PAPER PRESENTATION ON ATTACHMENTS IN EXECUTION.

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Execution is the last stage of civil litigation. There are three stages of litigation-(1) institution, (2) adjudication and (3) implementation of decree. This implementation of decree is also known as execution. The effort required to obtain a decree is much less than the effort required to realise a decree. Real problem starts to the decree holder only after passing of the decree to realise the fruits of the decree. Execution proceedings are more weighed in favour of a judgment debtor than in favour of a decree holder and therefore is the difficulty.

Execution is dealt under the sections of 36 to 75, 144, 146 and 148 of Civil Procedure Code r/w Order 21. Besides these provisions rules 205 to 285 of civil rules of practice also deals with execution. Modes of execution are provided by section 51 of CPC, subject to conditions and limitations as prescribed. One of the modes of execution is Attachment and sale. Attachment is dealt under the provisions of sections 60 to 64 and Order 21 rules 41 to 59 of CPC, 1908.

It is observed by the Hon'ble apex court in Ghanashyam das V. Anant kumar sinha 1991(4) SCC 379: “so far as the question of executability of a decree is concerned, the CPC contains elaborate and exhaustive provisions for dealing with in it all aspects. The numerous rules of order 21 take care of different situations providing effective remedies not only to judgment-debtors and decree-holders but also to the claimant objectors, as the case may be. In an exceptional case, where provisions are rendered incapable of giving relief to aggrieved party, the answer is regular suit in civil court”.

MEANING OF ATTACHMENT:
Attachment is nowhere defined in Civil Procedure Code, 1908. In general “attachment” means a legal term referring to the action of seizing property in anticipation of a favourable ruling for a plaintiff who claims to be owed money by the defendant or the legal process of seizing property to ensure satisfaction of a judgment.

OBJECT OF ATTACHMENT:
The underlying object of the attachment of property is to give notice to
the judgment debtor not to alienate his property and also serves as a notice to general public not to purchase or to deal with property. Further, judgment debtor is given an opportunity to raise the funds to satisfy the decree and sale of his property. Keeping in view the object underlying the provisions, the words attachment and sale are to be read disjunctively and not conjunctively. Attachment of property is not a condition precedent to sale and sale without attachment is merely an irregularity and does not vitiate the sale. Attachment of property in decree for injunction or specific performance is aimed at coercing the Judgment-debtor to comply with the decree, or to expose him to a penalty in case of his disobedience. Attachment in a money decree is primarily for sale of property for eventual satisfaction of decree out of sale proceeds.

**ATTACHMENTOF PROPERTY-IMPORTANT PROVISIONS THEREOF:**

1. **SECTION 60: PROPERTY LIABLE TO ATTACHMENT:**

This provision mainly provides for the list of property which can be and proviso to sec 60 provides which cannot be attached in executing a decree.

1. property liable to Attachment and sale in executing a decree namely lands, houses or other buildings, goods, money, bank-notes, cheques, bills of exchange, hundis, promissory notes, government securities, bonds or other securities of money, debts, shares and all other saleable property which the judgment-debtor has the saleable interest or over which he can exercise disposing power.

2. proviso to sec 60 provides the property that cannot be attached where it includes necessities, customary things, essentials for earning to livelihood, personal services, stipends, gratuities, wages of domestic labour and servants, salary to the extent of first 1000/- and 2/3rds remainder in execution of decree other than decree of maintenance, emoluments, future maintenance and allowances given etc.

This list stated in sec 60 is only illustrative and not exhaustive.

1. Order 21 R.57 CPC does not apply to attachment before judgment. **2014 (2) ALT 440**

2. Retiral benefits such as pension and gratuity. Held would not be liable for attachment for satisfaction of a court decree in view of proviso (g) to section 60(1). **2009 (2) SCJ 48.**
3. Agricultural coolie, possessing the agricultural implements like bulls and carts cannot be attached and sold in execution of a decree. **AIR 2008 (NOC) 884 AP.**

4. Attachable salary of an employee to be taken as his means to pay any decreetal amount. **2007(2) ALT 554.**

**2. SECTION 61: PARTIAL EXEMPTION OF AGRICULTURAL PRODUCE:**
The state government by order declare such portion of agricultural produce necessary for the purpose of providing until the next harvest for due cultivation of land and for the support of judgment-debtor and his family.

**3. SECTION 62: SEIZURE OF PROPERTY IN DWELLING HOUSE:**
No person executing any process under this code shall enter into dwelling house after sunset and before sunrise. No outer door shall be break open unless the occupant therein refuses to execution, if it is a case with a woman who according to the customs of the country does not appear in the public the person executing the process shall give notice to such woman and give a chance for her to withdraw.

**4. SECTION 63: PROPERTY ATTACHED IN EXECUTION OF DECREES OF SEVERAL COURTS:**
When the property is not in the custody of any court under attachment under execution of decrees of more courts than one, the court which shall receive or realize such property shall be the court of highest grade or if they are of same grades then the court under whose decree the property was first attached.

**5. SECTION 64: PRIVATE ALIENATION AFTER ATTACHMENT IS VOID:**
Any private alienation made on the attached property as regards the share of judgment-debtor shall be void as against all the claims enforceable under the attachment.

**Different types of properties that can be attached in CPC:**

**1. Order 21, Rule 41: Examination of judgment-debtor as to the property:**
Order 21 Rule 41 of CPC examination of judgment-debtor as to his property. It provides that where decree is for payment of money on application made by decree-holder the court can examine the judgment-debtor orally as to his debts and also order for production of any books and documents. The object of the rule is to facilitate the
matters if the court has the power to call for an affidavit of the assets of the judgment-debtor. New sub rule (3) is being added to rule 41 to provide in case of disobedience of any order made under sub rule 2 the court may direct the detention of the defaulter in civil prison for a term not exceeding 6 months.

1. This step is only an aid in execution. An application under this rule can be filed even before presentation of execution petition. **SBI v. M.K.Raveendran AIR 2010 Ker. 20**

2. The main object of this rule is to enable the Decree-holder to get information of assets which is within the special knowledge of the judgment-debtor. **M/S Parvatham textiles v. M/S Chona financial services 2007(3) CTC 641.**

3. The Judgment-debtors are bound by the provisions of C.P.C and specially under O.21,R,41 to disclose their assets so that appropriate steps and/or execution proceedings can be initiated by the plaintiffs, to execute their consent decree. **AIR 2004 Bom 412(416)** **2005 CLC 517 (529)**

4. Refusal by judgment-debtor to file affidavit on oath disclosing the assets held or belonging to him be orally examined as to whether any or what debts are owing to the judgment debtor and whether the judgment debtor has any and what other property or means of satisfying the decree; and the Court may make an order for the attendance and examination of such judgment-debtor, or officer or other person, and for the production of any books or documents. Clearly constitutes wilful disobedience of the Courts order judgment-debtor directed to be detained in civil prison. **(2005)I AII MR 307 (308) (Bom)**

5. Execution of decree-obstruction caused by third party-It is for decree holder to complain to executing court. Order of court that application filed by Judgment-debtor under R 97 can be treated as one filed by decree holder himself is contrary to procedure of execution under CPC. **Tulsidas v. Poturu Nageswara Rao AIR 2005 A.P. 171**

**II.ORDER 21 R.42-Decree for rent or mense profits or other matter:**
Where the decree directs the ascertainment of mense profits, the property of Judgment-debtor before the ascertainment of due be attached as in the case of ordinary decree for payment of money.
1. Before invoking Order 21 Rule 42 CPC a decree directing ascertainment of mense profits must exist. **Janakamma V. B. Venkata Lakshmamma 2007 (2) ALT 630.**

2. Discretion exercised by single Judge in determining tentative amount of mesne profit without taking tenant's document on record-Not proper-More so, when tenant had already filed application seeking permission to produce documents regarding slump in the market and fair market rent of similar premises in said locality. **2001 AIHC 703(705)**

**III.ORDER 21 RULE 43-Attachment of movable property other than agricultural produce:**

where property to be attached is movable property, other than agricultural produce, in possession of judgment-debtor the attachment shall be made by actual seizure and after seizing the attaching officer shall keep the property in his custody and shall be responsible for due custody. But if such property is subject to speedy and natural decay, on the expense of keeping it if exceeds the value, it may be sold.

1. Where the property to be attached is movable property other than agricultural produce, in the possession of the judgment-debtor, the attachment shall be made. Before Rule 43 is applied two conditions have to be fulfilled first, there must be an order for attachment and secondly actual seizure of property in execution of order. The attachment is made by actual seizure, hence it comes to the possession of the Court. **Gathula krishna V. Satyanarayana 2010(1) ALT 193**

2. Attachment and eventual sale of shares held within jurisdiction of executing Court is not barred by virtue of O.21,R. 43.**2005 CLC 517 (530)**

3. Attachment of movable property-Correct address has not been furnished in execution petition as to where movables sought to be attached have been kept. **AIR 2004 Mad 448 (450)**

4. Attachment of movable property can be effected, only through actual seizure, and assumption of the possession or custody thereof by an attaching officer if the process of attachment becomes difficult or where the decree holder himself finds that the attachment cannot be proceeded with, for any reason, he may choose to select certain other items of property. **2005(1)ALD 729 (732).**

**IV.ORDER 21 R.43 A-Attachment of live stock,agricultural implements etc:**
this new rule 43-A intends to make provision regarding enforcement of liability against the person to whom the attached movable property is entrusted. The new rule makes such custodian liable to the person interested in the property and provides for the enforcement of the liability against him.

1. It is not the duty of the executing court to preserve the movable properties of a tenant if he neglects to take them back after he was evicted from the premises in execution of decree. 2010(4) ALD 220.

**V.ORDER 21 R.44 and R. 45-Attachment of agricultural produce:**
Attachment of agricultural produce shall be made by affixing a copy of warrant of attachment either on the land where the crop is growing or on some conspicuous part of the house of JDR where he ordinarily resides or personally works for gain. The court shall also make further orders regarding the tend, cut, gather and storing of the produce. Where the agricultural produce is attached the court shall make necessary arrangements and every such attachment shall specify the time

1. The term “agricultural produce” as used in the Code is confined to growing crop standing on the land on which it has grown or cut crop lying on the threshing floor or fodder stack. Once the grain is separated from the chaff it ceases to remain “agricultural produce” and there is no protection against its attachment. The grain as well as the straw can both attached. AIR 1962 Raj 82.

**VI.ORDER 21 R.46- Attachment of debt, share and other property not in possession of judgment-debtor:**
Attachment of a debt, share and other properties not in possession of judgment-debtor can be attached by a written prohibition order that no further transactions like recovering of debt by the creditor, transferring of share and giving away the movable property to some other person shall be made and also by affixing a copy at some conspicuous place of court house and another sent to required person(debtor or sharer).

1. Executing court has to deal with the contentions raised by the petitioner and passing impugned cryptic and non-speaking order is unsustainable in law. Thaigarajar Polytechnic V. C.Rajaveeran 2011 ind mad 239.

2. The provisions of the code applicable to an attachment made in
execution of a decree shall, so far as may be, apply to an attachment made before judgment which continues after judgment by virtue of provisions of rule 11. Thus, postponement of the question to be decided on the ground that the said question also may be decided at the time of disposal of the suit, in the facts and circumstances of the case may not be sustainable. **2009 indlaw A.P. 24**

3. **Effect of attachment:** O.21 R.46 provides for attachment of money, not in possession of judgment-debtor, by prohibiting the person in possession of the same, from giving it over to the judgment-debtor. This is the only effect of such attachment. Thus the language of execution is same as of attachment before judgment. **2010(166) DLT 631.**

**VII. ORDER 21 R.46 A- 46 I-Attachment of property with Garnishee:**

In case of a debt other than a debt secured by a mortgage or a charge notice shall be issued to the garnishee liable to pay such debt, calling upon either to pay in court or so much sufficient to satisfy the decree. The court shall direct the amount towards the satisfaction of decree and costs of execution. If the garnishee has any objection, he can comply with terms of such notice and put forth his objections as to the liability. An order made shall be appealable as decree.

1. Rule 46A was introduced, where under the order against third party of deposit in court also became possible. **2009 ILD 2721.**

2. If a garnishee or defendant, who is directed to pay any sum of money, does not pay the amount, the remedy is to levy execution and not in an action for contempt/disobedience under Order 39 Rule 2A. **2009 (5) SCJ 31.**

3. Order 21 R.46C of the code deals with trial of disputed questions. **2009 ind law AP 24**

4. A Court will have jurisdiction, if the garnishee resides within jurisdiction. The executing Court would have no jurisdiction to pass any prohibitory order under this rule unless either the debt to be attached is payable or the garnishee is within its jurisdiction. **AIR 2004 AP 321.**

5. Attachment of debt-Jurisdiction of executing Court-Objection as to-Debt could not be attached if it was payable within jurisdiction of executing Court or when garnishee was within its jurisdiction of executing Court or when garnishee was within its jurisdiction-Garnishee
can object to attachment on ground of irregularity before money is paid into Court and not after deposit in Court has been made. AIR 2003 Delhi 273.

VII. ORDER 21 R. 47- Attachment of share in movables:
Where the property to be attached consists of the share or interest of the judgment-debtor in movable property belonging to him and another as co-owners, the attachment shall be made by a notice to judgment-debtor prohibiting him from transferring the share or interest or charging it in anyway.
1. Non-application of mind as to whether the sale of a part of the property would satisfy the decree debt, is a material irregularity. Therefore, the attachment order under order 21 Rule 90 set aside. 1993(5) JT 313

2. A share or interest in movable property is in capable of actual seizure, and attachment by a prohibitory order is the only proper course where such share or interest is to be proceeded against. AIR 1915 Mad 885 (886)(DB).

VIII. ORDER 21 R. 48- Attachment of salary and allowances of government servants:
Rule 48 relates to the attachment of salaries and allowances of government employees or local authorities. In case of government employees even though they are not within the jurisdiction of court the notice shall be given the disbursing officer to withhold the salary either in one payment or instalments and remit to the court as his due. If there is already an order the subsequent order shall be returned back stating the existing attachment particulars. The amendment seeks to cover also the employees of corporation engaged in trade or industry and established by statute or government companies so as to place them on same footing as government servants.

1. Whether the judgment-debtor or the disbursing officer is or not within the local limits of the court's jurisdiction, the court is vested with authority subject to section 60 of the code under the said provisions to pass necessary order as provided. E.C.No 114 of 2011(cal.HC).

2. Executing court can however order attachment of immovable property even outside its jurisdiction, since it was exercising jurisdiction over Jdr and not over such property. 2007(3) SCJ 753.

3. From the perusal of O.22,R.48 it is clear that when it is a question of
attachment of salary portion of the Govt. servant or servants of a corporation; the territorial limits do not create an impediment in directing attachment of the same. Salary means the gross salary i.e., the total monthly emoluments including any sum which may be required for payment of taxes or payments or re payments to provident Fund even though these may be recovered by deduction from “salary”. Thus, salary cannot be restricted to the emoluments payable after deductions. (2003) 4 Mad L W 718.

IX. ORDER 21 R. 48-A--Attachment of salary and allowances of private employees:

Rule 48A relates to the attachment of salaries and allowances of private employees. In case of private employees he should be within the jurisdiction of court and the notice shall be given to the disbursing officer to withhold the salary either in one payment or instalments and remit to the court as his due. If there is already an order the subsequent order shall be returned back stating the existing attachment particulars.

1. Where the amount is being recovered from the principal debtor, only if that avenue fails, the enforcement should be against the surety. AIR 2003 Kant 280.

X. ORDER 21 R. 49--Attachment of partnership property:

Attachment of partnership property shall be made by making an order-

a. charging the interest in the Partnership property
b. appointing a receiver
c. directing enquiries on accounts
d. ordering sale of such interests.

1. A partner is always liable to partnership debt, unless there is implied or express restriction. AIR 2005 SC 3434.

2. It is true that 0.21, R.49 (2) specifically mentions of appointment of receiver in certain cases and there is no such direction in 0.21,R.50. But a join reading of 0.21, R.50 along with S.51 (d) and O.40 makes it clear that there is no bar at all for the court to invoke powers under Order 40, R.1 to appoint receiver to proceed against the property of the firm. (2001) 1 civil court C 696.

3. Where the decree in favour of the Bank was passed against the partnership firm as well as against the partners and the guarantors:
4. They all are jointly and severally liable to pay the amount and the Bank cannot ask not to proceed against one of the judgment debtors. (2002) 4 All MR 445 (447) (Bom)

XI. ORDER 21 R.51- Attachment of negotiable instruments:
Attachment of negotiable instruments shall be made by actual seizure thereof.

1. An attachment of negotiable instruments shall be made by actual seizure thereof. Unless this is done, there is always a danger that third parties may bonafide become possessed of it, and, if a prohibitory order is held to be a valid attachment, they would be prejudiced by such an order of which they may know nothing. AIR 1949 Cal 144.

XII. ORDER 21 R.52- Attachment of property in custody of court or public officer:
By giving a notice to the court of public officer in whose possession the property is present requesting that such property and interest or dividend thereon must be held subject to further orders of the court.

1. If the property is in the custody of transferee court; any question of title or priority arising between the decree holder and another person not being the judgment debtor; claiming to be interested in such property by virtue of any assignment, attachment or otherwise be determined by the transferee court. Transferee court need not remit amount automatically to transferor court. AIR 2004 Mad 498 (508).

2. Property held in Criminal Court-Where certain property was seized by the Magistrate's court during investigation of an offence of Criminal misappropriation and the same was attached under this rule, by the Magistrate subsequently sold the property under S.516-A of Cr.P.C, it was held that in the Magistrate was not justified in selling the property. ILR (1968) 1 Ker 702.

XIII. ORDER 21 R.53- Attachment of decrees:
Attachment of decrees can be made -

- if the decree is passed by the executing court itself by the order of such court
- if the decree passed by another court by requesting such court to stay the execution thereof.

in all other modes by issuing a notice to the decree holder prohibiting from transfer or charge to other and to executing court from executing it until such notice is cancelled.
1. Only a decree-holder can apply for execution of attached decree. A person who has merely obtained an order for attachment before judgment of another decree, can not apply under this rule to execute the decree under sub-rule(2). It is only after he obtains a decree that he can so apply. AIR 1963 Ker 195.

XIV. ORDER 21 R.54- Attachment of immovable property:
By an order prohibiting the JDR from transferring or charging it to another and all persons from taking any benefit or charge. The order shall also require the judgment-debtor to attend court on a specified date to take notice of the date to be fixed for settling the terms of proclamation of sale. The order shall be proclaimed at some place adjacent or conspicuous part of the property by beat of drum or other customary mode.

1. Where the wife of the judgment-debtor assailed the attachment on the ground that she had contributed to the consideration and she was the co-owner of the property, the plea was to be examined. In case under reference the applicant's wife failed to prove the contention which was rejected for that reason- Janaki vashdeo bhojwani v. Industrial bank ltd AIR 2005 SC 439

2. The Supreme Court held that the procedures under sub rules (2) of rule 54 will apply to service to the sale-proclamation also as nearly as possible: Saheb khan v. Mohd. Yusufuddin AIR 2006 SC 1871

3. The Supreme Court held that the attachment of immovable property will continue until the said property is sold and the sale is confirmed. The court further held that such attachment may be deemed determined under rules 55, 57 and 58. C.S.Mani v. B.Chinnasamy Naidu AIR 2010 SC 3600

4. The Supreme court stressed that where a property is sold in execution of a decree at each and every stage notice to the person whose property is sold is mandatory, without which it would be a nullity. 2010(1) & RAJ 322

5. In first appeal against judgment-debtor gave undertaking that he will not dispose of property or transfer suit property till the matter attained finality merely because of disposal of first appeal. But same would continue till decree is satisfied. Decree obtained by the decree holder was not discharged and it was not satisfied. Transfer of property made
6. by judgment-debtor in favour of his vendees is hit by the provisions of section 52 of T.P.Act. Consequently the suit properties alienated by the judgment-debtor was held liable to be attached. **S.Malleshwara Rao V. Bokka Venkateshwara Rao AIR 2013 Kant 88**

7. Mortgage or charge decree-No attachment is necessary-Execution of decree for recovery of money-Attachment of property-Property in question had been purchased for a valid consideration-No specific direction in decree creating any charge on said property-General observation made to the effect that decree-holder is entitled to proceed against assets of judgment-debtor does not amount to creating charge on property-Decree-holder not entitled to attach and sale property in execution. **AIR 2003 Kant 128(134)**

8. Order 21,R.54 in terms prohibits the judgment-debtor from transfer or charging property attached in anyway and all persons from asking any benefit from such transfer or charge. As long the order of attachment is operative, no third party rights can be created. **2001 AIR SCW 2890**

**PRECEPT:** Section 46 deals with precept. It is an order or direction given by court which passed the decree to a court which would be competent to execute a decree to attach any property of judgment-debtor. A precept seeks to prevent alienation of property of the judgment-debtor not located within the jurisdiction of the court which passed the decree. It is an interim attachment of property which lies outside the jurisdiction of the court which has passed the order. This attachment is valid only for 2 months.

**DISTINCTION BETWEEN ATTACHMENT BEFORE JUDGMENT AND ATTACHMENT AFTER JUDGMENT:** If an attachment is ordered before judgment there is no need of re-attaching the same after the passing of a decree. An attachment prior to the decree is not an attachment for the enforcement of a decree, but it is a step for preventing the debtor from delaying or obstructing such enforcement when the decree subsequently passed is sought to be executed. An attachment after decree is an attachment made for the immediate purpose of arraying the decree into execution, and if presupposes an application on the part of the decree holder to have his decree executed. **S.P.Vasakumar Pillai V. The motar accidents claims 2008.** The trial court can attach the property under order 38 which is beyond its territory whereas the
executing court can attach only the property which is within its territory. *Mohit Bhargava V. Bharat bhoosan bhargava AIR 2007 SC 1717.*

**CLAIMS AND OBJECTIONS TO ATTACHMENT: R.58**

any claim or objection made to the attachment of property shall be adjudicated to proceed further. Provided no such claim or objection shall be entertained where the property has already been sold or court considers it as unnecessary claim. All the questions raised shall be decided by the same court dealing with claim and not by a separate suit.

**REMOVAL OF ATTACHMENT AFTER SATISFACTION OF DECREE:**

In the following circumstances, the attachment may be terminated:

1. When all the costs and charges of the decreetal amount are paid into the court-objection.
2. Satisfaction of the decree is otherwise made through the court or certified to the court.
3. The decree is set aside
4. on furnishing the required security by Judgment-debtor.
5. By compromise between the parties
6. By an express order withdrawing or putting an end to the attachment.
7. By sale of the attached property in the execution of the decree.
8. By abandonment of the attachment by the decree-holder.

**EFFECT OF ATTACHMENT:**

1. An attachment does not create any title of the decree-holder to the property nor does it create a lien or charge over the property for the sum due to the decree-holder.
2. The judgment-debtor continues to enjoy the attached property.
3. Any private transfer or alienations made to such attachment shall be void as against all claims enforceable under attachment-sec 64.

**CONCLUSION:**

PROCEDURE when properly understood and used furthers the cause of justice. If misused or abused a decree-holder or a judgment-debtor may stand devastated. Hence as an execution courts, we are to be conscious of these shades of life. Procedure is to be looked at, to make the process of court certain effective, satisfying and quick.
I start my presentation by the words pronounced by His Lordship M.Desai, J. Of Allahabad High Court along with their Lordships B.Upadhya J, B Nigam J in Maharaj Kumar Mahmud Hasan Khan Vs Moti Lal Banker AIR 1961 All 1.

The scheme of the Civil Procedure Code is that in one proceeding the court determines the liability of a party and the corresponding right of the other party and incorporates them in the decree and in another proceeding it executes the decree, i.e., at the instance of one party specifically enforces the liability against the other. There can be no execution or specific enforcement of a liability without a previous determination of the liability by a court and incorporated in a formal document called a decree. The Code does not contemplate the determination of a liability and its specific enforcement in one proceeding. This is one of the main differences between a criminal proceeding and a civil proceeding that in the former the execution follows at once in the same proceeding whereas in the latter it is through a separate proceeding.

INTRODUCTION

Execution is the last stage of any civil litigation. It is only the execution, which reveals and signifies the importance of the decrees to be passed and the pedestal of the Court and sanctity of the
provides that the Court executing a decree sent to it "shall have the same powers in executing such decree" as the Court which passed it.

As per Sec.38 of C.P.C. a decree may be executed either which passed the decree or by the court to which the decree is sent for execution. The expression by the court to which the decree is sent for execution as provided in Sec.38 C.P.C. means the court situated beyond the territorial jurisdiction of the court. As per Sec.37 of C.P.C. even if a decree is passed by the appellate court it can be executed only by the trial court which was up held by the **Hon'ble High Court of the Andhra Pradesh in V.V.Narayana Vs Narappa Reddy Gari AIR 1963 A.P. 452.**

The court dealing with the preliminary decree is not an executing court as per Sec.37 of C.P.C. which was up held by the **Hon'ble High Court of the Andhra Pradesh in Adava Akulamma Vs Gajjella Papireddy AIR 1995 A.P.166.**

**Powers of executing Court:**

Section 47 is the only section that deals with the jurisdiction of an executing court. It is confined to determining all questions arising between the parties to the suit and relating to the execution, discharge or satisfaction of the decree. It enjoins that all these questions shall be determined by the executing court and not by a separate suit. All other questions can be determined by a separate suit. Any question that does not relate to the execution, discharge or satisfaction of the decree is thus not within the jurisdiction of the executing court.
Apart from Order 21 of Civil Procedure Code sections 36 to 72 and chapter XVI rules 204 to 294 exclusively deals with execution proceedings.

**How decree holder can initiate execution proceedings:**

When a decree holder desires to execute the decree passed in his favour he has to file an application of execution as per Order 21 Rule 10. Dhr can apply for execution in two ways as per Order 21 Rule 11 i.e., orally and in writing.

**When Dhr can initiate execution proceedings orally:** Where the execution proceedings is for recovery of money under a decree, the Dhr at the time of passing the decree can orally apply to the Court to arrest the Judgement debtor, the Court can order immediate execution thereof by the arrest of the judgment-debtor, prior to the preparation of a warrant if he is within the precincts of the Court in any other case a written application to file to initiate execution proceedings.

**Courts by which decree may be executed:**

As per Sec.36 of C.P.C. the provisions to the execution of decrees shall also be applicable to orders.

Section 33 of the Code of Civil Procedure lays down that the Court, after the case has been heard, shall pronounce judgment and on such judgment a decree shall follow. The Code contains provisions as to how and by which Court a decree may be executed. Section 38 says that a decree may be executed either by the Court which passed it or by the Court to which it is sent for execution and Section 42
such Court can neither add to such a decree nor vary its terms."

The following are the some more instances where execution proceedings can be initiated:-

**In case of Restitution of conjugal rights:** In *Sudha Gupta v. Har Prasad Gupta, 2016 SCC OnLine Del 5504*, decided on 7th October, 2016] Hon'ble High Court of Delhi, the Bench comprising of Pratibha Rani and Pradeep Nandrajog, JJ., While examining the question relating to the execution of a decree for restitution of conjugal rights, held that on passing of the decree for the restitution of conjugal rights or for its execution, at the most it can enforce cohabitation between estranged spouses but cannot enforce sexual relations between estranged spouses.

**Enforcement of Foreign Decrees/Judgements in India**

With the advent of globalization and with India poised as a major international and global player in the world economy, it is apposite to consider the law concerning enforcement of foreign judgments in India. In law, the enforcement of foreign judgments is the recognition and enforcement rendered in another ("foreign") jurisdiction. Foreign judgments may be recognized based on bilateral or multilateral treaties or understandings, or unilaterally without an express international agreement. The "recognition" of a foreign judgment occurs when the court of one country or jurisdiction accepts a judicial decision made by the courts of another "foreign" country or jurisdiction, and issues a judgment in substantially identical terms without rehearing the substance of the original lawsuit. Recognition
An executing court has jurisdiction only to execute the decree, i.e. it can enforce only the decreetal liability and it has jurisdiction, conferred by Section 47, to decide all questions relating to execution, discharge and satisfaction of the decree, but it has no jurisdiction whatsoever over any other matter and cannot enforce any other liability. It would have no jurisdiction to enforce the liability arising out of the adjustment or to execute it or get it specifically performed.

It may be noticed that the powers of the executing court which are stated to be the same as that of the Court which passed the decree are limited by the words "in executing such decree". Section 47 further lays down that all questions arising between the parties to the suit in which the decree was passed or their representatives and relating to the execution, discharge or satisfaction of the decree shall be determined by the Court executing the decree and not by a separate suit. The scope of the words 'relating to the execution, discharge or satisfaction of the decree' has been the subject of a large number of decisions as questions have often arisen as to whether a particular matter is one relating to the execution, discharge or satisfaction of the decree or not but these provisions do not empower the executing Court to go behind the decree itself.

The jurisdiction of the executing Court is limited to execution alone and such Court has only to enforce the terms of the decree. Mahamood, J., in Muhammad Sulaiman v. Jhukki Lal, ILR 11 All 228, observed: "I hold it to be a correct proposition of law that a Court executing a decree is bound by the terms of that decree and cannot go behind them. It is equally true as a general proposition that
limit to file such a law suit in India is within three years of the foreign judgment.

However, "reciprocating territory" is defined in explanation 1 to Section 44A of India's Civil Procedure Code as: "Any country or territory outside India which the Central Government may, by notification in the Official Gazette, declare as a reciprocating territory." The List of the Reciprocating Territories as per the Provisions of Section 44A of the Code of Civil Procedure, 1908, is as under:

1. United Kingdom
2. Singapore
3. Bangladesh
4. UAE
5. Malaysia
6. Trinidad & Tobago
7. New Zealand
8. The Cook Islands (including Niue) and The Trust Territories of Western Samoa
9. Hong Kong
10. Papua and New Guinea
11. Fiji

The provisions of section 44A deals with the execution of decrees passed by Courts in reciprocating territory. The District Court has jurisdiction to execute the foreign decree.

(a) Where a certified copy of decree of any of the superior Courts of any reciprocating territory has been filed in a District
will be generally denied if the judgment is substantively incompatible with basic legal principles in the recognizing country.

However, the Code of Civil Procedure, 1908 has defined Foreign Court and Foreign Judgements in as:

**Section 2 of the CPC, 1908**

- **foreign Court** means a Court situate outside India and not established or continued by the authority of the Central Government;

- **foreign judgment** means the judgment of a foreign Court; In other words, a foreign judgment means an adjudication by a foreign court on a matter before it.

A foreign judgment can be enforced in India in one of two ways:

1. Firstly by filing an Execution Petition under Section 44A of the CPC (in case the conditions specified therein are fulfilled). In other words – Judgments from Courts in "reciprocating territories" can be enforced directly by filing before an Indian Court by Execution Decree i.e., that a decree passed by Courts in reciprocating territories can be executed in India as if the decree was passed by the Indian Courts only.

2. Secondly by filing a suit upon the foreign judgment/decree. In other words – Judgments from "non-reciprocating territories," such as the United States, can be enforced only by filing a law suit in an Indian Court for a Judgment based on the foreign judgment. The foreign judgment is considered evidentiary. The time period

In the case of a suit by way of petition, the court is bound to act as a Court of appeal and pass a judgment on the merits of the case. In the case of a suit by way of petition, the court is bound to act as a Court of appeal and pass a judgment on the merits of the case.
Official Gazette, the decree is not directly executable in India and a fresh suit will have to be filed in India on the basis of such a decree or judgment, which may be construed as a cause of action for the said suit. In the fresh suit, the said decree will be treated as another piece of evidence against the defendant. However in both cases the decree has to pass the test of S. 13 CPC which specifies certain exceptions under which the foreign judgment becomes inconclusive and is therefore not executable or enforceable in India. Sections 13 and 14 enact a rule of res judicata in case of foreign judgments. These provisions embody the principle of private international law that a judgment delivered by a foreign court of competent jurisdiction can be enforced by an Indian court and will operate as res judicata between the parties thereto except in the cases mentioned in Section 13. A foreign judgment may operate as res judicata except in the six cases specified in the section 13 and subject to the other conditions mentioned in Sec. 11 of C.P.C.

Moreover Hon'ble Justice of Supreme Court of India, his Lordship N.V. Ramana J, in M/S Alcon Electronics Pvt. Ltd vs Celem S.A. Of Fos 34320 Roujan, ... on 9 December, 2016 comprising with the Lordship A.K. Sikri, held that it is to the reciprocal advantage of the Courts of all nations to enforce foreign rights as far as practicable. To this end, broad recognition of substantive rights should not be defeated by some vague assumed limitations of the Court. When substantive rights are so bound up in a foreign remedy, the refusal to adopt the remedy would substantially deprive parties of their rights. The
Court, the decree may be executed in India as if it had been passed by the District Court.

(b) Together with the certified copy of the decree shall be filed a certificate from such superior Court stating the extent, if any, to which the decree has been satisfied or adjusted and such certificate shall, for the purposes of proceedings under this section, be conclusive proof of the extent of such satisfaction or adjustment.

(c) The provisions of section 47 shall as from the filing of the certified copy of the decree apply to the proceedings of a District Court executing a decree under this section, and the District Court shall refuse execution of any such decree, if it is shown to the satisfaction of the Court that the decree falls within any of the exceptions specified in clauses (a) to (f) of section 13.

"The Hon'ble Supreme Court of India in the case of Moloji Nar Singh Rao vs Shankar Saran AIR 1962 SC 1737 held that a foreign judgment which does not arise from the order of a superior court of a reciprocating territory cannot be executed in India. It ruled that a fresh suit will have to be filed in India on the basis of the foreign judgement."

Therefore Under S. 44A of the CPC, a decree of any of the Superior Courts of any reciprocating territory are executable as a decree passed by the domestic Court. In case the decree does not pertain to a reciprocating territory or a superior Court of a reciprocating territory, as notified by the Central Government in the
proof under S.41, Evidence Act, has to be of a 'Competent Court', that is, a Court having jurisdiction over the parties and the subject matter. Even a judgment in rem is open to attack on the ground that the Court had no jurisdiction; and S. 44 of the Evidence Act gives the right to a party to show that a judgment under S. 41 was delivered by a Court not competent to deliver it, or was obtained by fraud or collusion. Fraud, in any case bearing on jurisdictional facts, vitiates all judicial acts whether in rem or in personam; and no rule of private international law could compel a wife to submit to a decree procured by the husband by trickery

Execution of Arbitral Award:

The growth of international commerce has necessitated the creation of efficient methods of resolution of disputes and enforcement of the consequent awards that determine the rights and obligations of the parties. In some situations securing an award may only be half the battle won; this is especially true in the Indian context. We have come across situations where the opposite parties decide not to participate in the arbitral process or abandon them midway. The enforcement of these awards where the party is in absentio is sometimes more complicated than one where the opposite party participated in the proceedings. In some situations objections have been raised against costs that were awarded by the tribunal. Therefore, parties should be cautious even at the stage of enforcement. The procedure for enforcement and execution of arbitral awards in India is primarily governed by the Arbitration & Conciliation Act, 1996 ("Act") as well as the Code of Civil Procedure, 1908.
necessity of maintaining the foreign rights outweighs the practical difficulties involved in applying the foreign remedy. In India, although the interest on costs are not available due to exclusion of Section 35(3), the same does not mean that Indian Courts are powerless to execute the decree for interest on costs. Indian Courts are very much entitled to address the issue for execution of the interest amount. The right to 8% interest as per the Judgments Act, 1838 of UK can be recognized and as well as implemented in India.

 Execution of a foreign divorce decree:

The matrimonial laws differ from country to country. The issue of divorce decree not being valid, crops up when the domicile of the parties is in one country and one of them obtains matrimonial relief in a foreign country. It has become very common people after marriage migrate to different country either to stay there permanently or for temporary stay.

His lordship Justice Chandrachud, Y.V. in Satya vs Teja Singh 1975 AIR 105, Section 13(a), Civil Procedure Code, 1908, makes a foreign judgment conclusive as to any matter thereby directly adjudicated upon except where it has not been pronounced by a Court of competent jurisdiction; and S.41, Indian Evidence Act, 1872, provides that a final judgment of a competent Court in the exercise of matrimonial jurisdiction is conclusive proof that the legal character which it confers or takes away accrued or ceased at the time, declared in the judgment for that purpose. The judgment to operate as conclusive
Domestic and foreign award are enforced in the same manner as a decree of the Indian court. This is true even for consent settlement awards. However, there is a distinction in the process for enforcement of an award based on the seat of arbitration. While the enforcement and execution of an Indian seated arbitral award (between two India parties or Indian party and foreign party) would be governed by the provisions of Part I of the Act, enforcement of foreign seated awards would be governed by the provisions of Part II of the Act.

Under the Arbitration and Conciliation (Amendment) Act, 2015. There are two avenues available for the enforcement of foreign awards in India, viz., the New York Convention and the Geneva Convention, as the case may be.

**The principle District Court has jurisdiction to enforce Indian arbitral Award** and the application for enforcement of a foreign award will now only lie to High Court.

**Execution of Lok-adalith award:**

The most popular and newly emerged award is the Lokadalith Award.

**The Hon'ble the Supreme Court in P.T. Thomas v. Thomas Job, 2005 (3) RCR (Civil) 621. It was opined therein that award of Lok Adalath is deemed to be decree of the Court.**

**The Hon'ble Supreme Court of India in State of Punjab & Anr. vs. Jalour Singh and Ors. (2008) 2 SCC 660** held that the "award" of the Lok Adalath does not mean any independent verdict or opinion arrived at by any decision making process. The making of the
document. As such, the decrees are required to be executed with force, so that the Decree Holder having a document containing declaration of his rights may not feel cheated or helpless having earned no fruits of the lis got settled by him, from the Court.

The code of civil procedure defines the definition of decree, order, Court, Proceedings etc., but did not defined execution. The term "execution" has not been defined in the code. The expression "execution" means enforcement or implementation or giving an effect to the order or judgement passed by the court of justice. In Simple words "execution" means is the judicial process for enforcing or giving effect to the judgement of the court. In general execution is the enforcement of decrees and orders by the process of court, so as to enable the decree-holder to realise the fruits of the decree.

The Hon'ble Supreme Court of India in Ghanshyam Das V. Anantha Kumar Sinha dealing with provision of the code relating to execution of decree and orders, stated, "so far as the question of executability of a decree is concerned, the Civil Procedure Code contains elaborate and exhaustive provisions for dealing with it in all aspects. The numerous rules of Order 21 of the code take care of different situations providing effective remedies not only to judgement-debtors and decree-holders but also to claimant objectors, as the case may be. In an exceptional case, where provisions are rendered incapable of giving relief to an aggrieved party in adequate measures and appropriate time, the answer is a regular suit in the civil court."
Judges of the District in which the Lok-Adalaths is held.

The awards passed in criminal cases i.e., in Sec. 138 of N.I.Act shall be executable by the courts having pecuniary jurisdiction relating to the amount of award passed by the Lok-Adalath.

**Conclusion**

I am closing my presentation holding that the Indian Judiciary is well equipped with enforcing mechanism for the execution of every decree, order, award passed by the Indian Courts or by the Courts of reciprocating territories without any hurdles and going on implementing new mechanism. I can proudly say that by the recent International Workshop on Intellectual Property, Commercial and Emerging Law organized by Economic Development Board of Andhra Pradesh conducted in collaboration with the Japanese External Trade Organization (JETRO) and Bezwada Bar Association, at Vijayawada Andhra Pradesh which was participated by many jurists, Scholars and the law enforcers i.e., the Judicial officers shows the dynamism of Indian Judiciary in adopting new mechanism of newly emerging disputes and implementing the orders or awards of such mechanism by forming new enforcement authorities relating to execution of orders, awards etc.,.
LIMITATIONS FOR SEVERAL APPLICATIONS
DURING EXECUTION

Submitted by
Y.Nagaraja,
Junior Civil Judge,
Kalyandurg.

"Vigilantibus non dormientibus jura subveniunt"
Which means the Laws come to the assistance of the vigilant, not of the sleepy.

The Limitation Act is an exhaustive Statute governing the law of limitation in India in respect of all matters specifically dealt with by it and the Indian Courts are not permitted to travel beyond its provisions to add or to supplement them. It bars the remedy but does not destroy the right. The provisions of the Act have to be construed strictly.

The present Limitation Act 36 of 1963 repealed the old Act of 1903 came into force on 5th October 1963 is to consolidate and amend the law for the limitation of suits and other proceedings.

It is also trite that the provisions of the Code of Civil Procedure as also the Limitation Act have all along been considered to be supplemental to each other. It is also well-settled that execution of the decree would mean the enforcements of the decree by what is known as process of execution. All processes and proceedings in aid to or supplemental to execution would come within the meaning of the word "execution" within the meaning of Sec.15(1) of the Limitation Act.

There are two divisions in the Law of Limitation. One covered by sections and the other by Articles. The sections in the body of the Limitation Act govern and control the application of the articles in the schedule except so far the language of a particular article clearly precludes the application of any such. Sec.151 of the Code of Civil Procedure cannot be invoked to by-pass the limitation prescribed under the Limitation Act. Limitation Act is exhaustive and cannot travel beyond is provisions.

For every recurring infringement as long as the application was filed within time the executing Court is duty bound to give relief to the decree-holder.

Section 5 of Limitation Act providing condonation of delay to not apply to execution proceedings. But Sec. 5 is applicable to an order over an order passed under O.XXI, CPC.

The Hon'ble HIGH COURT OF ANDHRA PRADESH (D.B.) in case of Krishnaiah V/S Prasada Rao, reported in 2009 LawSuit(AP) 144 at para Nos.20 and 21 pleased to held as follows:-

"[20] It could be seen from the above that no attempt was made to amend Rule 106 of Order XXI of the Code of Civil Procedure.... However, both the Amending Act of 46
of 1999 and 22 of 2002 were brought into force with effect from 1.7.2002. From the above, it could be seen that Rule 106 of Order XXI of the Code of Civil Procedure was not subjected to any amendment. Therefore, by virtue of Section 32 of Act 46 of 1999 and Section 16 of Act 22 of 2002 and by necessary implication, the inevitable construction should be that the amendment made by the High Court of Andhra Pradesh through the Judicial Notification, as extracted supra, already remains unsettled and very much in fact.

[21] Therefore, we hold that notwithstanding the repeal provisions in 1999 and 2002 amendments to CPC, Order XXI Rule 106(4) of CPC as inserted by the High Court in exercise of powers under Section 122 of CPC enables a party to proceedings to file application under Section 5 of Limitation Act seeking condonation of delay in filing an application to set aside ex parte order passed under Order XXI Rule 106(1) of CPC."

Enforceability of limitation:

The limitation for execution a decree runs from the date of the decree capable of execution and that is the decree of the appellate Court which supersedes that of the Court of first instance or that if mesne profits are ordered from the date of suit until the expiry of three years after the date of the decree, the decree to be considered is the decree capable of execution so that if the decree or the trial is confirmed in appeal, three years will begin to run from the date of the appellate decree.

Section 3 of Limitation Act dealt with Bar of limitation:- Subject to the provisions contained in Sections 4 to 24 every suit instituted, appeal referred and application made after the prescribed period shall be dismissed although limitation has not been set up as defence.

Section 4 of Limitation Act dealt with the expiry of Prescribed period When Court is Closed:-

Where the prescribed period of any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, preferred or made on the day when the Court re-opens.

Explanation:- A Court shall be deemed to be closed on any day within the meaning of this section if during any part of its normal working hours it remains closed on that day.

Section 14: of Limitation Act dealt with the Exclusion of time of proceeding bona fide in Court without jurisdiction:-

In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceedings, whether in a Court of first instance or of appeal or revision against the defendant shall be excluded, where the proceedings relates to the same matter in issue and is prosecuted in good-faith in a Court which from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

In computing the period of limitation for any application the time during which the applicant has been prosecuting with due diligence another civil proceedings, whether in a Court of first instance or of
appeal or revision against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good-faith in a Court which, from defect of jurisdiction or other cause of like nature, is unable to entertain it.

Notwithstanding anything contained in R. 2, O. XXIII of the Code of Civil Procedure, 1908, the provisions of sub-sec. (1) shall apply in relation to a fresh suit instituted on permission granted by the Court under Rule 1 of that Order, where such permission is granted on the ground that the first suit must fail by reason of defect in the jurisdiction of the Court or other cause of a like nature.

Explanation:- For the purpose of this Section
in excluding the time during which a former civil proceeding was pending, the day on which that proceedings was instituted and the day on which it ended shall both be counted;
a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding;
Misjoinder of parties or of causes of action shall be deemed to be a cause of nature with defect of jurisdiction.

Section 15 of Limitation Act dealt with the Exclusion of Time in certain other cases:

(1) In computing the period of limitation for any suit or application for the execution of a decree, the institution or exemption of which has been stayed by injunction or order, the time of the continuance of the injunction or order, the day on which is was issued or made, and the day on which it was withdrawn, shall be excluded;

(2) In computing the period of limitation for any suit of which notice has been given, or for which the previous consent or sanction of the Government or any other authority is required, in accordance with the requirements of any law for the time being in force, the period of such notice or, as the case may be, the time required for obtaining such consent or sanction shall be excluded.

Explanation - In excluding the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made for obtaining the consent or sanction and the date on receipt of the order of the Government of other authority shall both be counted.

(3) In computing the period of limitation for any suit or application for execution of a decree by any receiver of “interim” receiver, appointed in proceedings for the adjudication of a person as an insolvent or by any liquidator or provisional liquidator appointed in proceeding for the winding up of a company the period beginning with the date of institution of such proceeding and ending with the expiry of three months from the date of appointment of such receiver or liquidator, as the case may be, shall be excluded.

(4) In computing the period of limitation for a suit for possession by a purchaser at a sale, in execution of a decree, the time during which a proceeding to set aside the sale has been prosecuted shall be excluded.

(5) In computing the period of limitation for any suit the time during which the defendant has been absent from India and from the territories outside India under the administration of the Central Government, shall be excluded.

All processes and proceedings in aid to or supplemental to execution would come within the meaning of the word “execution” within the meaning of Sec.15(1) of the Limitation Act. Sec.15 of the Limitation Act deals with exclusion of time in computing the period of limitation for any application for the execution of decree which has been stayed by injunction or order. It is based on the well established
principle of judicial procedure that where any proceedings are stayed by an order of a Court or injunction issued by any Court, that period should be excluded in competing the period of limitation laid down by any law. That means the period which is actually so interdicted is to be excluded. It further provides that the period between the filing of one petition for winding up or adjudication and the appointment of the receiver (including interim receiver) or liquidator (including provisional liquidator) and three months period thereafter should be excluded.

An application for execution of a decree and not be pending at the time of passing of injunction or stay order for applying Sec. 15 of the Limitation Act.

An order granting time to judgment-debtor to pay amounts to stay orders. Whereas consigning the records to record room does not amount to stay order. An order allowing execution takes place only on condition amounts to operate as stay. As adjournment of execution case do not amount to say order.

Sec. 15 does not affect the law with regard to an application to receive an application for execution already made. The decree-holder can ask the Court to receive the execution proceeding which is suspended for no fault of decree-holder.

**Section 17 of Limitation Act dealt with the Effect of fraud or mistake.**

Where, in the case of any suit or application for which a period of limitation is prescribed by this Act-

- the suit or application is based upon the fraud of defendant or respondent or his agent; or
- the knowledge or the right or title on which a suit or application is founded is concealed by the fraud of any such person as aforesaid; or
- the suit or application is for relief from the consequences of mistake; or
- where any document necessary to establish the right of the plaintiff or application has been fraudulently concealed from him, the period of limitation shall not being to run until the plaintiff or applicant has discovered the fraud or the mistake or could, with reasonable diligence, have discovered, it; or in the case of a concealed document, until the plaintiff or the applicant first had the means of producing the concealed document or compelling its production;

Provided that nothing in this section shall enable any suit to be instituted or application to be made to recover or enforce any charge against, or set aside any transaction affecting any property which-

- in the case of fraud, has been purchased for valuable consideration by a person who was not a party to the fraud and did not at the time of the purchase know, or have reason to believer, that any fraud had been committed, or
- in the case of mistake, has been purchased for valuable consideration subsequently to the transaction in which not a party to the concealment and did not at the time of purchase know, or have reason to believes, that the mistake had been made, or

Where a judgment-debtor has, by fraud or force, prevented the execution of a decree or order within the period of limitation, the Court
may, on the application of the judgment-creditor made after the expiry of the said period extend the period for execution of the decree or order:

Provided that such application is made within one year from the date of the discovery of the fraud or the cessation of force, as the case may be.

Section 17 can be invoked by the judgment-debtor to set aside sale with the time prescribed or when he becomes aware or could have become aware had he been reasonably diligent of the sale if there is fraudulent concealment of the proceedings by the decree holder's right upto the time of sale. Suppression of notices or other processes by a deliberate contrivance or a wilful misstatement of the value of the property to be sold in the sale proclamation, or a dishonest combination to obtain by artifice the property at a low value amounts to fraud. If it is found that fraud was practices in the Court, the Court could set aside execution sale under Sec. 17. Sec. 17(2) provides that where a judgment-debtor, has by fraud or force, prevented execution of decree or order within the period of limitation the Court may, on the application of the judgment-creditor made after the expiry of such period, extend the period for the execution of the decree or order. The benefit of extension is made available only if the application for extension is made within one year from the date of the discovery of fraud or cessation of force.

LIMITATIONS FOR SEVERAL APPLICATIONS DURING EXECUTION:-

UNDER CODE OF CIVIL PROCEDURE:-

Order XXI Rule 106 C.P.C:- Setting aside order passed exparte, etc.— (1) The applicant, against whom an order is made under sub-rule (2) rule 105 or the opposite party against whom an order is passed ex parte under sub-rule (3) of that rule or under sub-rule (1) of rule 23, may apply to the Court to set aside the order, and if he satisfies the Court that there was sufficient cause for his non- appearance when the application was called on for hearing, the Court shall set aside the order or such terms as to costs, or otherwise as it thinks fit, and shall appoint a day for the further hearing of the application.

(2) No order shall be made on an application under sub-rule (1) unless notice of the application has been served on the other party.

(3) An application under sub-rule (1) shall be made within thirty days from the date of the order, or where, in the case of an ex parte order, the notice was not duly served, within thirty days from the date when applicant had knowledge of the order.

UNDER LIMITATION ACT:-

Article 125:- Limitation for Recording Adjustment or Satisfaction of Decree:

<table>
<thead>
<tr>
<th>Description of suits</th>
<th>Period of Limitation</th>
<th>Time from which period begins to run</th>
</tr>
</thead>
<tbody>
<tr>
<td>125. To record an adjustment or satisfaction of a decree</td>
<td>30 days</td>
<td>When the payment or adjustment is made.</td>
</tr>
</tbody>
</table>

Order XXI, Rule 1 of Code of Civil Procedure cast a duty on the decree-holder to certify payment of adjustment of decree to the Court. Whereas O.XXI. R.2 CPC affords protection to the judgment-debtor in the event of failure of the
decree-holder to act under sub-rule (1) and involves a judicial decision by the Court whether the payment should be recorded. This Act is instance of judgment-debtor or a surety for judgment-debtor under O. XXI, R. 2(2) CPC. There is no specific Article in the Limitation Act for certification by decree holder under O. XXI, R. 2 (1) of the CPC. This Article is inapplicable to an adjustment made or agreement entered into after the date of the decree of the Court of first instance but before the date of the appellate decree dismissing the appeal. This article is not applicable to application made under Insolvency Acts. The plea of fraud saves limitation under this Article. From the date of dismissal of decree-holder's application for recording adjustment, it saves limitation for judgment-debtor if he makes an application for the same purpose within the period of limitation prescribed by this Article (Refer O.XXI, R. 1 and 2 CPC).

**Article 126:** Limitation for installment payment:

<table>
<thead>
<tr>
<th>Description of suits</th>
<th>Period of Limitation</th>
<th>Time from which period begins to run</th>
</tr>
</thead>
<tbody>
<tr>
<td>126. For the payment of the Amount of a decree by instalment.</td>
<td>30 days</td>
<td>The date of the decree.</td>
</tr>
</tbody>
</table>

Article 126 of the Limitation Act deals with the period of thirty days from the date of the decree for the payment of the amount of a decree by instalments. An application to that effect should be made within the period of thirty days from the date of decree praying for payment of decretal amount by instalment to the Court which passed the decree. If the Court has entertained and decided the application filed beyond thirty days, it is deemed that the application was filed within time and the order is legal.

**Case Law under Article 126 of Limitation Act.**

The Hon'ble Andhra High Court in case of Seelam Ramadevi vs Gadiraju Yanadi Raju on 2 May, 2008 at para No.12 pleased to held as follows:-

"12. Having considered the scope and object of the above provisions, it was held by a Division Bench of this Court in Vemula Srinivasa Rao v. Thumepalli Venkateswarlu that if the Executing Court is empowered to permit payment of decretal amount by instalments the purpose and object of the period of limitation of 30 days prescribed in Article 126 of the Limitation Act will be defeated and it will be open to any judgment-debtor to move the Executing Court at any stage of the execution proceedings to permit him to pay the decretal amount by instalments which is contrary to the provisions of Order 20 Rule 11 of C.P.C. Thus, it was concluded by the Division Bench that the Executing Court has no power to grant instalments under the provisions of the Code of Civil Procedure."

Article 127: Limitation Setting aside Court sale:

<table>
<thead>
<tr>
<th>Description of suits</th>
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<th>Time from which period begins to run</th>
</tr>
</thead>
<tbody>
<tr>
<td>127. To set aside sale in execution of a decree, including any such application by a judgment debtor.</td>
<td>60 days</td>
<td>The date of the decree.</td>
</tr>
</tbody>
</table>

Article 127 of the Limitation Act provides a period of sixty days for setting aside also from the date of sale if it is voidable. The period of 60 days was substituted for the words "thirty days" by Amending Act 104 of 1976 (w.e.c 1-2-1977) as per Sec. 98 of the Principal Act. This Art. 127 is applicable to a case under O.XXI, R. 72, 89 to 91 or is one under Sec. 47 CPC. An application to set aside sale is not necessary if the sale is void and hence this Article has no application to such cases. To set-aside sale as void, Art. 137 is applicable. An application by the purchaser on the ground that the judgment-debtor has no saleable interest is governed by this Article. The period of limitation fixed by this Article cannot be enlarged. In case of any special law prescribing limitation, the application to avoid sale is governed by that local or special law (Refer Sec. 47 O.XXI, Rr. 72, 90 and 91 CPC).

Executing Court cannot confirm sales before expiry of 60 days time prescribed under Art. 127 of Limitation Act, 1963.

The case Law under Article 127 of Limitation Act.

The Hon'ble Apex Court of India, in case of Ram Karan Gupta vs J.S. Exim Ltd & Ors on 3 December, 2012 at pata No.17 pleased to held as follows:-

"17. Law Commission in its 89th report, para 42.35, page 219, Law Commission report 139th report paras 3.1 to 3.6 and 4.1 to 4.5 considered the period of limitation of thirty days for depositing the amount to set aside sale as specified in sub-rule (2) of Rule 92 and suggested enlargement of period of sixty days so as to be consistent with Section 127 of the Limitation Act. Following that the second proviso to sub-rule (2) of Rule 92, as inserted by the Code of Civil Procedure (Amendment) Act, 2002, clarified that the amendment would also apply to all those cases where the period of thirty days within which the deposit was required to be made had not expired before the commencement of the Amendment Act, 2002. The amendment which came into force w.e.f. 01.07.2002 extends the period of deposit up to sixty days, which is in conformity with Section 127 of the Limitation Act, as amended by the Code of Civil Procedure (Amendment) Act 1976."

Article 128: Limitation for possession by dispossessed purchaser:

<table>
<thead>
<tr>
<th>Description of suits</th>
<th>Period of Limitation</th>
<th>Time from which period begins to run</th>
</tr>
</thead>
<tbody>
<tr>
<td>128. For possession by one dispossessed of immovable property and disputing the right of the</td>
<td>30 days</td>
<td>The date of the dispossession.</td>
</tr>
</tbody>
</table>
Article 128 of the Limitation Act deal with thirty days period of limitation for filing an application for possession who is dispossessed of immovable property and disputing the right of the decree-holder or purchaser at a sale in execution of a decree. A separate suit for such purpose is not maintainable as Order XXI, R.101 CPC.

**Article 129:- Limitation for possession after removal of obstruction**

<table>
<thead>
<tr>
<th>Description of suits</th>
<th>Period of Limitation</th>
<th>Time from which period begins to run</th>
</tr>
</thead>
<tbody>
<tr>
<td>129. For possession after removing resistance or obstruction to delivery of possession of immovable property decreed or sold in execution of a decree.</td>
<td>Thirty days</td>
<td>The date of resistance of obstruction.</td>
</tr>
</tbody>
</table>

Article 129 deals with the case of resistance or obstruction to the delivery of possession of immovable property. As period of thirty days is provided for removal of such resistance or obstruction (Refer O.XXI, R.97 CPC).

**Article 134:- Limitation for delivery of possession by Court Auction-Purchaser:**

<table>
<thead>
<tr>
<th>Description of suits</th>
<th>Period of Limitation</th>
<th>Time from which period begins to run</th>
</tr>
</thead>
<tbody>
<tr>
<td>134. For delivery of possession by a purchaser of immovable property at a sale in execution of decree.</td>
<td>One year</td>
<td>When the sale becomes absolute.</td>
</tr>
</tbody>
</table>

Article 134 provides a period of one year for delivery of possession by a purchaser of immovable property at a sale in execution of a decree. The purchaser may be either a decree-holder or any other person. Suit for delivery of possession of property purchased at a Court auction was converted into an application under Sec. 47 by the Court is covered by this Article.

**Article 135:- Limitation for Execution of Mandatory Injunction Decree**

<table>
<thead>
<tr>
<th>Description of suits</th>
<th>Period of Limitation</th>
<th>Time from which period begins to run</th>
</tr>
</thead>
<tbody>
<tr>
<td>135. For the enforcement of a decree granting a mandatory injunction.</td>
<td>Three years</td>
<td>The date of the decree or where a date is fixed for performance, such date.</td>
</tr>
</tbody>
</table>

Article 135 is applicable only for enforcement of a decree granting mandatory injunction and does not apply to prohibitory injunction. For the execution of compromise decree in a suit for mandatory injunction this Article is applicable. In case of decree for removal of debris from land two months time granted by Court
and in such cases the limitation beings to run after the expiry of two months from the date of the decree when it becomes executable.

Period of 3 years limitation is applicable as per Art. 135 & 136 of Limitation Act in enforcing the order of injunction or mandatory injunction.

**Article 136:- Limitation for Execution of Decree other than mandatory Injunction:**

<table>
<thead>
<tr>
<th>Description of suits</th>
<th>Period of Limitation</th>
<th>Time from which period begins to run</th>
</tr>
</thead>
<tbody>
<tr>
<td>136. For the execution of any decree (other than decree granting a mandatory injunction) or order of any Civil Court.</td>
<td>Twelve years</td>
<td>Where the decree or order becomes enforceable or where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, when default in making the payment of delivery in respect of which execution is sought takes place; Provided that an application for the enforcement of execution of a decree granting a perpetual injunction shall not be subject to any period of limitation.</td>
</tr>
</tbody>
</table>

**Conclusion:-**

In my view the principles underlying the provisions prescribing limitation are based on public policy aiming at justice, the principles of repose and peace and intended to induce claimants to be prompt in claiming relief. Hardship or injustice may be a relevant consideration in applying the principles of interpretation of statute, but cannot be ground for extending the period of limitation.

The courts of law should be careful enough to check the diabolical plans of judgment-debtor and should not encourage the frivolous and cantankerous litigations causing delay and bringing bad name to judicial system. As held Raavinder kaur vs Ashok kumar 2003(8)SCC 289.
INTRODUCTION: Execution means enforcement of decree or order. Execution is the most important aspect of Civil Justice. Success or failure of system of Civil Justice depends on success in executing decrees of Civil Court. Sale of Property is one mode of execution for fulfillment of decree. The various modes of execution of decree are set forth in order 21 of Code of Civil Procedure, 1908.

The Chapter 'Execution' in the entire Code made every endeavour to protect not only the interests of the parties to suit and execution, but also third parties, whose interests are involved without their knowledge. The Legislature has in its wisdom foreseen various nature of claims that may occasion during the long pending of any particular litigation.

The following Sections under Code of Civil Procedure provides such opportunity to ventilate his grievance before the Court executing the decree without his necessity of filing a regular civil suit.

1. Order-XXI Rule 58 of CPC
2. Order-XXI Rule 97 to 100 of CPC, and
3. Order-XXXVIII Rule-8 of CPC

Order-XXI Rule-58 of CPC deals with

Adjudication of claims or objection to attachment of property.

1. Rule 58 of Order 21 relates to adjudication of claims and objections to attachment of property in execution proceedings on the ground
that such property is not liable to attachment. Claim petition should be only regarding the attachment. It provides that all questions including questions of right, title and interest, are to be settled finally in execution proceedings and not by a separate suit. Important thing to be noted regarding the scope of this rule is that unless there is attachment, no petition under this rule is maintainable.

2. The object of the rule is to put an end to delay the execution and to shorten the litigation between the parties or persons claiming right, title and interest in the immovable property in the execution.

These objections and claims are usually raised by two categories of persons:

(i) By the parties to the litigation or their representatives;

(ii) By the third party.

3. Whereas an objection to attachment or claim to attach property if made by a third party, the objector may either proceed by an application under this rule before the Executing Court or he may bring a Regular suit to establish his objection. His failure to proceed by an application under this rule is no bar to a separate suit. The object of this rule is to give a speedy and summary remedy, but this rule does not deprive him for his remedy by way of suit.

4. **Rule-246 of Civil Rules of Practice - Claim to attached property:** An application by a claimant or objector under Rule-58 of Order-21 of the Code shall be made by a verified execution application entitled in execution petition under which the property in question has been attached and shall set forth the particulars of the claim in the manner prescribed for the plaint in a suit as Form No.66. Rule 247 deals with procedure when application admitted and Rule 248 deals with Hearing of Application. Rule 249 states that the provisions of Rules 246 to 248 shall apply to the
application under Order XXI Rules 97 and 100 of the Code.

Who can raise such claims.

5. For raising a claim under Order-21 Rule 58 of C.P.C., the claimant must possess valid and substantial right in the property which is sought to be attached in execution. Claims which are not recognized in law, cannot be permitted to be raised. All persons who on the date of attachment have some interest or are in possession of the property attached could prefer a claim under Order-21 Rule-58.

Procedure of deciding such claims and objections.

6. The concerned Court is required to frame issue casting burden of proof on a particular party. Objections or claims filed against execution must not be disposed off without granting an opportunity to lead evidence.

7. In Claim Petition, the burden is on the claimant to prove that, on the date of attachment, he has some right, title or interest or was in possession of property attached. If the claimant is succeeded in proving that fact, then burden is shifted on Decree Holder to prove that, the objector was not the owner or holds any interest for Judgment Debtor. In a suit filed by a third party to the litigation, burden of establishing right, title or interest in the property is upon the plaintiff.

LIMITATION FOR FILING SUCH OBJECTIONS OR CLAIMS:

8. On being aggrieved by the Order passed by Executing Court refusing to entertain a claim or objection against attachment made by the Executing Court, the claimant has to bring the suit as per Sub Rule 5 of Rule 58 of Order 21 of CPC. Such suit has to be filed within a period of one year of the order passed by the Executing Court as per Article 98 of Limitation Act.

THE ORDER WHICH, COURT CAN PASS ON SUCH CLAIMS OR OBJECTIONS:

9. As per Sub Rule 3 of Rule 58 of the CPC the Court either
(a) allow the claim or objection and release the property from attachment either wholly or to such extent as it thinks fit; or
(b) disallow the claim or objection; or
(c) continue the attachment subject to any mortgage, charge or other interest in favour of any person; or
(d) pass such order as in the circumstances of the case it deems fit.

10. As per Sub Rules (1) and (2) of Rule 58, while entertaining a claim or objection, the Court must investigate fully (not summarily) and adjudicate upon all questions including questions of right, title and interest, in the attached property arising between the parties.

11. An order passed after such investigation determining such question, has the force of a decree and the remedy of the party against whom the order passed is by way of appeal as per Sub Rule 4 of Rule-58 of Order-XXI.

12. An application under Rule-58 cannot be maintained in a proceedings in execution of mortgage decree, which was held in a case of between M.S. Doraisami Iyer Vs. A.R. Arunachalam Chettair reported in AIR 1991 Madras 275.

MAINTAINABILITY OF CLAIM AFTER SALE:

13. As per proviso to Order XXI Rule 58(1), claim petition should be filed only before property has been sold. There was divergent opinions amongst the various Hon'ble High Courts as to the maintainability of claim after holding auctions. The Hon'ble Supreme Court in the matter of Kancherla Lakshminarayana Vs. Mattaparthi Syamala (AIR 2008 SC 2069) has clarified that the word "sold" used in clause (a) of the proviso to Rule 58 (1) has to be read as meaning, thereby a complete sale including the confirmation of the sale". In view of this ratio, even after the auction sale, claim or objection would be maintainable till the court makes the sale
absolute. However, sale once made absolute by the court, objection or claim will not be maintainable.

MAINTAINABILITY OF CLAIM – ATTACHMENT OF MOVABLES:

14. The question was whether Order 21 Rule 58 is applicable when the attached property is only movable. The Hon’ble High Court of A.P., in a matter of Gopana Subbarayudu Vs. Pasupuleti Venkata Ramana and others reported in 2009(6) ALD 544, it was held that "cause of action for preferring the claim under Order 21 Rule 58 arises for a claimant to submit an application only if an item of property is attached in course of execution and not otherwise. Rule 58 can be invoked not only for attachment of immovable property, but also for movable properties and Rule 58 of Order-21 does not make any such difference in the nature of property that was attached".

15. In a case Madhavarapu Haranadhbabba – Vs – Kaligineedi Mahalakshmamma (died) per Lrs reported in 2003 LawSuit (AP) 693 = 2004(1) ALT 655, it was observed that "the nature of purchase cannot be decided in a claim petition"

16. The Hon’ble High Court of A.P., in a case between Satyamsetti Somaraju – Vs - Ramisetti Naidu @ Venkat Rao reported in AIR 2004 AP 87, it was held that "If the application filed Under Order-XXXVIII Rule-8 of C.P.C., is dismissed for default, the claimant is not entitled to file another application under Order-XXI Rule-58 in view of provisions of Order-IX Rule-9".

17. APPEAL REMEDY UNDER RULE 58

Order 21 Rule 58 has undergone a vital change by the amendment Act 104/1975. Now envisages that the adjudication under rule 58 would be final and conclusive adjudication and would be appealable as if it were a decree as per sub rule (4) of Rule 58. It was held by the Hon’ble
Apex Court in a decision

**Haleem Khan Vs. Muktheswar Rai AIR 1983 ALT 207**

This sub rule clearly indicates the legislative intent that a claim or objection under rule 58 shall be adjudicated upon as if it were a suit and the final order shall have the force of a decree as defined in Section 2(2) of CPC and is applicable.

A claim can be preferred by a person who is not a party or a representative of a party. The Judgment debtor cannot resist the attachment on the ground that he is not the owner of the attached property held in

**Jai Prakash Talkies Vs. Lakshmi Talkies 1964(2) ANWR 298**

Person having prior contract of sale can file claim petition. But a purchaser of immovable property after attachment cannot maintain an application under rule 58.

**Kannegula Krishna Rao Vs. M.Venkata Ramanjaneyulu 1964(1) ANWR 300**

II. **ORDER XXI - RULES 97 - 101 OF C.P.C.**

1. There are two categories of aggrieved persons. First is a decree-holder or purchaser who at the time of execution of decree for possession has been obstructed and second one is a person who is not the real judgment-debtor but has been dispossessed in execution of Delivery of possession warrant. Former has got remedy to apply under Rule 97 and later under Rule 99 of Order-XXI. Order 21 Rule 97 of CPC clearly provides that where the execution of decree is resisted or obstructed the D.Hr. may make an application to the Court complaining of such resistance or obstruction whereas Order 21 Rule 99 covers a case of complaint regarding dispossession of rightful person in possession by the decree holder under the decree. Rules 97 and 99 are have no application to the case of transferee
2. Now we will discuss the ingredients of Rules 97 and 99. When decree-holder or purchaser who is entitled to receive possession of immovable property is obstructed or resisted in getting possession, he may make an application under Rule 97 to the Court complaining of such obstruction. Order 21 Rule 97 of CPC is basically intended to benefit the decree holder to remove obstruction caused by persons other than judgment debtor.

Second situation is like this. Decree for possession has been passed. During it’s execution, decree-holder or purchaser obtains the possession, but person dispossessed is other than judgment-debtor. Such dispossessed other person may make application under Rule 99 to the Court complaining of such dispossessions. Court has to adjudicate it. Unless there is actual dispossessions, objections under Rule-99 are not maintainable. The warrant ‘dispossession’ means actual dispossession. Even if a symbolic possession is effected to the auction purchaser, the same will not amount to dispossession unless judgment debtor himself was in symbolic possession.

3. **Rule 101 of Order-XXI**: Upon receiving any application arising from Rule 97 or Rule 99, Court has to adjudicate it. All questions including right, title or interest in the property has to be determined by executing Court and not by separate suit.

4. **Rules 98 and 100**: Questions referred under Rule 101 will have to be determined by the Court. Upon such determination, Court may allow the application and to put the claimant in possession or dismiss the application.

(a) Under Rule 97, if decree-holder or purchaser has complained of obstruction, after determination of the questions, Court may
put him in to possession or dismiss his application.

(b) Under Rule 99, after deciding the rights of person dispossessed other than judgment-debtor, Court may put him in to possession or dismiss his application.

5. In *Shripati Vs. Chandrakant reported in 2011(2) Mh.L.J. 689*, it was held that "It is not necessary that objection under Rule-97 should be only while execution of possession warrant by Bailiff. Resistance could be raise even before issuance of possession warrant".

6. In *Syed Mahmood Hussain Vs. G. Manoharlal and another reported in 2015(2) ALT 134*, the Hon’ble High Court of A.P., held that "A third party claiming to be in possession of suit property in respect of which a decree is passed is also entitled to approach executing Court by way of a claim petition under Order-21 Rule-97 of C.P.C".

7. Whether the objection requires detailed enquiry? If yes, then parties are required to be called upon to prove their contentions on the basis of documents or if necessary by recording oral evidence.

8. If the objection is found to be frivolous or by way of dilatory tactics which do not require detailed enquiry, then executing court may pass necessary order and reject the same.

9. In case the Court is of the view that a detailed enquiry is required in respect of the objection raised by the judgment debtor or the third party, then the trial Court has to try those objections like a suit and pass appropriate orders and decide the same. Here the question may arise whether or not the executing Court is required to frame issues while deciding such objections. It is well known that it is a general practice to frame the issues and decide the same because adjudication under these provisions is adjudication of right, title or interest of the parties which is required to be tried as a suit. Another reason for this is that filing of a separate suit raising
Such objections is clearly barred under Order XXI Rule 101 of CPC. Similarly as per Rule 103 of the said order, orders made by the Court while adjudicating such objections shall have the same effect and subject to the same condition as if it was a decree and hence, regular appeal will lie.

10. Rule 101 of Order 21 of CPC is silent regarding the mode of enquiry on the application filed under Rule-97 or Rule-99. As the order made by the Court on those applications is equivalent to decree in the suit by virtue of Rule-103, it can be presumed that there must be thorough enquiry just like trial of the suit. However, it is the discretion of the Court. Depending upon the seriousness of the allegations in the application and counter, the Court has to decide the mode of inquiry i.e., whether summary or other wise. It was held by the Supreme Court in a case between Silver Line Forum Vs. Rajiv Trust reported in AIR 1998 SC 1754, that "enquiry on application filed under Rule-97 need not be detailed. The execution Court can decide the matter on the basis of averments in the application. But if necessary Court can direct the parties to adduce evidence".

III. **ORDER-XXXVIII RULE-8**

1. During pendency of suit, the attachment of property before judgment was ordered under Order-XXXVIII Rule-5 of CPC, the claim petition can be made under Order-38 Rule-8 CPC. Once the suit is disposed of, the claimant has to make the application under Order-21 Rule-58 only, even though the execution petition was not filed yet. Rule-8 of Order-38 enables the objector to raise objections regarding attachment before judgment. Claim petition filed by the third party during subsistence of attachment be disposed of in the same manner as the claim petition filed in execution of a decree for payment of money. The procedure for adjudication
of claim under Order XXXVIII Rule-8 is the same as in Order-21 Rule-58.

2. The claim petition under Rule-8 of Order-38 can be continued even after the disposal of the suit, which was held in J. Rama Murthy Vs. Srinivas Corporation General Merchants and Commission Agents, reported in AIR 1989 AP 58.

3. The Hon'ble High Court of A.P., in a case between Ushasri Agro Agencies (Chit Funds), Khammam Vs. Giridhar Auto Finance (P) Limited, Khammam, reported in 2003(2) ALD 370 held that the "order passed in a claim petition under Order XXXVIII Rule-8 of CPC is appealable as per the provisions of Order 41 CPC as it is to be treated as regular decree".

CONCLUSION

In view of above discussion, it can be summarised that O.XXI of CPC is an independent Code in itself and it not only provide procedure to be followed by the decree-holder to get the fruits of the decree, at the same time it provides an opportunity to the judgment-debtor or the third party to raise the grievances or objection in the execution proceeding itself. Recourse to independent proceedings by filing a separate suit is clearly prohibited. Therefore, objections if any, are raised by the judgment-debtor or the third party in execution proceedings, the same are required to be adjudicated by executing court following the same procedure as if it were a suit and the orders by the executing court having the force of a decree. Considering the importance of the topic of execution of decree, it is necessary for all the Judicial Officers to pay special attention to the execution proceedings and for that purpose one has to go into the depth of the topic and have clear notions about all relevant provisions.

(K. NARENDRA REDDY)
Junior Civil Judge,
PENUKONDA