2026:AHC:217771

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 12750 of 2026

Ordnance Clothing Factory

.....Petitioner(s)

Versus

M/S Banswara Syntex Limited

.....Respondent(s)

Counsel for Petitioner(s)	:	Shalvin
Counsel for Respondent(s)	:	

Court No. - 53

HON'BLE VIKAS BUDHWAR, J.

1. Supplementary affidavit filed today is taken on record.

2. Sri Shalvin, learned counsel for the petitioner.

3. In view of the order which is being proposed to be passed, notices are not being issued to the respondent.

4. The petitioner claims to be the Ordnance Clothing Factory situated at Shahjahanpur, being a unit of the Ordnance Factory Board under the Ministry of Defence, Government of India. The petitioner herein had placed Repeat Supply Order No. 2010000248 on 30.10.2010 and the respondent herein, M/s Banswara Syntex Limited, Mumbai awarded a contract for supply of 56,463 meters of three-layer Waterproof Bride-well Fabric DS OG/White, (118 cm) at Rs. 295.00 per meter with the delivery of 40,000 meters by 31.01.2011 and 16,463 meters by 28.02.2011. A purchase order also came to be issued on 30.10.2010 and post meeting conducted on 26.11.2010, a deliberation/decision was taken that lower rate of Rs. 231/- per meter would apply. Consequent to the successful delivery and acceptance of the consignment from M/s Banswara Syntex Limited, Mumbai at the rate of Rs. 231/- per meter, certain disputes and differences occurred between the parties which resulted to a request at the end of the respondent on 11.03.2011 and 28.03.2011 for appointment of the arbitrator. Consequently, JGM, Field Gun Factory, Kanpur was appointed as an arbitrator. The arbitrator pronounced the award with a direction to the petitioner to refund Rs. 26,93,235/- to the respondent together with interest at the rate of 12% per annum and 2% towards cost of arbitration.

5. Aggrieved against the same, the petitioner invoked proceedings under Section 34 of the Arbitration and Conciliation Act, 1996, being Arbitration Case No. 19 of 2013 before the District Judge, Shahjahanpur on 25.03.2013, which came to be transferred consequent to the establishment of the Commercial Court, Bareilly. The Commercial Court, Bareilly, by virtue of judgment and order dated 17.09.2024, rejected the application under Section 34 of the Arbitration and Conciliation Act, 1996, which resulted to filing of an appeal under Section 37 of the Arbitration and Conciliation Act, 1996, being Defective No. 01 of 2025, Ordnance Clothing Factory, Shahjahanpur and others Vs. M/s Banswara Syntex Limited, in which on 17.01.2025, the following orders have been passed.-

> *"Civil Misc. Delay Condonation Application No.1 of 2025*
> *1. Issue notice to respondent by registered post A.D., returnable within three weeks. Steps to be taken within three days.*
> *2. List this matter for admission on the date succeeding the date fixed in the notice for appearance of the respondent alongwith a tracking report."*

6. On 13.02.2025, the following order was passed.-

> *"1. Notice was issued to the respondent, returnable within three weeks.*
> *2. Notice was sent by registered post. The tracking report/service report till 28.01.2025 indicates that 'Item received' at 'Mail Agency, Prayagraj RMS'. Thereafter, updated track report has not been placed by the office.*
> *3. Updated tracking report/service report be placed by the office on record.*
>
> *4. List on 04.03.2025."*

7. On 17.10.2025, the following order was passed.-

> *"1. Learned counsel for the appellants prays for time.*
> *2. List on 31.10.2025."*

8. On 31.10.2025, the following order was passed.-

> *"List on 14.11.2025."*

9. On 14.11.2025, the following order was passed.-

> *"As prayed, list on 08.12.2025."*

10. On 24.02.2026, the following order was passed.-

"List on 27.03.2026."

11. On 06.10.2025, the following order was passed.-

"List on 16.10.2026."

12. Since the appeal under Section 37 of the Arbitration and Conciliation Act, 1996 was defective being beyond limitation, so the respondents herein filed their objection and the appeal is pending. However, in the meantime, the respondents, in absence of any interim order, filed an Execution Petition No. 06 of 2026 before the Court of District Judge, Commercial Court, Bareilly for executing the award dated 13.02.2023 coming up with a stand which is as under:-

"BEFORE THE HON'BLE JUDGE, COMMERCIAL COURT, BAREILLY.

EXECUTION PETITION NO. 6 OF 2026

BANSWARA SYNTEX LTD. HAVING ITS REGISTERED OFFICE AT INDUSTRIAL AREA, DAHOD ROAD, BANSWARA, RAJSTHAN-327001 AND ITS CORPORATE OFFICE AT GOPAL BHAWAN, 5th FLOOR, 199, PRINCESS STREET, MUMBAI - 400002 THROUGH ITS DEPUTY MANAGER (LEGAL AND SECRETARIAL) Mr. RAJESH DAVE, AGED ABOUT 53 YEARS, ADULT, SON OF LATE SRI MANOHAR LAL JI DAVE.

.....AWARD HOLDER

VERSUS

THE GENERAL MANAGER, ORDINANCE CLOTHING FACTORY, SHAHJAHANPUR-242001 (U.P.)

.....AWARD DEBTOR

Sir,

We, Banswara Syntex Limited, a Limited Company, incorporated under the Company Act, the Award Holder, hereby apply for the execution of Award dated 13.02.2013:

S. No.	Particulars	Details
1.	Arbitration Case Number	Nil.
2.	Name of Parties	Banswara Syntex Limited having its Registered Office at Industrial Area, Dahod Road, Banswara,

		Rajsthan-327001 and its Corporate Office at Gopal Bhawan, 5th Floor, 199, Princess Street, Mumbai – 400002. ……..Award Holder Versus The General Manager, Ordinance Clothing Factory, Shahjahanpur-242001 (U.P.) Award Debtor
3.	Date of Award	Arbitration Award was passed on 12.02.2013.
4.	Whether any appeal preferred or not?	Yes. The Award Debtor preferred the Petition under Section 34 of The Arbitration and Conciliation Act, 1996 before the Hon'ble Court of District Judge, Shahjahanpur and it was transferred to the Hon'ble Commercial Court, Bareilly, which were registered as Misc. (Arbitration) No. 90 of 2013, Union of India Versus Banswara Syntex Limited, which has been dismissed by the Hon'ble Court vide its Judgment and Order dated 17.09.2024.
5.	Payment or Adjustment, if any	No.
6.	Previous application if any, with date and result	No. This is the First Execution Application.
7.	Amount with payment received (if any), interest due upon the decree of other relief granted thereby together with particulars of any cross degree.	Total Awarded Amount Rs. 26,93,235/- Awarded Interest Rs. 42,28,376/- on Awarded Amount @ 12% p.a. with date of notification of Award i.e. 13.02.2013 on till 12.03.2026 and Pendente lite and Future Interest w.e.f. 12.03.2026 till actual amount is paid Total Awarded Amount + Interest @ 12% p.a. till 13.03.2026 i.e. filing of Execution Petition Rs. 69,21,611/-
8.	Amount of expenses, if any Award	Nil
9.	Amount of cost, if any, Award	Against the Award Debtors
10.	Against whom to be executed	Against the Award Debtors
11.	Mode in which assistance of	A. By Attachment of Bank Accounts of the Award

	Court's required	Debtor. B. By Attachment and sale of movable and immovable assets and Vehicles of Award Debtor. C. By arrest and detention of the Award Debtor in civil imprisonment.

PRAYER

It is, therefore, most respectfully prayed that the above described amount of Rs. 69 ,21,611/- towards awarded amount along with interest thereon and also the pendent lite and future interest till date of actual payment and also the cost of this execution may kindly be recovered from the Award Debtors and be paid to the Award Holder.

VERIFICATION

Verified that the contents of forgoing Paragraphs No. 1 to 11 and Prayer Clause of the present Execution Petition are true and correct to the best of my personal knowledge and belief.

Signed and verified on this day of 2026 at Civil Courts, Bareilly.

AWARD HOLDER

COUNSEL FOR AWARD HOLDER

(SACHIN AGARWAL)
ADVOCATE"

13. Since, according to the petitioner, the award was to the tune of Rs. 26,93,235/- being the principal component along with the interest of 18% and 2% charges referable to the arbitration cost, but an inflated value of Rs. 69,21,611/- came to be made the part and parcel of the execution proceedings. So the petitioner herein has filed the present petition before this Court which was presented on 10.09.2026, wherein the following reliefs have been sought:-

14. This Court on 15.09.2026 proceeded to pass the following order:-

> *"1. Learned counsel for the petitioner is directed to bring on record the complete order-sheet of the case pending before the court concerned, by way of supplementary affidavit.*
> *2. List again on 23.09.2026, as fresh."*

15. And on 23.09.2026, following order was passed:-

> *"1. Supplementary affidavit filed today is taken on record.*
> *2. As prayed by Ms. Sarita Mehta holding brief of Mr. Abhishek Chandra*

Mishra, learned counsel for the petitioner, list this matter as fresh after three weeks."

16. Learned counsel for the petitioner has sought to argue that the execution proceedings are liable to be stayed particularly when at best the respondents in the execution proceedings can claim the principal amount and the interest amount so awarded by the Arbitrator as affirmed in the proceedings under Section 34 of the Arbitration and Conciliation Act and mere pendency of a defective appeal before this Court would not be a ground to denude the petitioner from his right to challenge the proceedings so emanating from the execution, particularly when the amount is exorbitant and in excess of the same. He submits that this Court has ample power and wide jurisdiction to safeguard the interest of the petitioner in that regard.

17. I have heard the submissions made by learned counsel for the petitioner and perused the record.

18. Plainly and simply, owing to dispute and differences, an award came to be passed on 13.02.2013 by the arbitrator. The same was subject to challenge at the instance of the present petitioner while filing proceedings under Section 34 of the Arbitration and Conciliation Act, 1996, which resulted in dismissal on 17.09.2024. Thereafter, a defective appeal has been filed with delay which is pending and in the meantime the execution proceedings stood initiated by the claimant-respondent. Now, a question arises whether the petitioner is entitled to the relief as sought for in the present proceedings under Article 227 of the Constitution of India or not.

19. Apparently, appeal against the award as well as the rejection of the proceedings under Section 34 of the Arbitration and Conciliation Act is pending before this Court. There is no stay order or interim protection in favour of the petitioner. In view of the provisions contained under Order 41 Rule 5 of the CPC, mere pendency of an appeal does not constitute any stay as held by the Hon'ble Apex Court in SLP No. 19038 of 2022, Sanjeev Kumar Singh Versus State of Bihar, decided on 24.01.2023. The issue in the execution, an inflated amount is being claimed is an aspect which requires to be dealt with by the executing court and definitely not in the present proceedings.

20. On a pointed query being raised to learned counsel for the petitioner as to whether any objection has been filed to the execution proceedings, he has made a statement at bar that the objection came to be filed on

03.09.2026. In the wake of the fact that already an objection has been filed by the petitioner before the executing court and the executing court is seized of the matter, thus, it would not be appropriate for this Court to accord interference at this stage. So much so, it is always open for the petitioner to raise all factual and legal issues resisting the execution in that regard.

21. Accordingly, the petition stands **disposed of** leaving it open for the petitioner to raise all legal and factual objections in the pending execution and this Court has no reason to disbelieve that the same shall be considered in correct perspective.

October 15, 2026
Rajesh

(Vikas Budhwar,J.)