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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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**Date of Decision: 24<sup>th</sup> June, 2021**

+ EX.P. 275/2012 & E.A. 193/2020

M/S BHANDARI ENGINEERS  
& BUILDERS PVT LTD

..... Decree Holder

Through: Mr. S. S. Jauhar, Advocate

versus

M/S MAHARIA RAJ  
JOINT VENTURE & ORS

..... Judgment Debtors

Through: Mr. Dayan Krishnan, Senior  
Advocate as *Amicus Curiae*  
Mr. Sanjiv Kakra, Senior Advocate as  
*Amicus Curiae*

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M/S BHANDARI ENGINEERS  
& BUILDERS PVT LTD

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(JV) DELHI & ORS

..... Judgment Debtors

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Mr. Sanjiv Kakra, Senior Advocate as  
*Amicus Curiae*

**CORAM:**

**HON'BLE MR. JUSTICE J.R. MIDHA**

**J U D G M E N T ( O R A L )**

1. This Court laid down the guidelines for execution of the decrees/awards vide judgment dated 05<sup>th</sup> December, 2019, hereinafter referred to as ***Bhandari Engineers-I***.

2. Vide judgment dated 05<sup>th</sup> August, 2020, hereinafter referred to as *Bhandari Engineers-II*, this Court modified the guidelines issued in *Bhandari Engineers-I* to make them more comprehensive.

3. Mr. Dayan Krishnan, Senior Advocate assisting this Court as *Amicus Curiae* seeks the following modifications in the guidelines issued in *Bhandari Engineers-II*:

(i) If the execution is filed within two years of the decree/award and the decree-holder has disclosed the assets of the judgment-debtor, the Court shall attach the assets on the very first date of hearing.

(ii) If the decree-holder is not aware of the assets of the judgment-debtor, the Court shall direct the judgment-debtor to deposit the amount within 30 days.

(iii) If the decretal/awarded amount is not deposited by the judgment-debtor, the judgment-debtor be directed to file the affidavit/additional affidavit of its assets and income within 30 days of the receipt of notice.

(iv) If the amount is deposited by the judgment-debtor within 30 days, the judgment-debtor is not required to file the affidavit/additional affidavit of its assets.

(v) If the judgment-debtor is a Central Government/State Government/Municipal Corporation/ PSU/Entity of the Central/State Government/Foreign State, the direction to file the affidavit of assets within 30 days is not necessary in the first instance. In such cases, the Court shall direct the judgment-debtor to disclose the particulars of its bank account(s) in which there is sufficient amount to satisfy the decree/award, on affidavit within 30 days. If the amount in the bank account(s) is not sufficient to satisfy the decree/award, the judgment-debtor be then directed to file the affidavit of its

assets in Form 16A of Appendix E under Order XXI Rule 41(2) of the Code of Civil Procedure.

(vi) If the execution is filed after two years of the decree/award, notice be issued to the judgment-debtor and the directions relating to the affidavit of assets, attachment and injunction be considered after the service of the judgment-debtor unless the decree-holder makes out a case under Order XXI Rule 22 of the Code of Civil Procedure, at the time of issuance of notice.

(vii) The formats of the notices to be issued to the judgment-debtor be prescribed in this judgment for the convenience of the Courts.

(viii) The show cause notice is necessary for detaining the judgment-debtor upon the failure to deposit the decretal/award amount or to file the affidavit of assets.

4. Mr. Sanjiv Kakra, learned *Amicus Curiae* and Mr. S. S. Jauhar, learned counsel for the decree-holder submit that the suggestions given by the learned amicus curiae are very valuable and be incorporated in the guidelines laid down by this Court. It is suggested that the additional affidavit is also relevant in proceedings before NCLT/NCLAT.

5. This Court is satisfied that the suggestions given by the learned amicus curiae are necessary to be incorporated in ***Bhandhari Engineers-II***.

6. The directions issued by this Court in paras 54 to 83 in ***Bhandhari Engineers-II*** are hereby modified and substituted with the following paras 54 to 83. The modified paragraphs 54 to 83 of the judgment are as under:

**“Conclusion**

54. The execution of decrees/awards deserve special attention considering that inordinate delay in execution proceedings would frustrate the decree-holders from reaping the benefits of the decrees/

awards.

**Execution proceedings instituted within two years of the decree/award**

55. If the execution is filed within two years of the decree/award and the decree-holder has disclosed the assets of the judgment-debtor, the Executing Court shall, on the first date of hearing, issue notice to the judgment-debtor, attach the assets of the judgment-debtor and direct the judgment-debtor to deposit the decretal amount within 30 days of the receipt of the notice.

56. If the execution is filed within two years of the decree/award but the decree-holder has not disclosed the assets of the judgment-debtor, the Executing Court shall issue notice, attach the assets and direct the judgment-debtor to deposit the decretal amount within 30 days of the receipt of the notice.

57. The Executing Court shall direct the judgment-debtor that if the decretal amount is not deposited, the judgment-debtor shall file the affidavit of assets on the date of cause of action, date of the decree/award as well as on the date of the swearing of the affidavit in Form 16A of Appendix E under Order XXI Rule 41(2) of the Code of Civil Procedure within thirty days of the receipt of notice. The oral prayer/application of the decree-holder for issuance of such direction shall be considered sufficient compliance of Order XXI Rule 41(2) of the Code of Civil Procedure.

58. The Executing Court shall further direct that if the judgment-debtor does not deposit the decretal amount, the judgment-debtor shall file an additional affidavit in the format of *Annexures A1/B1* along

with the documents mentioned therein within 30 days of the receipt of this notice.

59. It is clarified that if the decretal amount is deposited within 30 days of the receipt of the notice, the judgment-debtor is not required to file the affidavit/additional affidavit before the Court.

60. If the judgment-debtor is Central Government/State Government/ Municipal Corporation/PSU/Entity of Central/State Government/Foreign State, the direction to file the affidavit of assets in Form 16A Appendix E under Order XXI Rule 41(2) of the Code of Civil Procedure and attachment of assets is not necessary in the first instance. In such cases, the Executing Court shall direct the judgment-debtor to disclose the particulars of its bank account(s) in which there is sufficient amount to satisfy the decree/award, on affidavit within 30 days of the receipt of the notice. However, if the amount in the bank account(s) is not sufficient to satisfy the decree, the Executing Court shall direct the judgment-debtor to file the affidavit of assets in Form 16A of Appendix E of the Code of Civil Procedure. It is clarified that the additional affidavit in format of *Annexures A1/B1* is not necessary in cases relating to Central Government/State Government/ Municipal Corporation/PSU/ Entity of Central/State Government/Foreign State. If the judgment-debtor is a Foreign State, the Court shall follow the principles laid down in the judgment dated 18<sup>th</sup> June 2021 in *KLA Const Technologies Pvt Ltd v. The Embassy of Islamic Republic of Afghanistan*, OMP(ENF)(COMM) 82/2019.

**Execution proceedings initiated after two years of the decree/award**

61. If the execution proceedings are initiated after two years of the

decree/award, the Executing Court shall, in the first instance, issue notice to the judgment-debtor to show cause as to why the decree be not executed against him. The directions relating to the deposit of amount, attachment of assets, filing of affidavit/additional affidavit of assets and the injunction to restrain the judgment-debtor from transferring/ disposing of its assets, shall be considered after the service of the judgment-debtor, unless the decree-holder has made out a case under Order XXI Rule 22 of Code of Civil Procedure.

**Restraint against judgment-debtor from transferring its assets**

62. The Executing Court is empowered, at the initial stage itself, to restrain the judgment-debtor from transferring, alienating or disposing of or otherwise parting with the possession of any assets to the tune of the decretal/award amount except in the ordinary course of business such as payment of salary and statutory dues. The Executing Court shall restrain the judgment-debtor from discharging any financial liability, other than the liabilities of Banks/financial institutions, without the permission of the Executing Court.

**Format of notices**

63. The notice to the judgment-debtor other than Central Government / State Government / Municipal Corporation / PSU / Government Entity/Foreign State shall be in **Format-I** whereas the notice to the Central Government/ State Government/Municipal Corporation/ PSU/Government Entity/Foreign State shall be **Format-II** which are as under:

**FORMAT - I**

**“NOTICE**

**(Case Number)**

**(Title of the case)**

To .....

.....

.....

*Take Notice that Execution has been filed in respect of a decree/award dated .....under which you are liable to pay Rs. .... to the decree-holder.*

*You are hereby directed to deposit Rs.....with this Court within thirty days of the receipt of this notice.*

*IN the event of failure to deposit Rs..... , you are directed to file an affidavit of your assets on the date of cause of action, date of the award as well as on the date of the swearing of the affidavit in Form 16A of Appendix E of the Code of Civil Procedure within thirty days of the receipt of the notice.*

*IN the event of failure to deposit Rs..... , you are further directed to file an additional affidavit in terms of the formats attached to the judgment of **M/s Bhandari Engineers & Builders Pvt. Ltd. v. M/s Maharia Raj Joint Venture, judgment dated 24<sup>th</sup> June, 2021 in Ex.P.275/2021** , namely (i) Annexure A1 – if you are an individual and; (ii) Annexure B1 – if you are a proprietorship firm/partnership firm/HUF/company/trust, within thirty days of the receipt of the notice.*

*You are directed not to transfer, alienate or create any third party interest in respect of the assets to the tune of the decretal/award amount along with up to date interest except in the ordinary course of business such as payment of salary and statutory dues till the next date of hearing. You shall also not discharge any liability without the permission of this Court except the liability in respect of bank/financial institution till the next date of hearing.*

*The following assets of the judgment-debtor as disclosed by the decree-holder are hereby attached:*

*(Give details of assets, if provided by the decree-holder)*

*Given under my hand and seal of the Court, this .....day of .....20.....”*

**FORMAT - II**

**“NOTICE IN CASE THE JUDGMENT-DEBTOR IS  
CENTRAL GOVT/STATE GOVT/MUNICIPAL CORPORATION/PSU OR  
CENTRAL/STATE GOVT. ENTITY/FOREIGN STATE**

*(Case Number)*

*(Title of the case)*

To .....

.....  
.....

*Take Notice that an Execution has been filed in respect of a decree/award dated .....under which you are liable to pay Rs. .... to the decree-holder.*

*You are hereby directed to deposit Rs.....with this Court within thirty days of the receipt of this notice.*

*IN the event of failure to deposit Rs..... , you are directed to file the particulars of your bank account(s) in which sufficient amount is there to satisfy the decree/award on affidavit within thirty days of receipt of this notice.*

*Given under my hand and seal of the Court, this .....day of .....20..... ”*

**Detention of the judgment-debtor for failure to file the affidavit of assets**

64. In the event of default of the judgment-debtor to file the affidavit in Form 16A Appendix E Order XXI Rule 41(2) of the Code of Civil Procedure within the stipulated time, the Executing Court shall consider detention of the judgment-debtor in civil prison for a term not exceeding three months under Order XXI Rule 41(3) of the Code of Civil Procedure. However, before passing the detention order, the Executing Court shall issue a show cause notice to the judgment-debtor and afford an opportunity of hearing. The Court may also consider examining the judgment-debtor in terms of Order XXI Rule 41(1) of the Code of Civil Procedure before detaining the judgment-debtor.



After the detention order is passed, the Executing Court shall direct the decree-holder to deposit the applicable subsistence allowance which at present is @ Rs.40/- per day per person with the Executing Court for detention of the judgment-debtor. Upon deposit of the subsistence allowance, the Executing Court shall issue non-bailable warrants against the judgment-debtor for his detention.

65. **Format of additional affidavit of assets and income**

(i) Since Form 16A of Appendix E under Order XXI Rule 41(2) of the Code of Civil Procedure is not exhaustive to ascertain all the assets of the decree-holder, this Court, in exercise of its powers under Sections 30 and 151 and Order XXI Rule 41 of the Code of Civil Procedure read with Sections 106 and 165 of the Indian Evidence Act and Article 227 of the Constitution of India, has formulated the following three affidavits:

- ***Annexure A1*** - Affidavit of assets and income of the judgment-debtor;
- ***Annexure B1*** - Affidavit of assets and income of a proprietorship firm/partnership firm/HUF/company/trust as a judgment-debtor;
- ***Annexure C1*** - Affidavit of expenditure of the judgment-debtor.

(ii) If the judgment-debtor is an individual, the additional affidavit shall be in the format of ***Annexure A1*** along with the documents mentioned therein.

(iii) If the judgment-debtor is a Firm/Company/HUF/Trust, the additional affidavit shall be in the format of ***Annexure B1***. The

affidavit of the Firm/ Company/HUF/Trust shall be sworn by all Partners/Directors/ Promoters (other than independent/non-executive and nominee directors)/Members /Karta/ Trustees, as the case may be.

(iv) After examining **Annexure A1**, the Executing Court may direct the judgment-debtor to file an additional affidavit of his expenditure in the format of **Annexure C1**.

(v) The additional affidavits – **Annexures A1, B1** and **C1** are not mandatory in case the judgment-debtor is a Central Government/State Government/ Municipal Corporation/PSU/Entity of Central/State Government/Foreign State.

(vi) In pending execution cases, if the judgment-debtor has not already filed the affidavit of assets and income, the Executing Court shall, within four weeks, direct the judgment-debtor to file the affidavit of his assets and income or provide details of the bank account, as the case may be, in terms of this judgment.

(vii) If the facts of the case so require, the Executing Court may, in order to facilitate execution proceedings, direct the parties to make compilation/extracts from the accounts/other data and present the assets and income in a tabular form, duly supported by an affidavit.

66. The aforesaid affidavits are very comprehensive and are useful to determine whether the judgment-debtor has the means to satisfy the decree/award. In the aforesaid affidavits, the judgment-debtor is required to disclose his occupation and income from all sources in the last five years; particulars of immovable properties in his name as well as joint names; financial assets including all bank accounts, DEMAT accounts, safety deposit lockers; investments including FDRs, stocks,

shares, insurance policies, loans, foreign investments; movable assets including motor vehicles, mobiles, computer, laptop, electronic gadgets, gold, silver and diamond jewellery etc.; intangible assets; garnishee(s)/trade receivables; corporate/business interests; disposal and parting away of properties; properties acquired by the family members, inheritance. A salaried judgment-debtor has to disclose the particulars of his employment including salary, D.A., commissions, incentives, bonus, perks, perquisites and other benefits, Income Tax, pension and retirement benefits etc. A self-employed judgment-debtor has to disclose the nature of business/profession, share in business/profession, net worth of the business, number of employees, amount of regular monthly withdrawals, Income Tax, net income, annual turnover/gross receipts, gross profits etc. The judgment-debtor is also required to disclose the income from other sources, namely, agricultural income, rent, interest on bank deposits and investments, dividends, profit on sale of movable/immovable assets, mutual funds, annuities etc. The judgment-debtor is also required to disclose whether he has ever been arrested or kept in detention; whether any Court has issued bailable/non-bailable warrants against him; whether he has ever been released on bail/anticipatory bail; whether he has ever been prosecuted and/or convicted; whether he has ever been declared as proclaimed offender/proclaimed person; particulars of all pending litigations, decided/disposed off litigations as well as unsatisfied decrees/awards. The judgment-debtor is further required to disclose his standard of living and lifestyle, namely, credit/debit cards, membership of clubs and other associations, loyalty programmes, social media

accounts, domestic helps and their wages, mode of travel in city and outside city, category of hotels for stay, category of hospitals for medical treatment, frequency of foreign travel, frequent flyer cards, brand of mobile, wrist watch, pen, expenditure ordinarily incurred on family functions, festivals and marriage of family members, etc. Annexure C1 requires the disclosure of expenditure on housing, household expenditure, maintenance of dependents, transport, medical expenditure, insurance, entertainment, holiday and vacations, litigation expenses, discharge of liabilities etc.

67. The affidavit of assets, income, expenditure and liabilities is to be treated as Guidelines to determine the true financial capacity/status of the judgment-debtor. The Courts are at liberty to determine the nature and extent of information/documents necessary and to direct the judgment-debtor to disclose relevant information and documents to determine the financial capacity/status. The Courts are at liberty to pass appropriate directions as may be considered necessary to do complete justice between the parties.

68. The Executing Court shall ensure that the filing of the affidavits by the judgment-debtor is not reduced to a mere ritual or formality. If the affidavits of the judgment-debtor are not in the prescribed format or are not accompanied with the relevant documents, the Court may take the affidavits on record and grant reasonable time to the judgment-debtor to remove the defects/deficiencies and simultaneously act on the information available in the deficient affidavit as per law.

69. If any ground for lifting of the corporate veil of a judgment-debtor company is made out as per law, then all the

Directors/Promoters (other than independent/non-executive and nominee directors) of the judgment-debtor Company shall be directed to disclose their personal assets and income in the format of ***Annexure A1***.

70. If any objections are filed raising claims such as HUF character or transfer, agreement to sell, mortgage, tenancy etc. to the property of the judgment-debtor (as existing on the date of the institution of proceedings in which decree was passed), the Executing Court may direct the objector to file a detailed affidavit along with all the relevant documents evidencing his claim including subsequent conduct in relation thereto.

**Verification of assets of the judgment-debtor**

71. Upon filing of affidavit in Form 16A of Appendix E under Order XXI Rule 41(2) of the Code of Civil Procedure and the additional affidavits namely ***Annexures A1, B1 and C1***, the decree-holder shall verify the disclosures made in the affidavits, either himself or through an investigator. In appropriate cases, the Executing Court may order investigation by a Government Agency including a forensic audit, cost of which shall be borne by the decree-holder.

**Service of interrogatories on the judgment-debtor**

72. If the judgment-debtor does not truly disclose all his assets and income, the decree-holder is at liberty to serve the interrogatories under Order XI of the Code of Civil Procedure and/or seek production of the relevant documents from the judgment-debtor.

73. In appropriate cases, the Court may order interrogatories, discovery, inspection, production of any document and/or order any

fact to be proved by affidavit under Section 30 of Code of Civil Procedure.

**Examination of judgment-debtor under Section 165 of Indian Evidence Act**

74. The Executing Court shall, thereafter, consider whether the oral examination of the judgment-debtor is necessary under Order XXI Rule 41(1) of the Code of Civil Procedure read with Section 165 of the Indian Evidence Act. If the Executing Court considers it necessary, the Executing Court shall examine the judgment-debtor to elicit the truth. The principles relating to the scope and powers of the Court under Section 165 of the Indian Evidence Act have been summarized in *Ved Parkash Kharbanda v. Vimal Bindal*, (2013) 198 DLT 555, which may be referred to.

**Attachment of assets of the judgment-debtor**

75. Sections 51(b), 60 to 64 and Order XXI Rules 41 to 57 of the Code of Civil Procedure contain the provisions for attachment of properties in execution. Before attaching a property, the Executing Court shall ensure that the property does not fall in the list of properties which are exempt from attachment/sale under the *Proviso* to Section 60(1) of the Code of Civil Procedure. The Executing Court shall ensure the compliance of Sections 60 to 64 and Order XXI Rules 41 to 57 of the Code of Civil Procedure with respect to the attachment of properties in execution of decrees/awards.

**Detention of judgment-debtor**

76. If the judgment-debtor does not satisfy the decree/award despite having means/capacity to pay, the decree-holder has to file an

application for the detention of the judgment-debtor whereupon the Executing Court shall issue a show cause notice to the judgment-debtor to show cause as to why he should not be committed to civil prison. The Executing Court shall, upon being satisfied that the judgment-debtor has means to pay the decretal amount or substantial part thereof and has refused or neglected to pay the same, pass an order for detention of the judgment-debtor in civil prison for a period not exceeding three months in terms of Section 58(1)(a) of the Code of Civil Procedure. Even after release from detention, the judgment-debtor shall remain liable to satisfy the decree/award in terms of Section 58(2) of the Code of Civil Procedure. The Court shall follow the procedure laid down in Sections 51(c), 55 to 59 and Order XXI Rules 37 to 40 of the Code of Civil Procedure for detention of the judgment-debtor.

**Powers of Execution Court**

77. In appropriate cases, the Executing Court may issue any of the following directions:

- (i) Issue notice and direct the Garnishee(s) to deposit in Court the amount due to the judgment-debtor as per law;
- (ii) Permit the decree-holder to inspect all the assets and the records of the judgment-debtor in the presence of the Local Commissioner to be appointed by the Court;
- (iii) Direct the auditor of the judgment-debtor company to submit a report with respect to the affairs of the judgment-debtor company;
- (iv) Permit the decree-holder to serve interrogatories on the auditors of the judgment-debtor;

- (v) Permit the decree-holder to inspect the records of the judgment-debtor with the Income Tax Department and the other authorities to verify the disclosures made by the judgment-debtor;
- (vi) Appoint a receiver in respect of the attached properties of the judgment-debtor; and
- (vii) In extreme cases, appoint a Chartered Accountant as a Local Commissioner to inspect all the records of the judgment-debtor and submit a report to the Court with respect to the affairs of the judgment-debtor.

**Restitution of the decree-holder for the loss(es) on account of delay and obstruction in execution proceedings**

78. The Executing Court shall pass appropriate order of restitution to reimburse the loss suffered by the decree-holder on account of delay and obstruction in the execution proceedings caused by the judgment-debtor. The Executing Court shall endeavour to place the decree-holder in the same position as he would have had been if the decree had been satisfied soon upon it being passed.

**Imposition of costs on the judgment-debtor**

79. Imposition of actual, realistic or proper costs and/or ordering prosecution would go a long way in controlling the tendency of introducing false claims by the judgment-debtor. The cost should be equal to the benefits derived by the litigants, and the harm and deprivation suffered by the rightful person so as to check frivolous litigations and prevent people from reaping a rich harvest of illegal acts through Court. The costs imposed by the Courts must be the real costs



equal to the deprivation suffered by the rightful person and also considering how long they have compelled the other side to contest and defend the litigation in various courts. In appropriate cases, the Courts may consider ordering prosecution otherwise it may not be possible to maintain purity and sanctity of judicial proceedings.

**Consequences for raising false claims**

80. If the judgment-debtor makes a false claim/statement in his/her affidavit, the decree-holder is at liberty to invoke Section 340 CrPC for prosecution of the judgment-debtor under Section 209 IPC. Whenever a false claim is made before a Court, it would be appropriate, in the first instance, to issue a show cause notice to the judgment-debtor to show cause as to why a complaint be not made under Section 340 CrPC for having made a false claim under Section 209 IPC and a reasonable opportunity be afforded to the judgment-debtor to reply to the same. If the facts are sufficient to return a finding that an offence appears to have been committed and it is expedient in the interest of justice to proceed to make a complaint under Section 340 CrPC, the Court need not order a preliminary inquiry. But if facts are not sufficient and there is suspicion, albeit a strong one, the Court may order a preliminary inquiry. For that purpose, the Court can direct a State agency to investigate and file a report along with such other evidence that they are able to gather. Once it *prima facie* appears that an offence under Section 209 IPC has been made out and it is expedient in the interest of justice, the Court should not hesitate to make a complaint under Section 340 CrPC. Reference be made to *Sanjeev Kumar Mittal v. State*, (2010) 174 DLT 214 for principles relating to Section 340 CrPC and

*H.S. Bedi v. National Highway Authority of India*, 2016 (155) DRJ 259 for principles relating to Section 209 IPC.

81. The Courts below shall expedite the execution proceedings and shall make an endeavour to decide the execution cases within one year of their institution. The Courts below shall send the list of all pending execution cases which are more than one year old, through their respective Principal District Judges. The list shall contain the name of the case; date of institution; number of hearings that have taken place; whether the judgment-debtor has filed the affidavits of assets and income and the reasons for delay in disposal. List be prepared according to the seniority i.e. the oldest case shall be mentioned first. The Courts below shall also send a list of execution cases decided in the last one year. The Principal District Judges shall compile the lists of all their Courts and shall send them to the Registrar General of this Court by 31<sup>st</sup> October, 2021.

82. These modified directions/guidelines shall apply to all execution proceedings, including the execution proceedings under Section 36 of the Arbitration and Conciliation Act; execution proceedings before Motor Accident Claims Tribunals; execution proceedings before the SDM empowered to execute decree/awards as arrears of land revenue; execution proceedings before Debt Recovery Tribunals; execution proceedings under Consumer Protection Act and proceedings before NCLT/NCLAT.

83. The affidavits formulated by this Court namely *Annexures A1, B1* and *C1* or such information from the affidavits as is considered necessary, can be directed to be filed in any proceedings in which the

Court considers it necessary to ascertain the financial capacity or status of a party such as proceedings under Order XXXVIII of the Code of Civil Procedure and proceedings under Section 9 of the Arbitration and Conciliation Act. The Arbitral Tribunals are also empowered to direct a party to file the aforesaid affidavits i.e. *Annexures A1, B1 and C1* or such information from the affidavits as is considered necessary, in the proceedings under Section 17 of the Arbitration and Conciliation Act to ascertain the financial capacity/status of a party.”

7. These directions are being issued by this Court in exercise of powers under Section 30 and 151 and Order XXI Rule 41 of the Code of Civil Procedure read with Sections 106 and 165 of the Indian Evidence Act and Article 227 of the Constitution of India.

8. Paras 54 to 83 reproduced in paragraph 6 of this judgment are substituted in *Bhandari Engineers-II* Judgment and the modified judgment is attached hereto and is named as *Bhandari Engineers-III* Judgment. The Execution Courts shall henceforth follow *Bhandari Engineers-III* in execution cases.

9. This Court appreciates the assistance rendered by Mr. Dayan Krishnan, Mr. Sanjiv Kakra, learned Senior Advocates as *amici curiae*, Mr. S. S. Jauhar, learned counsel for decree holder and Mr. Akshay Chowdhary, Law Researcher attached to this Court.

10. Copy of this judgment and *Bhandari Engineers-III* be sent to all Principal District Judges for being circulated to all the concerned Courts.

11. Copy of this judgment and *Bhandari Engineers-III* be sent to the Delhi Judicial Academy to sensitize the judges about the modified directions laid down by this Court.

12. Delhi Judicial Academy shall upload this judgment on their website (<http://judicialacademy.nic.in>) as good practices of this Court.

**J.R. MIDHA, J.**

**JUNE 24, 2021**

ak/ds

