The court exercising jurisdiction under Section 47 or under Order 21 CPC, must not issue notice on an application of third party claiming rights in a mechanical manner. Further, the court should refrain from entertaining any such application(s) that has already been considered by the court while adjudicating the suit or which raises any such issue which otherwise could have been raised and determined during adjudication of suit if due diligence was exercised by the applicant.

42.9. The court should allow taking of evidence during the execution proceedings only in exceptional and rare cases where the question of fact could not be decided by resorting to any other expeditious method like appointment of Commissioner or calling for electronic materials including photographs or video with affidavits.

42.10. The court must in appropriate cases where it finds the objection or resistance or claim to be frivolous or mala fide, resort to sub-rule (2) of Rule 98 of Order 21 as well as grant compensatory costs in accordance with Section 35-A. 42.11. Under Section 60 CPC the term "? in name of the judgment-debtor or by another person in trust for him or on his behalf" should be read liberally to incorporate any other

person from whom he may have the ability to derive share, profit or property.

42.12. The executing court must dispose of the execution proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay.

42.13. The executing court may on satisfaction of the fact that it is not possible to execute the decree without police assistance, direct the police station concerned to provide police assistance to such officials who are working towards execution of the decree. Further, in case an offence against the public servant while discharging his duties is brought to the knowledge of the court, the same must be dealt with stringently in accordance with law.

42.14. The Judicial Academies must prepare manuals and ensure continuous training through appropriate mediums to the court personnel/staff executing the warrants, carrying out attachment and sale and any other official duties for executing orders issued by the executing courts." (Emphasis supplied)

74. The mandatory direction contained in Para 42.12 of Rahul S. Shah (supra) requiring the execution proceedings to be completed within six months from the date of filing, has been reiterated by this Court in its order in Bhoj Raj Garg v. Goyal Education and Welfare Society & Ors., Special Leave Petition (C) Nos. 19654 of 2022.

75. In view of the aforesaid, we direct all the High Courts across the country to call for the necessary information from their respective district judiciary as regards pendency of the execution petitions. Once the data is collected by each of the High Courts, the High Courts shall thereafter proceed to issue an administrative order or circular, directing their respective district judiciary to ensure that the execution petitions pending in various courts shall be decided and disposed of within a period of six months without fail otherwise the concerned presiding officer would be answerable to the High Court on its administrative side. Once the entire data along with the figures of pendency and disposal thereafter, is collected by all the High Courts, the same shall be forwarded to the Registry of this Court with individual reports.

76. Registry is directed to forward one copy each of this judgment to all the High Courts at the earliest.

77. The Registry shall notify this matter once again after seven months only for the purpose of reporting compliance of the directions issued by us referred to above."

11. In the opinion of Court, once an execution petition / application has been filed before a competent Court and there is no legal impediment then the same should be given a logical end without granting unnecessary adjournments so as to ensure confidence and to uphold the majesty of the

Court, particularly, when once the orders are in favour of a particular party but the same is not given its logical conclusion and the party in whose favour the orders have been passed, is deprived of the fruits then the said partakes the character of erosion of justice.

12. Accordingly, the petition is being disposed of requiring the court below, before whom the execution proceedings are pending, to mobilize and to conclude the same and to give it a logical conclusion without granting unnecessary adjournments with most expedition and, in case, adjournments are granted then the same should not be beyond the 5 days at a stretch. In case, anything survives or the occasion so arises, it shall be open for the petitioner to again approach this Court.

October 6, 2026
Neeraj

(Vikas Budhwar,J.)