IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL EXECUTION APPLICATION NO.38 OF 2017

Kiran Ranchoddas Ganatra	...Applicant
Versus	
Ganatra Hotels Pvt. Ltd. (Now known as E-Square Leisure Pvt. Ltd.) & Ors.	...Respondents

WITH
CHAMBER SUMMONS NO.1023 OF 2018
IN
COMMERCIAL EXECUTION APPLICATION NO.38 OF 2017

Kiran Ranchoddas Ganatra	...Applicant
Versus	
Ganatra Hotels Pvt. Ltd. (Now known as E-Square Leisure Pvt. Ltd.) & Ors.	...Respondents

WITH
INTERIM APPLICATION NO.4893 OF 2025
IN
COMMERCIAL EXECUTION APPLICATION NO.38 OF 2017

E-Square Leisure Pvt. Ltd. (formerly known as Ganatra Hotels Private Limited) & Ors.	...Applicants

<u>IN THE MATTER OF:</u>

Kiran Ranchoddas Ganatra	...Applicant
Versus	
Ganatra Hotels Pvt. Ltd. (Now known as E-Square Leisure Pvt. Ltd.) & Ors.	...Respondents

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Dr. Veerendra Tulzapurkar, Senior Advocate a/w Mr. Prakash Shah, Senior Advocate, Mr. Sandeep Parikh, Mr. Durgaprasad Poojari & Mr. Vikas Poojary i/b PDS Legal, for Respondent Nos.1 to 4 in COMEX/38/2017 and for the Applicant in IA/4893/2025.
Mr. Nirman Sharma a/w Tanjul Sharma & Sonali Aggarwal i/b

Dhruve Liladhar & Co., for the Judgment Creditor.

CORAM: MADHAV J. JAMDAR, J.
DATED: 13 FEBRUARY 2026

PC:-

1. Heard Dr. Tulzapurkar, learned Senior Counsel for the Applicants in Interim Application No.4893 of 2025 who are the Original Respondent Nos.1, 3 and 4 i.e. Award Debtors in Commercial Execution Application No.38 of 2017 and Mr. Sharma, learned Counsel for the Execution Applicants/Award Holders in Commercial Execution Application No.38 of 2017.

2. In Interim Application No.4893 of 2025, the Applicants are seeking the following reliefs:

> "*a) This Hon'ble Court be pleased to mark the Award dated 5th April 2016 (Exhibit A to Execution Application), as corrected by communication dated 25TH May, 2016 (Exhibit Al to Execution Application) as fully satisfied;*
>
> *b) This Hon'ble Court be pleased to dismiss Commercial Execution Application No. 38 of 2017;*
>
> *c) This Hon'ble Court be pleased to direct the Applicant to return to Respondent Nos. 1, 3 and 4 balance amount of ₹. 32,74,500/- deposited by Respondent Nos. 1, 3 and 4 in this Hon'ble Court, which was withdrawn by the Applicant;*"

3. Dr. Tulzapurkar, learned Senior Counsel for the Applicants in Interim Application No.4893 of 2025, i.e., Respondent Nos. 1, 3 and 4 (Original Respondents in Execution Application), *inter alia*, raised the following submissions:

i. The Respondents have deposited entire Awarded amount along with accrued interest in this Court aggregating to Rs.27,06,22,766/- (Rs.23,41,46,236/- on 14th June 2018 and Rs.3,64,76,530/- on 29th September 2018) and, therefore, no amount is due to the Execution Applicant under the Award. The amount deposited by Respondent Nos.1 to 4 is inclusive of interest awarded under the Award and the interest is computed till date of each deposited amount. The Execution Applicant has also accepted the same in Paragraph No.5 of their Amendment Application being Interim Application No.3861 of 2025. Learned Senior Counsel, therefore, submitted that, it is an admitted position that the entire amount along with interest awarded under the Award has been deposited. Learned Senior Counsel, therefore, submitted that the relief sought in the Interim Application that the Award dated 5th April 2016, as corrected by Communication dated 25th May 2016 be marked as fully satisfied and the Execution Application be dismissed.

ii. Learned Senior Counsel pointed out Order XXI Rule 1 of the *Code of Civil Procedure, 1908* ("**CPC**") and submitted that, if Sub-Rule 1(a) is read with Sub-Rule 4 of Rule 1 of Order XXI of CPC, then on deposit of monies by the Judgment Debtor into the Court, the interest, if any, shall cease to run from the date of notice. It is submitted that admittedly, the entire amount awarded has been deposited in this Court pursuant to the Order dated 18th January 2018 of this Court read with Order dated 23rd March 2018 of the Hon'ble Supreme Court and these Orders and the subsequent deposit of money was done with full notice to the Applicant and, therefore, in view of Sub-Rule 1(a) read with Sub-Rule (4) of Rule 1 of Order XXI of CPC, the interest on the aforesaid deposit of monies ceased to run from the date of deposit.

iii. Learned Senior Counsel relied on the decision of the Supreme Court in ***DLF Ltd. v. Koncar Generators & Motors Ltd.*** [1] and more particularly on Paragraph Nos.32 to 44 of the same.

1 (2025) 1 SCC 343

iv. Learned Senior Counsel also relied on the decision of the Supreme Court in ***NEPA Ltd. v. Manoj Kumar Agrawal*** [2] and more particularly on Paragraph Nos.9 and 15 to 25 of the same.

v. Learned Senior Counsel submitted that, in view of the express provision being Order XXI Rule 1(a) read with Sub-Rule (4) of CPC and in view of the law laid down by the Supreme Court in ***DLF Ltd.*** (supra) and ***NEPA Ltd.*** (supra), the Execution Application is required to be disposed of/dismissed as fully satisfied.

vi. Learned Senior Counsel further submitted that, in fact, the Execution Applicants are required to be directed to return Respondent Nos.1, 3 and 4 balance amount of Rs.32,74,500/- deposited by Respondent Nos.1, 3 and 4 in this Court which was withdrawn by the Applicant. Learned Senior Counsel pointed out the Order dated 17th December 2024 passed in Commercial Arbitration Appeal (L) No.24096 of 2024 in Commercial Arbitration Petition No.44 of 2016 and more particularly, Paragraph Nos.97 to 102 and submitted that said amount of Rs.32,74,500/- has been directed to be deposited by the Respondents, as the said amount was required for

2 (2023) 17 SCC 659

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renewal of bank guarantees. Learned Senior Counsel submitted that, admittedly, some of the said bank guarantees were not renewed and, therefore, amount of Rs.20,94,500/- from and out of Rs.32,74,500/- be directed to be returned back to Respondent Nos.1, 3 and 4.

4. On the other hand, Mr. Sharma, learned Counsel for the Execution Applicant/Original Claimant, raised the following submissions:

i. Learned Counsel submitted that, on 5th April 2016, an Award was passed as rectified by corrigendum dated 25th May 2016 in favour of the Claimant, directing payment of Rs.12,16,22,702/- with interest at the rate of Rs.10% from 31st March 2007 till payment and/or realization as also Rs.1,00,00,000/- with interest at the rate of 10% per annum from the date of the Award till payment and/or realisation. Learned Counsel submitted that in the proceedings filed under Section 34 of the *Arbitration And Conciliation Act, 1996* ("**Arbitration Act**"), this Court directed deposit of the entire amount directed to be paid by the Award by Orders dated 18th January 2018 read with 25th January 2018 and 31st January 2018 and the Execution Applicant was permitted withdrawal of the amount on furnishing a bank guarantee. Learned Counsel submitted that, Execution Applicant withdrew an amount of Rs.22,19,51,713/- by furnishing bank guarantees and, therefore, the bank guarantee charges incurred during the pendency of challenge to the Award was to the tune of Rs.4,69,97,463/- and also additional amount, towards differential rate of interest after giving credit of all amounts received to the tune of Rs.6,78,56,792.16/- are still due to the Execution Applicant. Learned Counsel submitted that the said calculation is made by taking the principal amount directed to be paid by the learned Sole Arbitrator and calculating the interest thereon. To substantiate said contention, learned Counsel relied on amended Clause (G) of the Execution Application.

ii. Learned Counsel submitted that, as the condition of bank guarantee is attached to the withdrawal of the amount and as the said condition has been duly complied with upto the date of dismissal of the Special Leave Petition on 31st January 2025, the balance receivable from Respondent Nos.2 to 4 as on 24th March 2025 is Rs.6,78,56,792.16/-. Learned Counsel submitted that result of this condition being imposed is that there is no unconditional enjoyment of the withdrawn amount. The amount withdrawn is attached with a strict condition of maintaining a bank guarantee and for that reason the title to the amount permitted to be withdrawn does not pass on to the Judgment Creditor. Learned Counsel submitted that, for the amount withdrawn, there is a corresponding tangible monetary security attached to it by way of furnishing a bank guarantee and the said tangible security is to be maintained throughout the period of challenge.

iii. Learned Counsel submitted that furnishing the bank guarantee for securing withdrawal of the amount is not a voluntary act. However, the same is in view of the directions of the Court under the specific provisions of the amended Arbitration Law. Learned Counsel submitted that, under the scheme of Section 36 of the Arbitration Act, the 2016 Amendment introduced a significant change, whereby there is no automatic stay to an Award during the pendency of Section 34 Petition. The Court has been given the power under Section 36 to impose such conditions as it deems fit for stay of the Award.

iv. Learned Counsel submitted that the said bank guarantee has been maintained upto all stages of the Appeal i.e. upto the Supreme

Court and, therefore, in the present case, even for the part of the amount which was withdrawn, there was no unconditional enjoyment or free utilization. Learned Counsel submitted that exclusive title to amount deposited by the Judgment Debtor did not pass on to the Award Holder. The claim for interest will have to be considered on the basis of the rate of interest awarded as per the Award till the date of realisation. Learned Counsel, therefore, submitted that total entitlement as on 24th March 2025 would be Rs.34,05,76,886.88/- and after giving due credit of all amounts withdrawn in the year 2018 and the balance withdrawal permitted in the year 2025, the judgment creditor would be entitled to an amount of Rs.6,78,56,792.16/-.

v. Learned Counsel submitted that, if condition of security of bank guarantee and its charges is onerous for a successful party, then the balance approach is required while directing maintaining of such security during pendency of litigation, but permitting the party that has ultimately succeeded to seek adjustment against these charges and claim the same.

vi. Learned Counsel submitted that any other approach would result in a successful party in dire need of funds would be deterred from making withdrawal since there would not be any reimbursement of the bank guarantee charges.

vii. Learned Counsel submitted that the delay in disposal of the proceedings and for that purpose keeping the bank guarantee alive and charges for the same has the effect of reducing the decretal amount. Learned Counsel, therefore, submitted that the Execution Applicants are entitled for the amount as set out in Clause (G) of the Execution Application.

viii. It is submitted that as bank guarantee charges were required to be incurred in view of the stay obtained by the Respondents and as there is no dispute as regards furnishing of the bank guarantee and incurring of the bank guarantee charges, charges incurred to the tune of Rs.4,69,97,463/- for maintaining the bank guarantee during the pendency of the Section 34 Petition, are required to be directed to be paid.

ix. As far as the decision of the Supreme Court in ***NEPA Ltd.*** (supra) is concerned, it is submitted that the said decision is entirely distinguishable, as in that case withdrawal was permitted on the condition of personal undertaking and in this case the bank guarantee was required to be furnished. The reliance is placed on Footnote 16 along with Paragraph 25, wherein it is specifically stated that, the Supreme Court has not examined and decided the issue whether interest would be payable on the amount withdrawn in case withdrawal is on conditions like furnishing bank guarantee. Thus, in fact, it is submitted that the decision in the case of ***NEPA Ltd.*** (supra) supports the contentions of the Judgment Creditor.

x. As far as the decision in the case of ***DLF Ltd.*** (supra), it is submitted that the same is also entirely distinguishable, as the issue before the Court was not in relation to claim for interest of bank guarantee charges. The issue was in relation to foreign currency charges. It has been further submitted that, in fact, the principles laid down in ***NEPA Ltd.*** (supra) were made applicable in ***DLF Ltd.*** (supra) and, therefore, Caveat and exclusion as set out by way of footnote 16 to Paragraph 25 also applies to the said Judgment. Learned Counsel also relied on the Judgment of a learned Single Judge in the case of ***Mohit Minerals Pvt. Ltd. v. Maharashtra Small Scale Industries***

Development Corporation Limited [3] and more particularly on Paragraph Nos.14 to 19. It is submitted that the Judgment which will apply in this case is ***Mohit Minerals*** (supra).

xi. As far as the contention raised that amount of Rs.32,74,500/- was required to be refunded, it is submitted that the SLP which was filed in the Supreme Court was listed on 24th January 2025 and the same came to be dismissed on 31st January 2025. It is submitted that before the said date, period of one bank guarantee was completed which was to the tune of Rs.8,00,00,000/- and the same was renewed. However, as far as other two bank guarantees are concerned, their date of renewal was 28th January 2019 and 20th February 2019. The same could not be renewed as the SLP was partly heard on 24th January 2025 and dismissed on 31st January 2025. It is, therefore, submitted that the relief seeking payment of Rs.32,74,500/- or of Rs.20,94,500/- as sought by the Respondents be not granted.

5. Before considering the rival submissions, it is necessary to set out certain factual aspects :-

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3 Chamber Summons No.287 of 2017 in Commercial Execution Application No.94 of 2017, Decided on: 20th December 2023

i. Commercial Execution Application No.38 of 2017, has been filed seeking execution of Award passed by the learned Sole Arbitrator passed in the case of ***Kiran Ranchoddas Ganatra*** **v.** ***Ganatra Hotels Pvt. Ltd.***. The operative part of said Award dated 5th April 2016 (Exhibit A to Execution Application), as corrected by Communication dated 25th May 2016 (Exhibit Al to Execution Application), reads as under:

"*AWARD*

a. Respondents 2 to 4 do pay to the Claimant Rs. 12,16,22,702/- with interest thereon @ 10% p.a. as per 29(f) above. No order is required to be made for transfer of shares to the Respondents 2 to 4 as they are already with the respondents 1 to 4 or one or more of them.

b. Respondent no.1 will pay to the Claimant a sum of Rs. 1,00,00,000/- with interest at the rate of 10% p.a. from the date of the award till payment or realization.

c. There will be no order as to costs."

ii. The Respondents filed Petition under Section 34 of the Arbitration Act being Commercial Arbitration No.44 of 2016 challenging the said Award and also took out Notice of Motion No.24 of 2016 seeking stay of operation of the said Award.

iii. By an Order dated 18th January 2018 read with Orders dated 25th January 2018 and 31st January 2018 passed in Notice of Motion No.24 of 2016 as also Order dated 25th September 2018 passed in Notice of Motion No.1160 of 2018, this Court was pleased to direct the Respondents to deposit the entire awarded sum with interest upto the date of deposit within six weeks from the date of the said Order. This Court, further pleased to grant liberty to Execution Applicants to withdraw such amount upon furnishing the bank guarantee of a nationalized bank in favour of the Prothonotary & Senior Master, which was directed to be kept alive for a period of two years initially and for like period after obtaining further orders from the Court. The relevant direction is contained in Paragraph No.5 of the Order dated 18th January 2018, which reads as under:

> "*5. In view of these facts, I pass the following order :-*
>
> *a).* ***The applicant in Notice of Motion No.24 of 2016 is directed to deposit the entire awarded sum with interest upto the date of deposit within six weeks from today. If the amount is deposited by the applicants, the respondents would be at liberty to withdraw such amount upon furnishing the bank guarantee of a nationalized bank in favour of the Prothonotary & Senior Master, which shall be kept alive for a period of two years initially and for like period after obtaining further orders from the Court.***

> *b). It is made clear that if the amount as directed to be deposited is not deposited within the time prescribed, the interim stay granted by this Court to stand vacated without further reference to the Court.*
>
> *c).* ***If the bank guarantee is not furnished within six weeks from the date of deposit of the amount as directed aforesaid, the amounts as may be deposited by the petitioners shall be invested in fixed deposit of a nationalized bank initially for a period of two years and thereafter for like period after obtaining further orders from this Court."***

(Emphasis added)

iv. Being aggrieved *inter alia* by said Order dated 18th January 2018, the Respondents i.e. Award Debtors filed a Special Leave Petition before the Supreme Court being Special Leave to Appeal (C) No(s). 5059-5061/2018 and by Order dated 23rd March 2018, the Supreme Court dismissed the said SLP. However, the Supreme Court, extended the time to deposit the amount by a period of 12 weeks from the date of the Order.

v. On 13th June 2018, Respondent Nos.1 to 4 deposited in this Court an amount of Rs.23,41,46,234.95/-. The Respondents along with the Interim Application No.4893 of 2025 at Exhibit-F1, has annexed a calculation of amount to be paid by the Respondents. The

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said calculations (Pages 45-47) are reproduced herein below for ready reference:

Calculation of amount to be paid by the Petitioner 1 and petitioner 2 to 4 is as follows:					Upto 27th Sept 2018		
	For petitioner 1 (The Company)		For Petitioner 2 to 4				
	I		II				
	Rs. 1,00,00,000 with interest @ 10% from 05.04.2016		Rs.12,16,22,702/- with interest @ 10% p.a. from 31.03.2007	Total	Reduction on 179700 shares		
	10000000		121622702	131622702	16969071		
Years	Interest @ 10%	Years	Interest @ 10%				
		2007-08	1,21,62,270.20		16,96,907.10		
		2008-09	1,21,62,270.20		16,96,907.10		
		2009-10	1,21,62,270.20		16,96,907.10		
		2010-11	1,21,62,270.20		16,96,907.10		
		2011-12	1,21,62,270.20		16,96,907.10		
		2012-13	1,21,62,270.20		16,96,907.10		
		2013-14	1,21,62,270.20		16,96,907.10		
		2014-15	1,21,62,270.20		16,96,907.10		
		2015-16	1,21,62,270.20		16,96,907.10		
05.04.2016-31.03.2017 (361 days)	9,89,041.10	2016-17	1,21,62,270.20		16,96,907.10		
2017-18	10,00,000.00	2017-18	1,21,62,270.20		16,96,907.10		
01.04.2018-14.06.2018	2,05,479.45	01.04.2018-14.06.2018	25,32,417.90		3,53,328.60	**3,59,88,377.70**	Total deduction made in June 2018
(75 days)		(76 days)					
15.06.2018 to 27.09.2018					4,88,151.36	**3,64,76,529.06**	
(105 days)							
15.06.2018 to 28.09.2018					4,92,800.42	**3,64,81,178.12**	
(106 days)							
15.06.2018 to 29.09.2018					4,97,449.48	**3,64,85,827.18**	
(107 days)							
15.06.2018 to 01.10.2018					5,06,747.60	**3,64,95,125.30**	22,19,51,714.40

(109 days)							
Total Interest due	21,94,520.55		13,63,17,390.10	13,85,11,910.65			
Total amount	1,21,94,520.55		25,79,40,092.10	27,01,34,612.65	Total Liability	23,41,46,234.95	Total liability after deduction of amount and interest of 179700 shares
	One Crore Twenty One Lakhs Ninety Four Thousand Five Hundred and Twenty		Twenty Five Crore Seventy Nine Lakhs Six Thousand Seven Hundred and seventy	Twenty Seven Crore One Lakh One Thousand Two Hundred and Ninety One		Twenty Three crores forty One lakhs seventeen Thousand Five Hundred and sixty Three	
				221951714.40	total liab. Petitioner 2 to 4		
				12194520.55	total liab. Petitioner 1		
				234146234.95	total liab. Petitioner 1 to 4		
				35988377.70	Deduction amount	270134612.65	

<u>Calculation of DD deposited with Hon'ble High Court:</u>

Company petitioner 1	Petitioner 2	Petitioner 3	Petitioner 4	Total
12194520.55	73983904.8	73983904.8	73983904.8	234146234.95

Without Deduction of amount of 179700 shares

Company petitioner 1	Petitioner 2	Petitioner 3	Petitioner 4	Total
12194520.55	73983904.8	73983904.8	73983904.8	234146234.95
	11996125.9	11996125.9	11996125.9	35988377.70
12194520.55	85980030.7	85980030.7	85980030.7	270134612.65

vi. In Paragraph No.4.11 of the Interim Application, the Respondents have set out the total amount deposited by them and raised the contention that no amount is due to the Execution Applicant under the Award. The said Paragraph Nos.4.11 and 4.12 read as under:

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"*4.11. According to the Respondent Nos. 1 to 4, they have deposited entire award amount alongwith accrued interest in this Hon'ble Court aggregating to ₹. 27,06,22,766/- (₹. 23,41,46,236 on 14.06.2018 and ₹. 3,64,76,530/-on 29.09.2018) as stated above and no amount is due to the Applicant under the Award.*

4.12. The amount deposited by Respondent Nos. 1 to 4 is inclusive of interest awarded under the Award. The interest is computed till the date of each deposit. A statement giving particulars of the principal amount and interest thereon till the date of deposit is annexed hereto and marked as ***Exhibit "F1"****.*"

vii. The particulars of the principal amount and interest thereon which are produced as Exhibit-F1 are already set out herein above.

viii. The Execution Applicants have in aggregate withdrawn an amount of Rs.22,19,51,713/- by furnishing bank guarantee.

ix. The Execution Applicants were required to spend an amount of Rs.4,69,97,463/- for furnishing of bank guarantees and renewal of bank guarantees. In addition to said amount, the Execution Applicants were also required to pay an amount of Rs.11,80,000/- towards renewal of bank guarantees of the amount of Rs.8,00,00,000/- beyond 24th December 2024.

x. By Order dated 12th July 2024, Section 34 Petition filed by the Respondents being Commercial Arbitration Petition No.44 of 2016 was dismissed, whereas Commercial Arbitration Petition No.113 of 2017 filed by the Execution Applicants was not pressed and, therefore dismissed as withdrawn.

xi. The Respondents have challenged the said Order dated 12th July 2024 by filing Commercial Appeal (L) No.24096 of 2024 and the said Appeal was dismissed by the Judgment and Order dated 17th December 2024.

xii. After the pronouncement of the said Order of dismissal of Appeal, a request was made for continuation of interim relief and the said request was granted by further order dated 17th December 2024 on the condition of deposit of Rs.32,74,500/- which is a renewal fee for bank guarantee for every six months. The relevant Paragraphs of said Order concerning deposit of said Rs.32,74,500/- are Paragraph Nos.97 to 102, which read as under:

> "***After pronouncement :-***
>
> ***97.*** *After the pronouncement, Mr Parikh learned counsel for the appellants seeks for continuation of the interim relief granted by this Court on 18 January 2018.*

__98.__ Mr Jagtiani, learned senior advocate for the respondents, opposes the continuation of the interim relief. Mr Jagtiani points out that till date, the respondents have spent close to Rs.4.69 Crores towards the renewal of the bank guarantees. He submits that if ***the bank guarantees are to be renewed for a further period of even 6 weeks, the respondents would have to pay an amount of Rs.32,74,500/-, which is a renewal fee for every 6 months.*** *He has placed before us a note giving details of amounts spent by the respondents towards renewal of bank guarantees, the next date of renewal of bank guarantees and charges payable. We have no reason to disbelieve the details set out in this note. Mr Jagtiani states that these details have also been set out in the affidavit filed by the respondents.*

__99.__ In this case, the arbitrator, learned Single Judge and now this Court have held in favour of the respondents. ***Therefore, considering all these factors cumulatively we extend the interim order granted by us on 18 January 2018 for a period of 6 weeks from today subject to the appellants depositing in this Court the amount of Rs.32,74,500/- within two weeks of the uploading of this order.***

__100.__ If the above amount is not deposited within two weeks, then, the interim order granted by us on 18 January 2018 will stand vacated.

101. If the amount of Rs.32,74,500/- is indeed deposited within two weeks, then, the respondents shall be at liberty to withdraw the same so that they can use the same for renewal of the bank guarantees.

__102.__ Liberty is granted to the respondents to apply for withdrawal of the balance amount deposited by the appellants in this Court."

(Emphasis added)

xiii. The details of bank guarantees and renewal charges of Rs.32,74,500/- are set out on Page No.349. The said Chart is reproduced herein below for ready reference:

"*Sr. No.*	*BG No.*	*BG Amount*	*BG Date*	*2.5% Commission + GST for 6 months*	*Next Date of Renewal*
1.	*0095IFIBG180009*	*8,00,00,000/-*	*24/12/2018*	*11,80,000/-*	*24/12/2024*
2.	*0095IFIBG190003*	*7,00,00,000/-*	*28/01/2019*	*10,32,500/-*	*28/01/2025*
3.	*0095IFIBG190008*	*7,20,00,000/-*	*20/02/2019*	*10,62,000/-*	*20/02/2025*
Total charges payable for renewal every 6 months:				***32,74,500/-***"	

xiv. It is submitted that, the bank guarantee for Rs.7,00,00,000/- and Rs.7,20,00,000/- has not been renewed as by that time S.L.P. was heard on 24th January 2025 and disposed of on 31st January 2025. As already noted herein above, it is the contention of the Execution Applicants that the renewal date of these two Bank Guarantees was after the commencement of hearing of the Special Leave Petition in the Supreme Court and disposed of said S.L.P. and, therefore, the said bank guarantees were not renewed.

xv. It is an admitted position that, out of amount of Rs.27,06,22,766/- deposited by the Respondents, an amount of Rs.22,19,51,713/- has been withdrawn by the Execution Applicants

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and an amount of Rs.4,86,71,053/- has not been withdrawn by the Execution Applicants.

xvi. The Respondents filed Special Leave Petition (L) No.1600 2025 before the Supreme Court challenging the said Judgment and Order dated 17th December 2024. The said SLP came up before the Supreme Court on 24th January 2025 and the same was adjourned to 31st January 2025. On 31st January 2025 the Supreme Court dismissed the said SLP.

xvii. After the dismissal of the SLP filed by the Respondents, the Execution Applicants filed Interim Application No.3861 of 2025 seeking permission to amend the Commercial Execution Application. The same was granted by Order dated 19th November 2025 and accordingly the Execution Application has been amended.

xviii. The Execution Applicants by amended Clause (G) of the Execution Application set out the details of the amounts which are to be received from the Respondents, which reads as under:

"*G.* ***Amount receivable from Respondent Nos.2 to 4:***

(1) ***Sum awarded (Principal):***	
Amount being the value of 14,51,400 shares after deduction of Rs.1,54,33,000/- payable by Respondent No.2 to 4	*Rs.12,16,22,702/-*
(2) ***Add (Interest):***	
Interest at the rate of 10% p.a. on the amount of Rs.12,16,22,702/- from 31.03.2007 till date of payment/realization i.e. 24.03.2025 (6571 days) payable by Respondent Nos.2 to 4.	*Rs.21,89,54,184.88/-* ---------------------------- ***Rs. 34,05,76,886.88/-***
Total Amount (Principal+(Interest):	*Rs.22,19,51,713/-*
Less: *Amounts withdrawn by furnishing Bank Guarantees:*	
Less: *Amount received alongwith interest accrued upon remaining Rs.3,60,40,055/- from release of First Fixed Deposit as on 24th March 2025 (Less TDS):*	*Rs.5,07,68,381.72/-* -------------------------- ***Rs.6,78,56,792.16/-***
I. ***Balance***	
Receivable from Respondent Nos.2 to 4 as on 24.03.2025:	
Balance Receivable Amount being Rs.6,78,56,792.16/- alongwith further interest at the rate of 10% p.a. thereon till date of actual payment/realisation.	***Rs.4,69,97,463.00/-*** *”*
Costs payable by Respondents for renewal of Bank Guarantees	

6. In the above facts and circumstances, it is necessary to consider the rival submissions.

7. Before considering the rival submissions, it is necessary to set out Order XXI Rule 1 of CPC, which reads as under:

"*ORDER XXI*

EXECUTION OF DECREES AND ORDERS

Payment under decree

1. Modes of paying money under decree.*—(1)* ***All money, payable under a decree shall be paid as follows, namely:—***

(a) ***by deposit into the court whose duty it is to execute the decree, or sent to that Court by postal money order or through a bank; or***

(b) out of Court, to the decree-holder by postal money order or through a bank or by any other mode wherein payment is evidenced in writing; or

(c) otherwise, as the Court which made the decree, directs.

(2) ***Where any payments is made under clause (a) or clause (c) of sub-rule (1), the judgment-debtor shall give notice thereof to the decree-holder either through the Court or directly to him by registered post, acknowledgment due.***

(3) Where money is paid by postal money order or through a bank under clause (a) or clause (b) of sub-rule (1), the money order or payment through bank, as the case may be, shall accurately state the following particulars, namely:—

(a) the number of the original suit;

> *(b) the names of the parties or where there are more than two plaintiffs or more than two defendants, as the case may be, the names of the first two plaintiffs and the first two defendants;*
>
> *(c) how the money remitted is to be adjusted, that is to say, whether it is towards the principal, interest or costs;*
>
> *(d) the number of the execution case of the Court, where such case is pending; and*
>
> *(e) the name and address of the payer.*
>
> *(4)* ***On any amount paid under clause (a) or clause (c) of sub-rule (1), interest, if any, shall cease to run from the date of service of the notice referred to in sub-rule (2).***
>
> *(5) On any amount paid under clause (b) of sub-rule (1), interest, if any, shall cease to run from the date of such payment:*
>
> *Provided that, where the decree-holder refuses to accept the postal money order or payment through a bank, interest shall cease to run from the date on which the money was tendered to him, or where he avoids acceptance of the postal money order or payment through bank, interest shall cease to run from the date on which the money would have been tendered to him in the ordinary course of business of the postal authorities or the bank, as the case may be.*"

8. Order XXI Rule 1 is concerning modes of paying money under decree. Sub-Rule 1(a) of Rule 1 of Order XXI provides that all money, payable under a decree shall be paid, inter alia, by deposit into the court whose duty it is to execute the decree. Sub-Rule (2) of Rule 1 of

Order XXI provides that where any payments is made under clause (a) or clause (c) of sub-rule (1), the judgment-debtor shall give notice thereof to the decree-holder either through the Court or directly to him by registered post, acknowledgment due. Sub-Rule 4 of Rule 1 of Order XXI provides that, inter alia, on any amount paid under clause (a) or clause (c) of sub-rule (1), interest, if any, shall cease to run from the date of service of the notice referred to in sub-rule (2).

9. In view of the above specific provisions of Order XXI Rule 1, it is admitted position that, decretal amount, with interest, has been deposited in this Court. The same is set out in Paragraph No.4.11 of the Interim Application as also in Paragraph No.5 of the Amendment Application being Interim Application No.3861 of 2025 filed by the Execution Applicants. The said Paragraph No.5 reads as under:

> "*5.* ***The Orig. Respondent Nos. 1 to 4 had deposited with the Learned Prothonotary & Senior Master an amount of Rs.27,02,34,576/-which is the awarded sum with interest upto date of deposit i.e. interest till 15th June 2018** (“**Deposited Amount**”). The Applicant was permitted to withdraw the Deposited Amount and out of the aforesaid amount, the Applicant furnished Bank Guarantees for Rs.22,20,00,000/- and withdrew Rs.22,19,51,713/-. The amount of Rs.3,60,40,055/- deposited by Orig. Respondent Nos.2 to 4 and the*

> *amount of Rs.1,21,94,521/- deposited by Respondent No.1 alongwith interest thereon remained deposited with the Learned Prothonotary & Senior Master ("**Fixed Deposits**").*"
>
> (Emphasis added)

Thus, it appears that there is no dispute between the parties as far as deposit of the amount in terms of the Award under Execution along with due interest.

10. The controversy between the parties is as this Court while staying the Execution of the Award, has directed deposit of the entire amount along with interest and permitted the Execution Applicants to withdraw the same by furnishing bank guarantees, it is the contention of the Execution Applicants, that interest till dismissal of SLP and the said bank guarantee charges be also directed to be paid and it is the contention of the Respondents that as the amount has been deposited in this Court in view of specific provision as contained in the Order XXI Rule 1 (4), no further amount is required to be paid. It is the contention that the Respondents are not liable to pay bank guarantee charges.

11. Both the learned Counsel have relied on the decision of the Supreme Court in ***NEPA Ltd.*** (supra). At this stage, only it is required to be noted that the Supreme Court in ***NEPA Ltd.*** (supra), has specifically put a note, stating that, the Supreme Court has not examined and decided the issue either way, whether interest would be payable on the amount withdrawn in case withdrawal is on conditions like furnishing bank guarantee, etc. The relevant Paragraphs of ***NEPA Ltd*** *(supra)* are Paragraph Nos.9, 10, 14 to 25 :-

> "*9. The dispute before us is whether the respondent is entitled to interest @ 18% p.a. as per the award on the principal amount of Rs 14,49,300 till the decision of the appeal under Section 37 of the Act on 2-2-2012 [NEPA Ltd. v. Manoj Kumar Agrawal Misc. Appeal No. 363 of 2001, order dated 2-2-2012 (MP)] , or interest @ 18% is payable on the net principal amount [See para 26 below. As per calculations made by the appellant vide Annexure 'A' to this judgment the net principal amount payable is Rs 9,13,483. As per the calculations made by the respondent vide Annexure 'B' to this judgment the net principal amount payable is Rs 9,30,300.] after the set-off/adjustment of interest due on 8-11-2001 from Rs 7,78,280 which was withdrawn by the respondent on 8-11-2001.*
>
> *10. On 1-8-2012, the respondent had filed an application for recovery of amount of Rs 3,97,382 along with the interest. On 18-8-2012, the respondent had filed another application stating and claiming that he was entitled to interest on Rs 14,06,259 i.e. the principal amount awarded along with the 18% interest till the decision of the appeal under Section 37 of the Act, which was decided on 2-2-2012 [NEPA Ltd. v. Manoj Kumar Agrawal Misc. Appeal No. 363 of 2001, order dated 2-2-2012 (MP)] . [It appears that some payments were made by the appellants post dismissal of their appeal under Section 37 of the Act on 2-2-2012. Therefore, the figures mentioned do not tally with awarded amount, etc.]*
>
> *14. In our opinion, the judgment of the High Court is unsustainable and contrary to the law. In the present case, it is accepted and admitted position that the respondent had withdrawn the amount of Rs 7,78,280, which had been deposited by the appellant, on 8-11-2001. In this background,*

the question of notice in terms of sub-rule (4) to Rule 1 Order 21CPC becomes irrelevant.

*15. **In Gurpreet Singh v. Union of India [Gurpreet Singh v. Union of India, (2006) 8 SCC 457] , a five-Judge Bench of this Court had examined Rule 1 Order 21CPC, post the substitution by Act 4 of 1976, and observed that the effect of the substitution is that upon deposit of the decretal amount in the court and giving notice thereof to the decree-holder, there would be cessation of interest from the date of notice to the decree-holder of such deposit.** Rule 1 Order 21CPC also postulates payment by the judgment-debtor to the decree-holder by other specified modes, namely, by postal money order, bank or by payment evidenced in writing, in which case the interest ceases to run from the date money is tendered. **The legislative intent clearly, is that the interest would cease on the principal amount paid by the judgment-debtor to the decree-holder. Issue of notice is to enable the decree-holder to withdraw the amount deposited. Therefore, when the deposited amount is withdrawn and gets credited in the account of the decree-holder, he is not entitled to interest on the deposited amount, even when there is failure on the part of the judgment-debtor to issue notice of deposit. In the absence of notice, the interest would cease to run from the date when the amount is transferred/credited in the account of the decree-holder. If notice is issued, interest ceases to run from the date of service of notice.***

16. In the present case, order dated 30-10-2001 was passed in the presence of the parties including the respondent. Thereupon, the appellant had deposited Rs 7,78,280 before the executing court on 5-11-2001. The respondent had notice of the deposit and accordingly had withdrawn the said amount i.e. Rs 7,78,280 on 8-11-2001.

17. The respondent, who appears in person, has relied on the judgments of this Court in P.S.L. Ramanathan Chettiar v. O.R.M.P.R.M. Ramanathan Chettiar [P.S.L. Ramanathan Chettiar v. O.R.M.P.R.M. Ramanathan Chettiar, 1968 SCC OnLine SC 28 : AIR 1968 SC 1047] and the decision dated 13-2-2020 in DDA v. Bhai Sardar Singh & Sons [DDA v. Bhai Sardar Singh & Sons, (2023) 17 SCC 671] , to submit that the order dated 30-10-2001 being conditional and the withdrawal of Rs 7,78,280 being in terms of the conditional order i.e. on furnishing of personal undertaking given by the respondent, the direction for payment of interest @ 18% on Rs 7,78,280 would continue till the decision of the appeal under Section 37 of the Act on 2-2-2012 [NEPA Ltd. v. Manoj Kumar Agrawal Misc. Appeal No. 363 of 2001, order dated 2-2-2012 (MP)] . It is only then that the complete title and the payment got vested in the respondent.

18. In our opinion, the submission made is fallacious and is contrary to law. In Ramanathan [P.S.L. Ramanathan Chettiar v. O.R.M.P.R.M. Ramanathan Chettiar, 1968 SCC OnLine SC 28 : AIR 1968 SC 1047] , the amount which was deposited by the judgment-debtor was not withdrawn by the decree-holder. The judgment in Ramanathan [P.S.L. Ramanathan Chettiar v. O.R.M.P.R.M. Ramanathan Chettiar, 1968 SCC OnLine SC 28 : AIR 1968 SC 1047] in para 12 thereof, specifically states that : (SCC OnLine SC)

> ***"12. On principle, it appears to us that the facts of a judgment-debtor's depositing a sum in court to purchase peace by way of stay of execution of the decree on terms that the decree-holder can draw it out on furnishing security, does not pass title to the money to the decree-holder. He can if he likes take the money out in terms of the order, but so long as he does not do it, there is nothing to prevent the judgment-debtor from taking it out by furnishing another security, say, of immovable property, if the court allows him to do so and on his losing the appeal putting the decretal amount in court in terms of Order 21 Rule 1CPC in satisfaction of the decree."***

The aforesaid narration makes it clear that this was not a case in which the decree-holder had withdrawn the money. ***The penultimate paragraph of this judgment records that the deposit made was not unconditional, and that the decree-holder was not free to withdraw the amount whenever he likes even before the disposal of the appeal. In order to do so, he had to give security in terms of the order, which he did not furnish. It may be noted that this judgment is prior to the substitution of Rule 1 Order 21CPC by Act 104 of 1976 with effect from 1-2-1977*** *[Whether the amendment has the effect of substitution of the principle enunciated in Ramanathan case (P.S.L. Ramanathan Chettiar v. O.R.M.P.R.M. Ramanathan Chettiar, 1968 SCC OnLine SC 28), need not be examined in this decision.] .*

19. In the decision of this Court in DDA [DDA v. Bhai Sardar Singh & Sons, (2023) 17 SCC 671] , the money deposited by the Delhi Development Authority in the court was not withdrawn by the contractor Bhai Sardar Singh and Sons. In fact, an application was filed by Bhai Sardar Singh and Sons to permit them to withdraw the money, but they were not permitted to do so. In this background, it was held that the deposit was not payment in terms of Rule 1 Order 21CPC. Under the Arbitration Act, 1940, the award can be executed after the award is made Rule of the Court. Therefore, an award under the Arbitration Act, 1940per se was not a decree of the court. Under the provisions of the Act i.e. the 1996 Act, an award is a decree of the court and is executable, unless *objections are filed under Section 34 of the Act [Post substitution by Act 3 of 2016 with retrospective effect from 23-10-2015, the legal position has undergone change. Section 36 as it stood before the Amendment Act 3 of 2016 reads:"36. Enforcement.—Where the time for making an application to set aside the arbitral award under Section 34 has expired, or such application having been made, it has been refused, the award shall be enforced under the Code of Civil Procedure, 1908 (5 of 1908) in the same manner as if it were a decree of the Court."] .*

20. In the present case, objections under Section 34 of the Act were filed and dismissed on 28-2-2001. Thereupon, the award was executable.

21. ***In DDA [DDA v. Bhai Sardar Singh & Sons, (2023) 17 SCC 671] , on the aspect of liability of Delhi Development Authority to pay interest on the deposit made in court for failure to issue written notice, it was held that it was not necessary. The reason was that the decree-holder was aware of the deposit made by the judgment-debtor. Therefore, the decree-holder cannot be permitted to urge and plead that he was served a notice of the deposit. Accordingly, the decree-holder, it was held, was not entitled to interest post the decision, even when the judgment-debtor had not served any formal notice as required under sub-rule (4) to Rule 1 Order 21CPC.***

22. In the present case, the appellate court, on the appeal preferred under Section 37 of the Act did grant stay, subject to the condition that the appellant would deposit 50% of the amount. Rs 7,78,280 was deposited by the appellant on 5-11-2001. The stay, therefore, only operated for the balance amount. On the balance amount, certainly, the appellant would be liable to pay interest @ 18% p.a. till the date of actual payment. However, on Rs 7,78,280 paid, after adjusting/appropriating payment due on the interest accrued, on the balance principal amount paid to the respondent, interest would not be payable.

23. The respondent has relied on the principle that the interim order merges into the final order. ***In State of U.P. v. Prem Chopra [State of U.P. v. Prem Chopra, (2024) 12 SCC 426 : 2022 SCC OnLine SC 1770] , this Court had referred to an earlier decision in State of Rajasthan v. J.K. Synthetics Ltd. [State of Rajasthan v. J.K. Synthetics Ltd., (2011) 12 SCC 518 : (2012) 2 SCC (Civ) 702] , wherein it has been observed that where a stay is granted by way of interim order on dismissal of the writ petition or vacation of the interim order, the beneficiary of the interim order shall have to pay interest on the amount withheld or not paid by him by virtue of the interim order. The*** *aforesaid observations, in fact, support the appellant and not the respondent. The observations hold that the person liable to make payment would have to pay the principal amount along with the interest which is specified in the contract or the statute as he had enjoyed benefit of the stay order. The interest is payable only on the amount that is not paid. It will be incongruous to hold that the person would be liable to pay interest even in respect of the amount, which has been paid and handed over to the decree-holder.*

24. This Court in Raunaq International Ltd. v. I.V.R. Construction Ltd. [Raunaq International Ltd. v. I.V.R. Construction Ltd., (1999) 1 SCC 492] , has observed that the parties, at whose instance, interim orders are obtained, should be made accountable for the consequences of the interim order. These observations obviously are relevant in the context of the present case to the extent that the appellant is liable to pay interest @ 18% p.a. on the amount which was not paid to the respondent. However, the amount which was withdrawn and paid to the respondent, no interest liability would occur and would be payable.

25. The respondent submits that the payment of Rs 7,78,280 being conditional, the respondent would have been under an obligation to refund the said amount in case the appellant had succeeded in the appeal under Section 37 of the 1996 Act. This argument does not impress, as in the event the appellant had succeeded in their appeal, the entire amount paid would have been refundable. The undertaking was not onerous, and was to operate only if the amount of Rs 7,78,280 was not refunded by the respondent. The respondent had obviously used and utilised the money. The appellant did not have any right on the money paid to the respondent, who could use it in a manner and way he wanted. There was no charge. Money is fungible and would have gotten mixed up with the other amounts available with the respondent. Right to restitution would not make the payment conditional. Interest has been jurisprudentially defined as the price paid for money borrowed, or retained, or not paid to the person to whom it is due, generally expressed as a percentage of amount in one year. It is in the nature of the compensation allowed by law or fixed by parties, for use or forbearance or damage for its detention [Hyder Consulting (UK) Ltd. v. State of Orissa, (2015) 2 SCC 189 : (2015) 2 SCC (Civ) 38, as quoted in Webster's Third New International Dictionary and Corpus Juris Secondum.] . In the context of the present case, interest would be the compensation payable by the appellant to the respondent, for the retention or deprivation of use of money. Therefore, once the money was paid to the respondent, interest as compensation for deprivation *of use of money will not arise* ***[We have not examined and decided the issue either way — whether interest would be payable on the amount withdrawn in case withdrawal is on conditions like furnishing bank guarantee, etc.]****.*"

(Emphasis added)

12. Following principles can be culled out from the decision of the Supreme Court in the case of ***NEPA Ltd.*** (supra):

(a) Effect of the substitution of Rule 1 of Order XXI of CPC by 1976 amendment is that upon deposit of the decretal amount in the court and giving notice thereof to the decree-holder, there would be cessation of interest from the date of notice to the decree-holder of such deposit.

(b) The legislative intent clearly, is that the interest would cease on the principal amount paid by the judgment-debtor to the decree-holder. Issue of notice is to enable the decree-holder to withdraw the amount deposited. Therefore, when the deposited amount is withdrawn and gets credited in the account of the decree-holder, he is not entitled to interest on the deposited amount, even when there is failure on the part of the judgment-debtor to issue notice of deposit. In the absence of notice, the interest would cease to run from the date when the amount is transferred/credited in the account of the decree-holder. If notice is issued, interest ceases to run from the date of service of notice.

(c) The person liable to make payment would have to pay the principal amount along with the interest which is specified in the contract or the statute as he had enjoyed benefit of the stay order. The interest is payable only on the amount that is not paid. It will be incongruous to hold that the person would be liable to pay interest even in respect of the amount, which has been paid and handed over to the decree-holder.

(d) The parties, at whose instance, interim orders are obtained, should be made accountable for the consequences of the interim order. However, the amount which was withdrawn and paid to the respondent, no interest liability would occur and would be payable.

(e) Money is fungible and would have gotten mixed up with the other amounts available with the respondent. Right to restitution would not make the payment conditional.

(f) Interest has been jurisprudentially defined as the price paid for money borrowed, or retained, or not paid to the person to whom it is due, generally expressed as a percentage of amount in one year. It is in the nature of the compensation allowed by law or fixed by parties, for use or forbearance or damage for its detention.

13. The Supreme Court in ***NEPA Ltd.*** (supra) has reiterated what has been held in the case of ***State of U.P. v. Prem Chopra*** [4] and ***State of Rajasthan v. J.K. Synthetics Ltd.*** [5] and observed that the person liable to make payment would have to pay the principal amount along with the interest which is specified in the contract or the statue as he had enjoyed benefit of the stay order. The interest is payable only on the amount that is not paid. It will be incongruous to hold that the person would be liable to pay interest even in respect of the amount, which has been paid and handed over to the decree-holder.

14. It has also been held that in the case of ***NEPA Ltd.*** (supra), the undertaking was not onerous and was to operate only if the amount was not refunded by the Award Holder. The Award Holder had obviously used and utilized the money. It has been held that, in the context of present case, interest would be the compensation payable by the Award Debtor to the Award Creditor for the retention or deprivation of use of money. Therefore, once the money was paid to the Award Holder, interest as compensation for deprivation of use of money will not arise.

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4 (2024) 12 SCC 426 : 2022 SCC OnLine SC 1770

5 (2011) 12 SCC 518 : (2012) 2 SCC (Civ) 702

15. As in ***NEPA Ltd.*** (supra), the Supreme Court has specifically observed that the issue whether interest would be payable on the amount withdrawn in case withdrawal is on condition like furnishing bank guarantee etc. is not considered and decided either way, it is the contention of the Award Holder / Execution Applicant that although the Respondents / Judgment Debtors have deposited the entire amount with interest still as the condition was imposed for withdrawal of the amount of furnishing bank guarantee it is necessary that bank guarantee charges are required to be directed to be paid by the Execution Applicants. At this stage, it is required to be observed that in ***NEPA Ltd.*** (supra) the Supreme Court has specifically observed the said issue is not examined and decided either way.

16. For consideration of the issue whether bank guarantee charges could be directed to be paid and interest could be directed to be paid, inspite of deposit of the money with due interest as per the Award, it is necessary to set out Order 21 Rule 1 before its substitution by CPC (Amendment) Act of 1976. The same is as follows:

> "1. **Modes of paying money under decree.—(1) All money, payable under a decree shall be paid as follows:—**
>
> (a) **into the court whose duty it is to execute the decree**; or
>
> (b) out of Court to the decree-holder; or
>
> (c) otherwise as the Court which made the decree directs.
>
> (2) **Where any payment is made under clause (a) of sub-rule (1), notice of such payment shall be given to the decree-holder.**"
>
> (Emphasis added)

17. The substituted Order XXI Rule 1 is already set out herein above. Comparison of original Order XXI Rule 1 and substituted Order XXI Rule 1 as substituted w.e.f. 1-2-1977 by CPC (Amendment) Act of 1976 shows that the substituted rule / amended rule enlarges the modes of payment of money payable under a decree by providing that the judgment-debtor can also send the decretal amount by postal money order or make payment through a bank where payment is to be made either in the execution court or out of court to the decree-holder. The amendment also provides where payment is made under clause (c) of sub-rule (1) such payment can also be made by postal order or through a bank, if the court so directs. The rule also provides that where money is so paid the money order or payment through a bank, as the case may be shall contain the particulars set out in sub-rule (3). Sub-rules (4) and (5) provide in express language the date from which the interest on the decretal amount, when payable, shall cease to run.

18. Thus, most significant change which has been done that once the amount is paid *inter alia* by deposit into the Court and the notice of the same is given, interest, if any, shall cease to run from the date of service of the notice.

19. It is settled principles of the interpretation of statutes that when the words of a statute are clear, plane or unambiguous i.e. they are reasonably susceptible to only one meaning, the Courts are bound to give effect to that meaning irrespective of the consequences.

20. The Supreme Court in ***J. P. Bansal v. State of Rajasthan & Anr.*** [6], with resect to interpretation of statutes, has held as follows:

> "***11.*** *It is said that a statute is an edict of the legislature. The elementary principle of interpreting or*

6 (2003) 5 SCC 134

Arjun

construing a statute is to gather the mens or sententia legis of the legislature.

12. Interpretation postulates the search for the true meaning of the words used in the statute as a medium of expression to communicate a particular thought. *The task is not easy as the "language" is often misunderstood even in ordinary conversation or correspondence. The tragedy is that although in the matter of correspondence or conversation the person who has spoken the words or used the language can be approached for clarification, the legislature cannot be approached as the legislature, after enacting a law or Act, becomes functus officio so far as that particular Act is concerned and it cannot itself interpret it. No doubt, the legislature retains the power to amend or repeal the law so made and can also declare its meaning, but that can be done only by making another law or statute after undertaking the whole process of law-making.*

13. Statute being an edict of the legislature, it is necessary that it is expressed in clear and unambiguous language. *In spite of courts saying so, the draftsmen have paid little attention and they still boast of the old British jingle "I am the parliamentary draftsman. I compose the country's laws. And of half the litigation, I am undoubtedly the cause", which was referred to by this Court in Palace Admn. Board v. Rama Varma Bharathan Thampuran [1980 Supp SCC 234 : AIR 1980 SC 1187] (SCC at p. 244, para 21 : AIR at p. 1195). In Kirby v. Leather [(1965) 2 All ER 441 : (1965) 2 QB 367 : (1965) 2 WLR 1318 (CA)] the draftsmen were severely criticized in regard to Section 22(2)(b) of the (UK) Limitation Act, 1939, as it was said that the section was so obscure that the draftsmen must have been of unsound mind.*

14. Where, however, the words were clear, there is no obscurity, there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for the

court to innovate or take upon itself the task of amending or altering the statutory provisions. *In that situation the Judges should not proclaim that they are playing the role of a law-maker merely for an exhibition of judicial valour. They have to remember that there is a line, though thin, which separates adjudication from legislation. That line should not be crossed or erased. This can be vouchsafed by "an alert recognition of the necessity not to cross it and instinctive, as well as trained reluctance to do so". (See : Frankfurter : Some Reflections on the Reading of Statutes in "Essays on Jurisprudence", Columbia Law Review, p. 51.)*

15. *It is true that this Court in interpreting the Constitution enjoys a freedom which is not available in interpreting a statute and, therefore, it will be useful at this stage to reproduce what Lord Diplock said in Duport Steels Ltd. v. Sirs [(1980) 1 All ER 529 : (1980) 1 WLR 142] : (All ER at p. 542c-d)*

> ***"It endangers continued public confidence in the political impartiality of the judiciary, which is essential to the continuance of the rule of law, if Judges, under the guise of interpretation, provide their own preferred amendments to statutes which experience of their operation has shown to have had consequences that members of the court before whom the matter comes consider to be injurious to the public interest."***

16. Where, therefore, the "language" is clear, the intention of the legislature is to be gathered from the language used. What is to be borne in mind is as to what has been said in the statute as also what has not been said. A construction which requires, for its support, addition or substitution of words or which results in rejection of words, has to be avoided, unless it is covered by the rule of exception, including that of necessity*, which is not the case here. [See : Gwalior Rayons Silk Mfg. (Wvg.) Co. Ltd. v. Custodian of Vested Forests [1990*

Supp SCC 785 : AIR 1990 SC 1747] (AIR at p. 1752), Shyam Kishori Devi v. Patna Municipal Corpn. [AIR 1966 SC 1678] (AIR at p. 1682) and A.R. Antulay v. Ramdas Sriniwas Nayak [(1984) 2 SCC 500 : 1984 SCC (Cri) 277] (SCC at pp. 518, 519).] Indeed, the Court cannot reframe the legislation as it has no power to legislate. [See : State of Kerala v. Mathai Verghese [(1986) 4 SCC 746 : 1987 SCC (Cri) 3] (SCC at p. 749) and Union of India v. Deoki Nandan Aggarwal [1992 Supp (1) SCC 323 : 1992 SCC (L&S) 248 : (1992) 19 ATC 219 : AIR 1992 SC 96] (AIR at p. 101).]'

(Emphasis added)

21. Thus, it is clear that when the language is clear the intention of the legislature is to be gathered from the language used. What is to be borne in mind is as to what has been said in the statute as also what has not been said. A construction which requires, for its support, addition or substitution of words or which results in rejection of words, has to be avoided, unless it is covered by the rule of exception, including that of necessity.

22. The amended provision of Order XXI Rule 1 is very clear, plane and unambiguous. As held in ***NEPA Ltd.*** (supra), effect of the substitution of Rule 1 of Order XXI of CPC by 1976 amendment is that upon deposit of the decretal amount in the court and giving notice thereof to the decree-holder, there would be cessation of interest from the date of notice to the decree-holder of such deposit. The legislative intent clearly, is that the interest would cease on the principal amount paid by the judgment-debtor to the decree-holder. Issue of notice is to enable the decree-holder to withdraw the amount deposited. Therefore, when the deposited amount is withdrawn and gets credited in the account of the decree-holder, he is not entitled to interest on the deposited amount, even when there is failure on the part of the judgment-debtor to issue notice of deposit. In the absence of notice, the interest would cease to run from the date when the amount is transferred/credited in the account of the decree-holder. If notice is issued, interest ceases to run from the date of service of notice.

23. It is also required to be noted that the submissions regarding payment of interest or payment of bank guarantee charges are made in the execution proceedings. As noted herein above Order XXI Rule 1 do not contemplate payment of interest after the amount is deposited and notice is given. As far as payment of bank guarantee charges are concerned, the said condition is put for withdrawal of the amount by the Execution Applicant i.e. Decree Holder, in proceedings under Section 34 of the Arbitration Act. If in execution such relief is granted then the same will amount to going behind the decree or the Award, which is not permissible in the execution proceedings. The Execution

Applicants/Award Holder could have obtained such order in Section 34 proceedings/Section 37 proceedings directing the Award Debtor to pay the interest inspite of deposit of the amount by the Award Debtor and/or bank guarantee charges. No such orders were sought by the Award Holder i.e. Execution Applicants. In the execution proceedings the Award for payment of specified amount and specified interest is sought to be executed. It is an admitted position that the said specified amount along with due specified interest till the date of deposit in this Court has been deposited. Thus, in terms of Order XXI Rule 1 the Execution Applicants are not entitled for further interest. The contention that the bank guarantee charges be directed to be paid is beyond the scope of execution proceedings. As noted herein above, the said Order should have been obtained by the Execution Applicants / Award Holder in proceedings under Section 34 and/or under Section 37 of the Arbitration Act.

24. Although reliance is placed on amended Section 36 of the Arbitration Act, the same has no consequences as the same also makes reference to the provisions of CPC.

25. Although, learned Counsel for the Execution Applicants have heavily relied on the decision of a learned Single Judge dated 20th December 2023 passed in Chamber Summons No.287 of 2017 in Commercial Execution Application No.94 of 2017 and more particularly on Paragraph Nos.17 and 19 wherein it has been held that the amount which has been deposited by the Judgment Debtor is to avoid the execution of the decree and although the withdrawal was permitted, it was attached with a condition of furnishing the bank guarantee of the aggregate amount and, therefore, ownership of the amount deposited never passed to the Decree-Holder/Applicant and as such, the payment of interest from the date of deposit did not cease to run. Perusal of the said Order of the learned Single Judge shows that a learned Single Judge has relied on the case of ***Ramanathan Chettiar v. Ramanathan Chettiar*** [7]. However, it is required to be noted that the said Judgment of the Supreme Court in the case of ***Ramanathan Chettiar*** (supra) was with respect to the unamended provision of Order 21 Rule 1. However, the said provision has been extensively amended by Act 104 of 1976 and Rule 1 was substituted with effect from 1st February 1977. The learned

7 1968 SCC OnLine SC 28

Single Judge has not noted the said aspect. Thus, the Judgment of the learned Single Judge is not relevant.

26. Both the learned Counsel have also relied on the decision of ***DLF Ltd.*** (supra) and more particularly on Paragraph Nos.36 to 44, which reads as under:

> "*36. The facts in this case are similar to Renusagar [Renusagar Power Co. Ltd. v. General Electric Co., 1994 Supp (1) SCC 644] for an analogy to be drawn. Here as well, the deposit was made during the pendency of the proceedings under the objections petition.* ***It was permitted to be withdrawn against a bank guarantee of an Indian bank. Here the respondent was entirely unable to withdraw the amount, while the issue there was that it was only unable to convert the amount to US dollars. However, in both cases, the respondent failed to move the Court for necessary orders to be able to receive and utilise the amount. In this case, there is the added fact that the respondent consented to the deposit and the condition requiring security. In light of these similarities, it is appropriate for us to adopt the Court's approach in Renusagar.*** *[Renusagar Power Co. Ltd. v. General Electric Co., 1994 Supp (1) SCC 644].*
>
> *37. We therefore hold that the deposit of Rs 7.5 crores stands converted as on the date of deposit (22-10-2010), when the rate of exchange as submitted by the appellants is 1 euro = Rs 59.17. We also reject the submission by Mr Mahajan that the respondent was unable to furnish a bank guarantee of an Indian bank. This argument is only to serve its own interest to be able to benefit from a higher exchange rate but does*

not address the principle that operates while enforcing a sum expressed in foreign currency.

38. It is important to appreciate the consequence and effect of deposit during the pendency of proceedings to understand the need to convert this amount on that date. Through a deposit, the award debtor parts with the money on that date and provides the benefit of that amount to the award-holder. Provided that the award-holder is permitted to withdraw this amount, it can convert, utilise, and benefit from the same at that point in time. Considering that the deposited amount inures to the benefit of the award-holder, it would be inequitable and unjust to hold that the amount does not stand converted on the date of its deposit.

39. A similar logic underscores the statutory provisions in Order 21 Rule 1 and Order 24 of the Code of Civil Procedure, 1908 (hereinafter "CPC") to determine whether interest will continue to operate on an amount deposited before a court. It would be relevant for us to briefly discuss the law on this point:

40. A Constitution Bench of this Court in Gurpreet Singh v. Union of India [Gurpreet Singh v. Union of India, (2006) 8 SCC 457] extensively discussed the ***rules governing interest calculation when the defendant/judgment-debtor deposits some part of the amount. Order 24 governs deposits at the pre-decretal stage and Order 21 Rule 1 at the post-decretal stage. [Id, para 14] The essence of these provisions is that on any amount deposited into the court, interest shall cease to run from the date when the depositor serves a notice to the plaintiff/decree-holder. Similarly, when payment is tendered to the decree-holder outside the court, interest ceases on such amount even if the payment is refused.*** *[Gurpreet Singh case, (2006) 8 SCC 457, paras 15, 25-26].*

41. ***Order 21 Rule 1 embodies a rule of prudence that once the amount is tendered to the decree-holder by the judgment-debtor, whether in the form of a court deposit or other forms of payment such as demand draft or cheque, the judgment-debtor cannot be made liable to then pay interest on such amount.*** *[K.L. Suneja v. Manjeet Kaur Monga, (2023) 6 SCC 722, para 36 : (2023) 3 SCC (Civ) 162].*

42. The rationale for this rule has been explained in Nepa Ltd. v. Manoj Kumar Agrawal [Nepa Ltd. v. Manoj Kumar Agrawal, (2023) 17 SCC 659 : 2022 SCC OnLine SC 1736] through a similar logic of the decree-holder being able to benefit from the deposited amount. In this case, the award-debtor deposited 50% of the awarded amount before the executing court to obtain a stay on the execution proceedings of the arbitral award during the pendency of appeal under Section 37 of the 1996 Act. This amount was withdrawn by the award-holder, and the issue before this Court was whether interest is payable on the deposited amount even after the date of deposit. The Court held as follows : (SCC paras 22 & 25)

> *"22. In the present case, the appellate court, on the appeal preferred under Section 37 of the Act did grant stay, subject to the condition that the appellant would deposit 50% of the amount. Rs 7,78,280 was deposited by the appellant on 5-11-2001. The stay, therefore, only operated for the balance amount. On the balance amount, certainly, the appellant would be liable to pay interest @ 18% p.a. till the date of actual payment. However, on Rs 7,78,280 paid, after adjusting/appropriating payment due on the interest accrued, on the balance principal amount paid to the respondent, interest would not be payable.*
>
> *25. The respondent submits that the payment of Rs 7,78,280 being conditional, the respondent*

would have been under an obligation to refund the said amount in case the appellant had succeeded in the appeal under Section 37 of the 1996 Act. This argument does not impress, as in the event the appellant had succeeded in their appeal, the entire amount paid would have been refundable. The undertaking was not onerous, and was to operate only if the amount of Rs 7,78,280 was not refunded by the respondent. The respondent had obviously used and utilised the money. The appellant did not have any right on the money paid to the respondent, who could use it in a manner and way he wanted. There was no charge. Money is fungible and would have gotten mixed up with the other amounts available with the respondent. Right to restitution would not make the payment conditional. Interest has been jurisprudentially defined as the price paid for money borrowed, or retained, or not paid to the person to whom it is due, generally expressed as a percentage of amount in one year. It is in the nature of the compensation allowed by law or fixed by parties, for use or forbearance or damage for its detention. In the context of the present case, interest would be the compensation payable by the appellant to the respondent, for the retention or deprivation of use of money. Therefore, once the money was paid to the respondent, interest as compensation for deprivation of use of money will not arise. [Per Sanjiv Khanna, J. in Nepa Ltd. v. Manoj Kumar Agrawal, (2023) 17 SCC 659 : 2022 SCC OnLine SC 1736 : We have not examined and decided the issue either way — whether interest would be payable on the amount withdrawn in case withdrawal is on conditions like furnishing bank guarantee, etc.] "

(emphasis supplied)

Therefore, the ability of the decree-holder to access and use the money in a manner he deems fit was *considered by this Court in Nepa case [Nepa Ltd. v. Manoj Kumar Agrawal, (2023) 17 SCC 659 : 2022 SCC OnLine SC 1736] while deciding the issue.*

43. Here, the Court in Nepa case [Nepa Ltd. v. Manoj Kumar Agrawal, (2023) 17 SCC 659 : 2022 SCC OnLine SC 1736] also differentiated P.S.L. Ramanathan Chettiar [P.S.L. Ramanathan Chettiar v. O.R.M.P.R.M. Ramanathan Chettiar, 1968 SCC OnLine SC 28 : (1968) 3 SCR 367 : AIR 1968 SC 1047] , which has also been relied on by the respondent in the present matter, and another decision by this Court in DDA v. Bhai Sardar Singh & Sons [DDA v. Bhai Sardar Singh & Sons, (2023) 17 SCC 671 : 2020 SCC OnLine SC 1450] . P.S.L. Ramanathan Chettiar [P.S.L. Ramanathan Chettiar v. O.R.M.P.R.M. Ramanathan Chettiar, 1968 SCC OnLine SC 28 : (1968) 3 SCR 367 : AIR 1968 SC 1047] holds that a deposit is only a way to obtain a stay on execution and does not pass title to the decree-holder, and hence, is not in satisfaction of a decree. The decree-holder in DDA [DDA v. Bhai Sardar Singh & Sons, (2023) 17 SCC 671 : 2020 SCC OnLine SC 1450] was not permitted to withdraw the deposited amount and hence, interest was calculated on the same. The Court in Nepa [Nepa Ltd. v. Manoj Kumar Agrawal, (2023) 17 SCC 659 : 2022 SCC OnLine SC 1736] however held that these cases do not apply in its facts as the respondent here was permitted to withdraw the deposited sum and did so. Hence, the Court instead relied on the ability of the respondent to use the deposited money as it deems fit.

44. These cases demonstrate that once there is a deposit by the award debtor and the award-holder is permitted to withdraw the same, even if such withdrawal is conditional and subject to the final decision in the matter, the court must consider that the award-holder could access and benefit from such deposit. It is then the burden of the award-holder to furnish security, as required by the court's orders, to

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utilise the amount or to make an application for modification of the condition if it is unable to fulfill the same.”

[Emphasis added].

27. In the decision in the case of ***Gurpreet Singh v. Union of India*** [8] the Supreme Court has observed in Paragraph Nos.15 to 18 and 23 to 27 as under :

> *“15.* ***Order 21 Rule 1 provides the modes of paying money under a decree. It stipulates that all monies payable under a decree shall be paid: (a) by deposit into the court whose duty it is to execute the decree,*** *or (b) out of court, to the decree-holder in the manner provided, or (c) otherwise, as the court which made the decree directs. Sub-rule (2) provides that where a payment is made by deposit into the court or as directed in the decree, the judgment-debtor shall give notice thereof to the decree-holder either through the court or directly to him by registered post acknowledgment due. On any amount paid by way of deposit into the court or as directed under the decree, interest, if any, shall cease to run from the date of the service of the notice referred to in sub-rule (2).* ***Thus, Order 21 Rule 1 after its amendment in the year 1976 also contemplates the deposit of the decree amount into court and the giving of notice thereof to the decree-holder and provides further for cessation of interest from the date of notice to the decree-holder of such deposit.***
>
> *16.* ***Even before the amendment to the Code in the year 1976, the view had been taken that the indication given by Rule 3 of Order 24 of the Code providing for cessation of the running of interest on notice of the deposit being given pending a suit, can be extended to execution of decrees.*** *In Amtul Habib v. Mohd. Yusuf [ILR (1918) 40 All 125 : 16 All LJ 15] it was held that where money was paid into court by the judgment-debtor in satisfaction of a decree, interest on the decree will cease from the date of payment in proportion to the amount paid, although such amount may not in fact be the whole amount due under the decree. In that case, towards the decree amount which included the principal, interest and costs, the judgment-debtors deposited three-fourth of the principal with interest and costs thereon, on a plea that one-fourth of the principal*

8 (2006) 8 SCC 457

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belonged to themselves, a plea that was overruled by the High Court compelling the judgment-debtors to deposit the balance one-fourth amount also. The question arose in execution whether the decree-holder was entitled to interest on the full amount of the decree until after the decision of the High Court holding that the entire amount must be deposited or whether interest should not be charged on the whole amount but it should be charged only on the difference between the amount which they had deposited in court and the full amount of the decree. ***In other words, the question was whether the judgment-debtors should be relieved from the obligation of paying interest on so much of the amount as they had deposited, from the date of that deposit. The courts below upheld the plea that interest should not be charged on the whole amount. In an appeal by the decree-holder, the Division Bench held:*** *(ILR pp. 126-27)*

> *"The matter is not altogether free from difficulty. Order 24 Rules 1, 2 and 3, provide that in the case of a suit the defendant may pay into court such sum of money as he considers as satisfaction in full of the claim. Notice of the deposit is given to the plaintiff, who is entitled to draw the money out, whether he takes it in full discharge or not, and no interest is allowed to the plaintiff upon the amount of the deposit. There is no corresponding provision as to payment out of court and the cessation of interest in execution matters, but there does not seem to be any reason why the same thing should not happen in execution proceedings as in the case of suits."*

17. After referring to the facts and the position that the court could have ordered the money to be paid over to the decree-holder in partial discharge of the decree debt soon after the amount was deposited, the Court stated: (ILR p. 127)

> ***"We think that in this case we ought to apply the analogy of the rules which relate to payment into court of money by the defendant in a suit, and that in this view the decisions of the courts below were correct and should be affirmed."***

18. The same view was taken by the Patna High Court in Gopalji Chaudhuri v. Sumrit Mandar [AIR 1933 Pat 89 : ILR 11 Pat 796] . After referring with approval to the view expressed in the above Allahabad case [ILR (1918) 40 All 125 : 16 All LJ 15] , their Lordships held that the above decision clearly implied that even if a portion of the decretal amount was paid, it would be a valid payment. In Varki Ouseph v. Narayanan Parameswara Panicker [AIR 1956 Trav Co 46 : 1956 KLT 82] a Division Bench of the Travancore-Cochin High Court after referring to the decisions of the Allahabad [ILR (1918) 40 All 125 : 16 All LJ 15] and Patna High Courts [AIR 1933 Pat 89 : ILR 11 Pat 796] , referred to above, and the relevant portions of the commentaries from Mulla on the Code of Civil Procedure, held that in the case of a decree which awards interest on the principal, interest ceases to run on the amount deposited in the *court under Order 21 Rule 1(a) from the date the decree-holder has notice of the deposit.* ***In Mulla's Commentary on the Code of Civil Procedure, 15th Edn., Vol. III dealing with Rule 3, Order 24 it is stated:***

> ***"The principle of this rule applies to proceedings in execution: therefore, if money is paid into court by a judgment-debtor, no interest should be allowed to the decree-holder on the amount so paid, although such amount may not in fact be the whole amount due under the decree."***

The decision of the Allahabad High Court in Amtul Habib v. Mohd. Yusuf [ILR (1918) 40 All 125 : 16 All LJ 15] is relied on. We see no reason not to accept the principle thus enunciated.

23. Order 34 of the Code contains a scheme of appropriation in a case where Rules 12 and 13 of that Order apply and there is a prior mortgage that remains to be satisfied. The view taken by the Lahore High Court as well as by the Madras High Court in the decision referred to in the judgment of the Full Bench of the Lahore High Court [AIR 1941 Lah 386 : ILR 1941 Lah 740 (FB)] was that, in the absence of a distinct order to the contrary, the Court must normally follow the rule of law applicable to the case in handing over the sale proceeds to the decree-holder and the rule of appropriation as referred to in the decision followed. ***But the question is whether the same principle can be extended in view of the specific provision contained in Rule 1 Order 21 of the Code especially after its amendment by Act 104 of 1976. That rule provides for the modes of paying money under a decree.*** *The modes are: (a) by deposit into the court whose duty it is to execute the decree, or (b) out of court, to the decree-holder in the manner provided, or (c) otherwise, as the court which made the decree, directs.* ***Sub-rules (4) and (5) seem to be relevant for our purpose.*** *They read:*

> *"1. (4) On any amount paid under clause (a) or clause (c) of sub-rule (1), interest, if any, shall cease to run from the date of service of the notice referred to in sub-rule (2).*
>
> *(5) On any amount paid under clause (b) of sub-rule (1), interest, if any, shall cease to run from the date of such payment:*
>
> *Provided that, where the decree-holder refuses to accept the postal money order or payment through a bank, interest shall cease to run from the date on which the money was tendered to him, or where he avoids acceptance of the postal money order or payment through bank, interest shall cease to run from the date on which the money would have been tendered to him in the ordinary course of business of the postal authorities or the bank, as the case may be."*

24. ***These sub-rules are seen to be consistent with the scheme of Order 24 of the Code dealing with payment into court pending the***

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suit, especially Rule 3 thereof, which provides that, no interest shall be allowed to the plaintiff on any sum deposited by the defendant from the date of notice of the deposit, whether the sum deposited was in full of the claim or falls short of it.

25. ***In the Objects and Reasons for amendment of Order 21 Rule 1, it was set out as follows****:*

> *"**The Committee notes that there is no provision in the Code** in relation to cessation of interest on the money paid under a decree, out of court, to a decree-holder, by postal money order or through a bank or by any other mode wherein payment is evidenced in writing. The Committee is of the view that, in such a case, the interest should cease to run from the date of such payment. In case the decree-holder refuses to accept the postal money order or payment through a bank, interest should cease to run from the date on which the money was tendered to him in ordinary course of business of the postal authorities or the bank. Sub-rule (5) in Rule 1 Order 21 has been inserted accordingly."*

The legislative intent in enacting sub-rules (4) and (5) is therefore clear and it is that interest should cease on the deposit being made and notice given or on the amount being tendered outside the court in the manner provided. *Mulla in his Commentary on the Code of Civil Procedure, 15th Edn., Vol. II at p. 1583 has set out the effect of the rules as follows:*

> *"Normal rule with respect to money decree is (i) the appropriation of payments towards satisfaction of interest in the first instance, and (ii) then towards principal amount. But this became inoperative, after the amendment of Rule 1 Order 21 CPC. Section 60 of the Contract Act cannot be invoked for the application of the aforesaid normal rule."*

26. ***Thus, in cases of execution of money decrees or award-decrees, or rather, decrees other than mortgage decrees, interest ceases to run on the amount deposited, to the extent of the deposit.*** *It is true that if the amount falls short, the decree-holder may be entitled to apply the rule of appropriation by appropriating the amount first towards the interest, then towards the costs and then towards the principal amount due under the decree. But the fact remains that to the extent of the deposit, no further interest is payable thereon to the decree-holder and there is no question of the decree-holder claiming a reappropriation when it is found that more amounts are due to him and the same is also deposited by the judgment-debtor. In other words, the scheme does not contemplate a reopening of the satisfaction to the extent it has occurred by the deposit. No further interest would run on the sum appropriated towards the principal.*

*27. **As an illustration, we can take the following situation. Suppose, a decree is passed for a sum of Rs 5000 by the trial court along with interest and costs and the judgment-debtor deposits the same and gives notice** to the decree-holder either by approaching the executing court under **Order 21 Rule 2 of the Code or by making the deposit in the execution taken out by the decree-holder under Order 21 Rule 1 of the Code.** The decree-holder is not satisfied with the decree of the trial court. He goes up in appeal and the appellate court enhances the decree amount to Rs 10,000 with interest and costs. **The rule in terms of Order 21 Rule 1, as it now stands, in the background of Order 24 would clearly be, that the further obligation of the judgment-debtor is only to deposit the additional amount of Rs 5000 decreed by the appellate court with interest thereon from the date the interest is held due and the costs of the appeal.** The decree-holder would not be entitled to say that he can get further interest even on the sum of Rs 5000 decreed by the trial court and deposited by the judgment-debtor even before the enhancement of the amount by the appellate court or that he can reopen the transaction and make a reappropriation of interest first on Rs 10,000, costs and then the principal and claim interest on the whole of the balance sum again. Certainly, at both stages, if there is shortfall in deposit, the decree-holder may be entitled to apply the deposit first towards interest, then towards costs and the balance towards the principal. But that is different from saying that in spite of his deposit of the amounts decreed by the trial court, the judgment-debtor would still be liable for interest on the whole of the principal amount in case the appellate court enhances the same and awards interest on the enhanced amount. This position regarding execution of money decrees has now become clear in the light of the amendments to Order 21 Rule 1 by Act 104 of 1976. The argument that what is awarded by the appellate court is the amount that should have been awarded by the trial court and so looked at, until the entire principal is paid, the decree-holder would be entitled to interest on the amount awarded by the appellate court and therefore he can seek to make a reappropriation by first crediting the amount deposited by the judgment-debtor pursuant to the decree of the trial court towards the cost in both the courts, towards the interest due on the entire amount and only thereafter towards the principal, is not justified on the scheme of Order 21 Rule 1 understood in the context of Order 24 Rules 1 to 4 of the Code. The principle appears to be that if a part of the principal has been paid along with interest due thereon, as on the date of issuance of notice of deposit, interest on that part of the principal sum will cease to run thereafter. In other words, there is no obligation on the judgment-debtor to pay interest on that part of the principal which he has already paid or deposited."*

(Emphasis added)

28. Thus, in ***Gurpreet Singh*** (supra), after analysing Order XXIV as also Order XXI Rule 1, it has been observed that the essence of these provisions is that on any amount deposited into the Court, interest shall cease to run from the date when the depositor serves a notice to the Plaintiff/Decree-Holder. Similarly, when payment is tendered to the Decree-Holder outside the Court, interest ceases on such amount even if the payment is refused. It has been observed that, Order XXI Rule 1 embodies that once the amount is tendered to the Decree-Holder by the Judgment-Debtor, whether in the form of a Court deposit or other forms of payment such as Demand Draft or Cheque, the Judgment Debtor cannot be liable to then pay interest on such amount.

29. In Paragraph No.44 of ***DLF Ltd.*** (supra), again it is reiterated that, once there is a deposit by the Award Debtor and the Award Holder is permitted to withdraw the same, even if such withdrawal is conditional and subject to the final decision in the matter, the court must consider that the award holder could access and benefit from such deposit. It is then the burden of the award holder to furnish security, as required by the court's orders, to utilize the amount or to make an application for modification of the condition if it is unable to fulfill the same.

30. In this case, an admitted position is that the entire amount as awarded by the learned Sole Arbitrator has been deposited along with the interest upto the date of deposit. As discussed herein above in view of specific provision of Order XXI Rule 1 of CPC, the interest cannot be directed to be paid for a period after the deposit of entire amount as awarded alongwith accrued interest. Even the claim for payment of bank guarantee charges cannot be considered as the same will amount to going behind the award/decree.

31. Without prejudice to the above reasons herein after the claim of the Execution Applicants will be considered on merits independent of above reasoning.

32. It is relevant to note the Order dated 18th January 2018 passed by a learned Single Judge in Notice of Motion No.24 of 2016 in Commercial Arbitration Petition No.44 of 2016. By the said Order, liberty has been granted to the Execution Applicants to withdraw such amount, if deposited by the Respondents, upon furnishing the bank guarantee of a nationalized bank in favour of the Prothonotary and Senior Master, which shall be kept alive for a period of two years initially and for like period after obtaining further orders from the Court. It has been very specifically made clear that, if the bank guarantee is not furnished within six weeks from the date of deposit of the amount as directed aforesaid, the amounts as may be deposited by the Petitioners shall be invested in fixed deposit of a nationalized bank initially for a period of two years and thereafter for like period after obtaining further orders from this Court.

33. Thus, this is a case where, not only the direction has been issued to deposit the amount as awarded by the Award in this Court along with interest, however, liberty has been granted to withdraw the said amount to the Execution Applicant by furnishing bank guarantee. It has been further made clear that, if the bank guarantee is not furnished, then the deposited amount has been directed to be invested in a fixed deposit of a nationalized bank.

34. Thus, this is a case where, a choice was given to the Execution Applicant to withdraw the amount and to use the same and for that purpose the bank guarantee was required to be given as security, otherwise direction was issued to invest the said amount in a fixed deposit. This is a case where the Execution Applicants have exercised the choice of withdrawal of amount and, therefore, the bank guarantee was furnished. In fact, for furnishing the bank guarantee, time has been fixed and the Execution Applicants sought extension of that time and the same was granted by Orders dated 2nd November 2018, 25th January 2019 and 21st February 2019.

35. The factual position on record clearly shows that the Execution Applicants have applied for modification of the Order, by which the bank guarantee was directed to be furnished for withdrawal of the said amount and the said prayer for modification has been rejected. It is also admitted position that, in fact, the Respondents have filed an Application praying that immovable property be given as security instead of furnishing the bank guarantee, and the said Application has not been pressed.

36. In any case, the Order dated 18th January 2018 passed by a learned Single Judge is very clear, wherein a choice was given to the Execution Applicants either to withdraw the amount or not to withdraw the amount. In case, the Execution Applicants wants to withdraw the amount, then the bank guarantee of a nationalized bank was directed to be given and if the amount was not withdrawn, the same was directed to be invested in a fixed deposit of a nationalized bank. The Execution Applicants have withdrawn the amount and furnished the bank guarantee. Thus, this is a case where, the Execution Applicants have utilized the amount.

37. It is an admitted position that, the Award passed mentions, interest of 10% per annum. The Execution Applicants have not come up with the case that, by furnishing bank guarantee, they have sustained the loss in the sense that the interest which they have earned, has reduced even as per the Award.

38. As held by the Judgment of the Constitution Bench of the Supreme Court in ***Gurpreet Singh*** (supra), the legislative intent in enacting sub-rules (4) and (5) or Order 21 Rule 1 is very clear and the same is that interest should cease on the deposit being made and notice given or on the amount being tendered outside the Court in the manner provided. It has been specifically held that, in cases of execution of money decrees or Award-decrees, or rather decrees other than mortgage decrees, interest ceases to run on the amount deposited, to the extent of the deposit.

39. This is a case where, the Execution Applicants have sought for and taken advantage of the Order dated 18th January 2018 by withdrawing the amount and by commercially using the same. They have made a choice of not continuing the said amount being deposited in the Court which would have been invested in a fixed deposit of a nationalized bank.

40. Thus, Dr. Tulzapurkar, learned Senior Counsel for the Respondents, is right in contending that the Award dated 5th April 2016, as corrected by a Communicated dated 25th May 2016 has to be marked as fully satisfied.

41. It is an admitted position that, the entire amount under the Award along with interest has been deposited in this Court. The total amount deposited by the Respondents in this Court is Rs.27,06,22,766/-. There is no dispute that the said amount is as per the Award and also includes the due interest.

42. Another controversy is regarding direction to be issued to the Execution Applicants to refund the amount of Rs.32,74,500/- which has been deposited in this Court pursuant to the Order dated 17th December 2024 passed by the Division Bench of this Court, which is required as renewal fee of the bank guarantee. It is an admitted position that, only an amount of Rs.11,80,000/- has been utilized and the balance amount of Rs.20,94,500/- has not utilized. Thus, in the facts and circumstances, the Execution Applicants shall refund the said amount of Rs.20,94,500/- to the Respondents, within a period of 4 months from today.

43. Accordingly, Interim Application No.4893 of 2025 is disposed of in terms of prayer clause (a).

44. Further direction is issued to the Execution Applicants to refund the said amount of Rs.20,94,500/- to Respondent Nos.1 to 4 within a period of 4 months from today.

45. Accordingly, Commercial Execution Application No.38 of 2017 is marked as fully satisfied.

46. Commercial Execution Application No.38 of 2017 and Interim Application No.4893 of 2025 are disposed of in above terms with no order as to costs.

47. In view of disposal of the Execution Application, other Chamber Summons or Interim Applications, if any, do not survive.

[MADHAV J. JAMDAR, J.]