



IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA

Exe. Pt. No. 28 of 2023
Reserved on : 10.10.2025
Decided on : 31.10.2025

M/s Esteem Industries

...Petitioner

Versus

Chhattisgarh Medical Services Corp. Ltd. and another

...Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

Whether approved for reporting?¹ Yes

**For the petitioner : M/s Suman Thakur and Madhurika
Sekhon, Advocates.**

For the respondents : Mr. Gautam Sood, Advocate.

Ajay Mohan Goel, Judge (Oral)

By way of this execution petition, the petitioner is praying for the execution of Award dated 11.06.2023, passed by the learned Sole Arbitrator, in terms whereof, the executioner petitioner was held entitled to an amount of Rs. 3,64,22,907/-, due as on 28.02.2022, with cost of litigation, other expenses and interest.

2. The Award was passed by the learned Arbitrator in favour of the petitioner in a Claim Petition preferred under

¹Whether reporters of the local papers may be allowed to see the judgment?

Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as 'the 2006 Act'). The award debtor is the Chhattisgarh Medical Service Corporation Limited.

3. In the objections filed to the execution petition, a preliminary objection has been taken by the award debtor with regard to the maintainability of the execution petition before this Court on the ground that the award debtor, which is a Public Sector Undertaking, is neither having any property or any assets within the local limits of the jurisdiction of this Court, nor does it have any branch office or employees working within the local and territorial limits of the jurisdiction of this Court and, therefore, the present execution petition is liable to be dismissed on this count.

4. On the directions of this Court, the award debtor has filed certain affidavits disclosing the assets being held by it and in terms of these affidavits, its immovable assets are located within the State of Chhattisgarh and in addition, it is also having a bank account in Indusind Bank, Branch Pachpedi Naka in Chhattisgarh.

5. Learned counsel for the respondent on the strength of these submissions stated that as the movable and immovable assets of the award debtor are not situated within the territorial limit of this Court, therefore, the execution petition is not maintainable here.

6. Learned counsel for the petitioner submitted that in light of the fact that the Indusind Bank also has its branches in the State of Himachal Pradesh, therefore, in terms of the provisions of Order XXI, Rules 46 and 52 of the Civil Procedure Code (hereinafter referred to as 'CPC'), the proceedings are maintainable here.

7. I have heard learned counsel for the parties and have also carefully gone through the pleadings as well as the documents on record.

8. It is not in dispute that the award debtor does not have any immovable or movable assets located within the territorial limits of the State of Himachal Pradesh. However, according to the petitioner, the execution proceedings are maintainable on the ground that the bank in which the award debtor has its account has its branches in the State of

Himachal Pradesh and, therefore, this Court in exercise of powers conferred under Order XXI, Rules 46 and 52 of the CPC, can entertain this petition.

9. Order XXI, Rule 46 of the CPC provides that in the case of a debt not secured by a negotiable instrument, a share in the capital of a Corporation or other movable property not in possession of the judgment debtor except property deposited in or in custody of any Court, the attachment shall be made in the mode prescribed therein. Similarly, Order XXI, Rule 52 of the CPC provides that where the property to be attached is in the custody of any Court or Public Officer, the attachment shall be made by a notice to such Court or Officer requesting that such property and any interest or dividend becoming payable thereon, may be held subject to further orders of the Court from which the notice is issued.

10. The contention of the petitioner is that as the Bank Officer is a Public Officer, therefore, this Court can order the attachment of the property i.e. the bank account of the award debtor, as the bank account of the award debtor is in the custody of a Public Officer i.e. the bank employee.

11. This Court is of the considered view that in light of the fact that neither any movable nor any immovable property of the award debtor exists within the territorial limits of the State of Himachal Pradesh, therefore, this execution petition is not maintainable here and the petitioner would have been well advised to have had filed the execution petition at the first instance itself, before the competent Court in the State of Chhattisgarh.

12. In terms of the law declared by Hon'ble Supreme Court of India in Sundaram Finance Limited versus Abdul Samad and another, AIR 2018 Supreme Court 965, an execution can be filed anywhere where the decree can be executed and, therefore, the petitioner could have had directly filed the execution proceedings in the State of Chhattisgarh before the competent Court as the movable and immovable assets of the award debtor are situated there.

13. The contention of the petitioner that because the bank in which the award debtor has its accounts in Chhattisgarh also has branches in the State of Himachal Pradesh, therefore, the execution petition is maintainable here,

does not impress this Court. Had it been the case that the award debtor had an account in any of the banks in the State of Himachal Pradesh, then it would have been a different matter. However, simply because the award debtor has an account in a bank in Chhattisgarh, which bank also has its branches in the State of Himachal Pradesh, the same will not confer jurisdiction upon this Court for the reason that in the course of the execution of the Award this Court cannot pass a direction to the concerned branch of the bank, in which the petitioner is having an account, which branch of the bank is not within the territorial jurisdiction of this Court. The act of the Court of conferring jurisdiction upon itself on the analogy that the bank also has its branches in the State of Himachal Pradesh, shall be slightly far-fetched, because this Court also has to see the general law on the subject, which undisputedly is that an execution petition can only be filed where the movable and immovable assets of the debtor are situated.

14. Accordingly, in light of the above observations, this execution petition is held as not maintainable and liberty is granted to the petitioner to file the execution petition in the

competent Court in the State where the movable and immovable assets of the award debtor are situated. Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

October 31, 2025
(Shivank Thakur)

High Court of HP