

\$~O-46 & O-47

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

% **Date of Decision: 05th December, 2019**

+ EX.P. 275/2012 & EX.APPL.(OS) 221/2018

46 M/S BHANDARI ENGINEERS &
BUILDERS PVT LTD Decree Holder

Through: Mr. S. S. Jauhar, Advocate

versus

M/S MAHARIA RAJ

JOINT VENTURE & ORS Judgment Debtors

Through: Mr.Sanjay Agnihotri, Mr.Rakesh
Kumar, Mr.Vikram Singh Yadav and
Mr.Akash Kumar, Advocates for JD
No.4

Mr.Dayan Krishnan, Senior Advocate
as Amicus Curiae with Ms. Aakashi
Lodha, Mr. Sanjeevi Seshadri and
Ms.Niharika Kaul, Advocates

Mr.Sanjiv Kakra, Advocate as
Amicus Curiae with Mr.Irfan Ahmad
and Mr.Mayank Bhargava, Advocates

+ EX.P. 276/2012

47 M/S BHANDARI ENGINEERS &
BUILDERS PVT LTD Decree Holder

Through: Mr. S. S. Jauhar, Advocate

versus

M/S YOU ONE MAHARIA
(JV) DELHI & ORS

..... Judgment Debtors

Through: Mr.Dayan Krishnan, Senior Advocate
as Amicus Curiae with Ms. Aakashi
Lodha, Mr. Sanjeevi Seshadri and
Ms.Niharika Kaul, Advocates

Mr.Sanjiv Kakra, Advocate as
Amicus Curiae with Mr.Irfan Ahmad
and Mr.Mayank Bhargava, Advocates

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

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

1. Delays and difficulties in execution of decrees/awards erode public confidence and trust in justice delivery system. Execution jurisdiction deserves special attention and expeditious disposal considering that the decree-holder has already succeeded in the litigation and holds a decree/award in his favour.
2. In ***Satyawati v. Rajinder Singh***, (2013) 9 SCC 491, the Supreme Court quoted the *Privy Council*'s judgment of 1872 that the '*difficulties of a litigant in India begin when he has obtained a decree*' and observed that the position has not improved and the decree-holders face the same problem. The Supreme Court observed that if there is an unreasonable delay in execution of a decree because, the decree-holder would be unable to enjoy the fruits of his success and the entire effort of successful litigant would be in vain. The relevant observations of the Supreme Court are reproduced as under:-

“.....In relation to the difficulties faced by a decree-holder in execution of the decree, in 1872, the Privy Council had observed [General Manager of the Raj Durbhunga v. Coomar Ramaput Sing, (1871-72) 14 MIA 605 : 20 ER 912] that: (MIA p. 612)

“... the difficulties of a litigant in India begin when he has obtained a decree.”

2. Even today, in 2013, the position has not been improved and still the decree-holder faces the same problem which was being faced in the past.....

xxx

xxx

xxx

*12. It is really agonising to learn that the appellant-decree-holder is unable to enjoy the fruits of her success even today i.e. in 2013 though the appellant-plaintiff had finally succeeded in January 1996. As stated hereinabove, the Privy Council in *General Manager of the Raj Durbhunga v. Coomar Ramaput Sing*, (1871-72) 14 MIA 605 : 20 ER 912] had observed that the difficulties of a litigant in India begin*

when he has obtained a decree. Even in 1925, while quoting the aforesaid judgment of the Privy Council in Kuer Jang Bahadur v. Bank of Upper India Ltd. [AIR 1925 Oudh 448 (PC)] the Court was constrained to observe that: (AIR p. 448)

“Courts in India have to be careful to see that the process of the Court and the law of procedure are not abused by judgment-debtors in such a way as to make courts of law instrumental in defrauding creditors, who have obtained decrees in accordance with their rights.”

13. In spite of the aforesaid observation made in 1925, this Court was again constrained to observe in Babu Lal v. Hazari Lal Kishori Lal [(1982) 1 SCC 525] in para 29 that: (SCC p. 539)

“29. Procedure is meant to advance the cause of justice and not to retard it. The difficulty of the decree-holder starts in getting possession in pursuance of the decree obtained by him. The judgment-debtor tries to thwart the execution by all possible objections.”

xxx

xxx

xxx

16. **the position has not been improved till today. We strongly feel that there should not be unreasonable delay in execution of a decree because if the decree-holder is unable to enjoy the fruits of his success by getting the decree executed, the entire effort of successful litigant would be in vain.”**

(Emphasis Supplied)

3. Order XXI of the Code of Civil Procedure deals with the execution of the decrees. Order XXI Rule 1(b) of the Code of Civil Procedure enables the judgment debtor to directly pay the decretal amount to the decree-holder. Order XXI Rule 1(a) of the Code of Civil Procedure gives the option to the judgment debtor to deposit the decretal/award amount with the Executing Court and give the notice of deposit to the decree-holder under Order XXI Rule 1 (2) of the Code of Civil Procedure. Thus, in an ideal situation, the judgment debtor is supposed to satisfy the decree/award without waiting for the institution of an execution case. For example, the Insurance Companies deposit the award amount with the Motor Accident Claims Tribunals in

respect of awards passed in motor accident claims unless they chose to challenge the award in appeal.

4. If the judgment debtor does not voluntarily satisfy the decree/award, the decree-holder is compelled to initiate execution proceedings. If the decree-holder is aware of the assets of the judgment debtor, the Court can attach such assets at the very threshold of the execution proceedings. The Executing Court shall, thereafter, initiate proceedings for sale of the attached assets of the judgment debtor, if the judgement debtor does not satisfy the decree/award.

5. If the decree-holder is not aware of the complete assets and income of the judgment debtor, the Executing Court directs the judgment debtor to disclose his assets in Form 16A, Appendix E under Order XXI Rule 41(2) of the Code of Civil Procedure.

6. Form 16A, Appendix E under Order XXI Rule 41(2) of the Code of Civil Procedure is not exhaustive to ascertain all the assets of the judgment debtor. As a result, the execution proceedings keep on lingering at the mercy of the judgment debtor.

7. In many countries namely United Kingdom, USA, Canada, Australia, Singapore, Ireland, New Zealand and South Africa, the law prescribes a comprehensive format of assets, income and expenditure to be filed by the judgment debtor.

8. Justice is the ideal to be achieved by law. Justice is the goal of law. '*Law as it is*', may fall short of '*Law as it ought to be*' for doing complete justice in a cause. The gap between the two gives an occasion to the Court to develop the law by evolving juristic principles for doing complete justice according to the current needs of the Society. J.S. Verma, former CJI, in his

lecture titled “*New Dimensions of Justice*”, (1997) 3 SCC J-3 observed that:-

“Law, Justice and Morality

Justice is the ideal to be achieved by Law. Justice is the goal of law. Law is a set of general rules applied in the administration of Justice. Justice is in a cause and depends on application of law to a particular case. Jurisprudence is the philosophy of law. Jurisprudence and Law have ultimately to be tested on the anvil of administration of justice. "Law as it is" may fall short of "Law as it ought to be" for doing complete justice in a cause. The gap between the two may be described as the field covered by Morality. There is no doubt that the development of the law is influenced by morals. The infusion of morality for reshaping the law is influenced by the principles of Equity and Natural Justice, as effective agencies of growth. The ideal state is when the rules of law satisfy the requirements of justice and the gap between the two is bridged. It is this attempt to bridge the gap which occasions the development of New Jurisprudence.

Existing Gaps

The existence of some gap between law and justice is recognised by the existing law itself. This is the reason for the recognition of inherent powers of the court by express provision made in the Code of Civil Procedure and the Code of Criminal Procedure”

(Emphasis Supplied)

9. This Court is satisfied that there is an urgent need to formulate a detailed format of assets, income and expenditure to be filed by the judgment debtor at the very threshold of the execution proceedings to curb the delay and expedite the execution proceedings.

10. Section 151 of the Code of Civil Procedure empowers this Court to make such orders as may be necessary to secure ends of justice or to prevent abuse of process of the Court in exercise of inherent powers. The power under Section 151 of the Code of Civil Procedure is in its nature extraordinary and is to be exercised ‘*ex debito justitiae*’ to do the real and substantial justice for the administration for which Courts exist. Article 227

of the Constitution also confers on this Court the power of superintendence over all subordinate courts in relation to which it exercises jurisdiction. The paramount consideration behind vesting such wide power of superintendence in this Court is to keep the path of justice clear of obstructions which would impede it. It is the salutary duty of this Court to prevent the abuse of the process, miscarriage of justice and to correct the irregularities in the judicial process.

11. In exercise of powers under Section 151 and Order XXI Rule 41 of the Code of Civil Procedure read with Section 106 and Section 165 of the Indian Evidence Act and Article 227 of the Constitution of India, this Court has formulated an affidavit of assets and income to be mandatorily filed by the judgment debtor in execution cases. The format of assets and income in respect of an individual judgment debtor is annexed hereto as ***Annexure-A***.

12. After examining the aforesaid affidavit, the Court may direct the judgment debtor to file an additional affidavit of expenditure in the format annexed hereto as ***Annexure-C***.

13. The format of assets and income in respect of a proprietorship firm/partnership firm/Company/Trust as a judgment debtor is annexed hereto as ***Annexure-B***.

14. In case of a Company, if the Court finds sufficient ground for lifting the corporate veil, then all the Directors of the judgment debtor company are required to file their personal affidavits in the format of ***Annexure-A***.

15. The aforesaid three affidavits, namely ***Annexure-A, B*** and ***C*** are comprehensive and they would give a complete overview of the entire assets, income, occupation, litigations, borrowings, lendings, expenditure as well as standard of living of the judgment debtor.

16. After the filing of the above affidavits, the onus is on the decree-holder to verify the disclosures of the judgment debtor, either himself or by appointing an Investigator.

17. If the decree-holder finds that the judgment debtor has not correctly disclosed all his assets, income and expenditure, then the decree-holder can serve the interrogatories on the judgment debtor.

18. The Executing Court shall thereafter consider whether the personal examination of the judgment debtor or any other person is necessary to elicit the truth. If so, the Executing Court shall examine the judgment debtor or any other person on oath in exercise of power under Order XXI Rule 41(1) read with Section 165 of the Indian Evidence Act to elicit the truth and do justice.

Relevant Legal Provisions

19. **Order XXI Rule 41(2) of Code of Civil Procedure – Judgment debtor to disclose assets**

Order XXI Rule 41(2) of the Code of Civil Procedure empowers the Executing Court to direct the judgement debtor to disclose his assets on affidavit in Form 16A, Appendix E to ascertain his assets/means to satisfy the decree. Order XXI Rule 41(2) of the Code of Civil Procedure is reproduced herein below:-

“Order XXI Rule 41

(2) Where a decree for the payment of money has remained unsatisfied for a period of thirty days, the Court may, on the application of the decree-holder and without prejudice to its power under sub-rule (1), by order require the judgment-debtor or where the judgment-debtor is a corporation, any officer thereof, to make an affidavit stating the particulars of the assets of the judgment-debtor.”

20. **Form 16A of Appendix E of Code of Civil Procedure – Format of affidavit of assets**

Form 16A of Appendix E of the Code of Civil Procedure is the format of the affidavit of assets to be filed by the judgment debtor which is reproduced herein below:-

“[No. 16A
Affidavit of Assets to be made by a Judgment-debtor
[O. XXI, r.41(2)]]

In the Court of

A.B..... Decree-holder.

Versus

C.D..... Judgment-debtor.

I..... ofstate on Oath/solemn affirmation as follows:-

1. My full name is(Block Capitals)
2. I live at
3. I am*.....married/single/widower(widow)/ divorced
4. The following persons are dependant upon me:-
5. My employment, trade or profession is that ofcarried on by me at

I am a director of the following companies:-

6. My present annual/monthly/weekly income, after paying income-tax, is as follows:-

- (a) From my employment, trade or profession Rs.....
- (b) From other sources Rs.....

7. *(a) I own the house in which I live; its value is Rs.....

I pay as outgoings by way of rates, mortgage, interest, etc., the annual sum of Rs.....

(b) I pay as rent the annual sum of Rs.....

8. I possess the following:-

- | | |
|----------------------------------|---------|
| (a) Banking accounts; | }-----} |
| (b) Stocks and shares; | |
| (c) Life and endowment policies; | |
| (d) House property; | |
| (e) Other property; | |
| (f) Other securities; | |

Give particulars

9. The following debts are due to me:-
(give particulars)

- (a) Form of
Rs.
- (b) Fromof
Rs..... (etc.)

Sworn before me, etc.]

*Strike off the word which are not applicable”

21. **Order XXI Rule 41(1) of Code of Civil Procedure – Oral examination of judgment debtor**

Order XXI Rule 41(1) of the Code of Civil Procedure empowers the Executing Court to orally examine the judgment debtor. Order XXI Rule 41(1) of the Code of Civil Procedure is reproduced hereunder: -

“Order XXI Rule 41 - Examination of judgment-debtor as to his property-

(1) Where a decree is for the payment of money the decree-holder may apply to the Court for an Order that
(a) the judgment-debtor, or
(b) where the judgment-debtor is a corporation, any officer thereof, or
(c) any other person, 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.”

(Emphasis Supplied)

22. **Order XXI Rule 41(3) of Code of Civil Procedure - Detention of judgment debtor**

In the event of the judgment debtor’s default to file the affidavit of assets, Order XXI Rule 41(3) of the Code of Civil Procedure empowers the Court to detain the judgment debtor in civil prison for up to three months. Order XXI Rule 41(3) of the Code of Civil Procedure is reproduced below:-

“Order XXI Rule 41

(3) In case of disobedience of any order made under sub-rule (2), the court making the order, or any court to which the proceeding is transferred, may direct that the person disobeying the order be detained in the civil prison for a term

not exceeding three month unless before the expiry of such terms the court directs his release.”

23. **Arrest and detention of the judgment debtor –**

Sections 51 (c), 55 to 59 and Order XXI Rules 37 to 40 of the Code of Civil Procedure prescribe the procedure to be followed for detention of the judgment debtor in the civil prison. Section 55 deals with arrest and detention; Section 56 deals with prohibition of arrest and detention of women; Section 58 deals with duration of detention and release; Section 59 deals with release on the ground of illness; Order XXI Rule 37 contains provision for show cause notice to the judgment debtor against detention in the civil prison; Order XXI Rule 38 deals with warrants of arrest to the judgment debtor; Section 57 and Order XXI Rule 39 deals with subsistence allowance for the judgment debtor and Order XXI Rule 40 deals with proceedings on appearance of the judgment debtor.

24. **Attachment of property in execution of decrees**

Sections 51 (b), Sections 60 to 64 and Order XXI Rules 41 to 57 of the Code of Civil Procedure contain provisions for attachment of properties in execution of decrees. Section 60 gives the list of properties which are liable to attachment and sale whereas the Proviso to Sub-Section (1) of Section 60 gives the list of properties which are exempted from attachment or sale. Section 60 of the Code of Civil procedure is reproduced hereunder as follows:

“Section 60 - Property liable to attachment and sale in execution of decree -

(1) The following property is liable to attachment and sale in execution of 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 for money, debts, shares in a corporation and, save as hereinafter mentioned, all other saleable property, movable or immovable, belonging to the judgment-debtor, or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf:

Provided that the following properties shall not be liable to such attachment or sale, namely:--

(a) the necessary wearing-apparel, cooking vessels, beds and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;

(b) tools of artisans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section;

(c) houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist or a labourer or a domestic servant and occupied by him;

(d) books of account;

(e) a mere right to sue for damages;

(f) any right of personal service;

(g) stipends and gratuities allowed to pensioners of the Government or of a local authority or of any other employer, or payable out of any service family pension fund notified in the Official Gazette by the Central Government or the State Government in this behalf, and political pension;

(h) the wages of labourers and domestic servants, whether payable in money or in kind ;

(i) salary to the extent of the first one thousand rupees and two-thirds of the remainder in execution of any decree other than a decree for maintenance:

Provided that where any part of such portion of the salary as is liable to attachment has been under attachment, whether

continuously or intermittently, for a total period of twenty-four months, such portion shall be exempt from attachment until the expiry of a further period of twelve months, and, where such attachment has been made in execution of one and the same decree, shall, after the attachment has continued for a total period of twenty-four months, be finally exempt from attachment in execution of that decree;

(ia) one-third of the salary in execution of any decree for maintenance;

(j) the pay and allowances of persons to whom the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957), applies;

(k) all compulsory deposits and other sums in or derived from any fund to which the Provident Funds Act, 15[1925] (19 of 1925), for the time being applies in so far as they are declared by the said Act not to be liable to attachment;

(ka) all deposits and other sums in or derived from any fund to which the Public Provident Fund Act, 1968 (23 of 1968), for the time being applies, in so far as they are declared by the said Act as not to be liable to attachment;

(kb) all moneys payable under a policy of insurance on the life of the judgment-debtor;

(kc) the interest of lessee of a residential building to which the provisions of law for the time being in force relating to control of rents and accommodation apply;

(l) any allowance forming part of the emoluments of any servant of the Government or of any servant of a railway company or local authority which the appropriate Government may by notification in the Official Gazette declare to be exempt from attachment, and any subsistence grant for allowance made to any such servant while under suspension;

(m) an expectancy of succession by survivorship or other merely contingent or possible right or interest;

(n) a right to future maintenance;

(o) any allowance declared by any Indian law to be exempt from liability to attachment or sale in execution of a decree; and

(p) where the judgment-debtor is a person liable for the payment of land-revenue ; any movable property which, under any law for the time being applicable to him, is exempt from sale for the

recovery of an arrear of such revenue.

Explanation I.--The moneys payable in relation to the matters mentioned in clauses (g), (h), (i) (ia), (j), (l) and (o) are exempt from attachment or sale, whether before or after they are actually payable, and, in the case of salary, the attachable portion thereof is liable to attachment, whether before or after it is actually payable.

Explanation II.--In clauses (i) and (ia), "salary" means the total monthly emoluments, excluding any allowance declared exempt from attachment under the provisions of clause (l), derived by a person from his employment whether on duty or on leave.

Explanation III.--In clause (l) "appropriate Government" means-
(i) as respect any person in the service of the Central Government, or any servant of a Railway Administration or of a cantonment authority or of the port authority of a major port, the Central Government;

(iii) as respects any other servant of the Government or a servant of any other local authority, the State Government.

Explanation IV.--For the purposes of this proviso, "wages" includes bonus, and "labourer" includes a skilled, unskilled or semi-skilled labourer.

Explanation V.--For the purposes of this proviso, the expression "agriculturist" means a person who cultivates land personally and who depends for his livelihood mainly on the income from agricultural land, whether as owner, tenant, partner, or agricultural labourer.

Explanation VI.--For the purposes of Explanation V, an agriculturist shall be deemed to cultivate land personally, if he cultivates land--

(a) by his own labour, or

(b) by the labour of any member of his family, or

(c) by servants or labourers on wages payable in cash or in kind (not being as a share of the produce), or both.

(1A) Notwithstanding anything contained in any other law for the time being in force, an agreement by which a person agrees to waive the benefit of any exemption under this section shall be void.

(2) Nothing in this section shall be deemed to exempt houses and other buildings (with the materials and the sites thereof and the

lands immediately appurtenant thereto and necessary for their enjoyment) from attachment or sale in execution of decrees for rent of any such house, building, site or land.”

25. **Section 106 of the Indian Evidence Act - Burden of disclosing the assets**

The assets and income of the judgment debtor are within his personal knowledge and Section 106 of the Indian Evidence Act casts the burden on him to disclose his assets and income. Section 106 of the Indian Evidence Act reads as under:

“Section 106 - Burden of proving fact especially within knowledge –

When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.”

26. **Section 165 of the Indian Evidence Act - Judge’s Power to put questions and order production**

It is the duty of the Court to ascertain the truth and then, do justice upon the basis of the truth and the Judge is not only justified but also required to elicit the truth, wherever the interest of justice would suffer, if he did not. Section 165 of the Indian Evidence Act, 1872 invests the Judge with plenary powers to put any question to any witness or party; in any form, at any time, about any fact relevant or irrelevant. Section 165 is intended to arm the Judge with the most extensive power possible for the purpose of getting at the truth. The effect of this Section is that in order to get to the bottom of the matter before it, the Court will be able to look at and inquire into every fact and thus possibly acquire valuable indicative evidence which may lead to other evidence strictly relevant and admissible. The Court is not, however, permitted to found its judgment on any, but relevant statements.

27. Section 165 of the Indian Evidence Act, 1872 reads as under:

“Section 165 - Judge’s power to put questions or order production

The Judge may, in order to discover or obtain proper proof of relevant facts, ask any question he pleases, in any form, at any time, of any witness, or of the parties, about any fact relevant or irrelevant; and may order the production of any document or thing; and neither the parties nor their agents shall be entitled to make any objection to any such question or order, nor, without the leave of the Court, to cross-examine any witness upon any answer given in reply to any such question:

Provided that the judgment must be based upon facts declared by this Act to be relevant, and duly proved:

Provided also that this section shall not authorize any Judge to compel any witness to answer any question or to produce any document which such witness would be entitled to refuse to answer or produce under Sections 121 to 131, both inclusive, if the question were asked or the document were called for by the adverse party; nor shall the Judge ask any question which it would be improper for any other person to ask under Section 148 or 149 ; nor shall he dispense with primary evidence of any document, except in the cases herein before excepted.”

28. In ***Ved Parkash Kharbanda v. Vimal Bindal***, 2013 (198) DLT 555, this Court discussed the meaning of ‘**Truth**’ and how to discover it. This Court also considered ***Ram Chander v. State of Haryana***, (1981) 3 SCC 191, ***Ritesh Tewari v. State of Uttar Pradesh***, (2010) 10 SCC 677, ***Zahira H. Sheikh v. State of Gujarat***, (2004) 4 SCC 158, ***State of Rajasthan v. Ani***, (1997) 6 SCC 162, ***Mohanlal Shamji Soni v. Union of India***, 1991 Supp. (1) SCC 271, ***Jamatraj Kewalji Govani v. State of Maharashtra***, AIR 1968 SC 178, ***Sessions Judge Nellore Referring Officer v. Intha Ramana Reddy***, 1972 CriLJ 1485 with respect to the scope of the power under Section 165 of the Indian Evidence Act.

Truth should be the Guiding Star in the Entire Judicial Process

29. It is the duty of the Court to ascertain the true assets and income of the judgment debtor. Truth is the foundation of justice. Dispensation of justice, based on truth, is an essential feature in the justice delivery system. People would have faith in Courts when truth alone triumphs. The justice based on truth would establish peace in the society.

30. **Krishna Iyer J.** in **Jasraj Inder Singh v. Hemraj Multanchand**, (1977) 2 SCC 155 described truth and justice as under:

“8. ...Truth, like song, is whole, and half-truth can be noise! Justice is truth, is beauty and the strategy of healing injustice is discovery of the whole truth and harmonising human relations. Law's finest hour is not in meditating on abstractions but in being the delivery agent of full fairness. This divagation is justified by the need to remind ourselves that the grammar of justice according to law is not little litigative solution of isolated problems but resolving the conflict in its wider bearings.”

(Emphasis Supplied)

31. In **Union Carbide Corporation v. Union of India**, (1989) 3 SCC 38, the Supreme Court described justice and truth to mean the same. The observations of the Supreme Court are as under:

“30. ...when one speaks of justice and truth, these words mean the same thing to all men whose judgment is uncommitted. Of Truth and Justice, Anatole France said :

“Truth passes within herself a penetrating force unknown alike to error and falsehood. I say truth and you must understand my meaning. For the beautiful words Truth and Justice need not be defined in order to be understood in their true sense. They bear within them a shining beauty and a heavenly light. I firmly believe in the triumph of truth and justice. That is what upholds me in times of trial....”

(Emphasis Supplied)

32. In *Mohanlal Shamji Soni v. Union of India*, 1991 Supp (1) SCC 271, the Supreme Court observed that the presiding officer of a Court should not simply sit as a mere umpire at a contest between two parties and declare at the end of the combat who has won and who has lost and that there is a legal duty of his own, independent of the parties, to take an active role in the proceedings in finding the truth and administering justice.

33. In *Chandra Shashi v. Anil Kumar Verma*, (1995) 1 SCC 421, the Supreme Court observed that to enable the Courts to ward off unjustified interference in their working, those who indulge in immoral acts like perjury, pre-variation and motivated falsehoods have to be appropriately dealt with, without which it would not be possible for any Court to administer justice in the true sense and to the satisfaction of those who approach it in the hope that truth would ultimately prevail. People would have faith in Courts when they would find that truth alone triumphs in Courts.

34. In *Zahira Habibullah Sheikh v. State of Gujarat*, (2006) 3 SCC 374, the Supreme Court observed that right from the inception of the judicial system it has been accepted that discovery, vindication and establishment of truth are the main purposes underlying existence of Courts of justice.

35. In *Himanshu Singh Sabharwal v. State of Madhya Pradesh*, (2008) 3 SCC 602, the Supreme Court held that the trial should be a search for the truth and not about over technicalities. The Supreme Court's observation are as under:

“5. 31. In 1846, in a judgment which Lord Chancellor Selborne would later describe as ‘one of the ablest judgments of one of the ablest judges who ever sat in this Court’, Vice-Chancellor Knight Bruce said [*Pearse v. Pearse*,

(1846) 1 De G&Sm. 12 : 16 LJ Ch 153 : 63 ER 950 : 18 Digest (Repl.) 91, 748] : (De G&Sm. pp. 28-29):

“31. The discovery and vindication and establishment of truth are main purposes certainly of the existence of courts of justice; still, for the obtaining of these objects, which, however valuable and important, cannot be usefully pursued without moderation, cannot be either usefully or creditably pursued unfairly or gained by unfair means, not every channel is or ought to be open to them. The practical inefficacy of torture is not, I suppose, the most weighty objection to that mode of examination,... Truth, like all other good things, may be loved unwisely—may be pursued too keenly—may cost too much.

xxx

xxx

xxx

35. Courts have always been considered to have an overriding duty to maintain public confidence in the administration of justice—often referred to as the duty to vindicate and uphold the ‘majesty of the law’.

(Emphasis Supplied)

36. In ***Maria Margarida Sequeria Fernandes v. Erasmo Jack de Sequeria***, (2012) 5 SCC 370, the Supreme Court again highlighted the significance of truth and observed that the truth should be the guiding star in the entire legal process and it is the duty of the Judge to discover the truth to do complete justice. The Supreme Court stressed that Judge has to play an active role to discover the truth and he should explore all avenues open to him in order to discover the truth. The Supreme Court observed as under:

“32. In this unfortunate litigation, the Court's serious endeavour has to be to find out where in fact the truth lies.

33. The truth should be the guiding star in the entire judicial process. Truth alone has to be the foundation of justice. The entire judicial system has been created only to discern and find out the real truth. Judges at all levels have to seriously engage themselves in the journey of discovering the truth. That is their mandate, obligation and bounden duty. Justice system will acquire credibility only when people will be convinced that justice is based on the foundation of the truth.

3.	Australia	Magistrates' Court of Victoria	Magistrates' Court General Civil Procedure Rules, 2010 Rules 72.02(4), 72.04(3), 72.05(5)(a) Rule 67.01(3)(8)	Judgment Debtor's Statement of Financial Position – Individual - Form 72C Judgment Debtor's Statement of Financial Position – Corporation - Form 67C	1. https://www.mcv.vic.gov.au/sites/default/files/2018-10/Judgment-debtors-statement-of-financial-position-Form-72C.pdf 2. https://www.mcv.vic.gov.au/sites/default/files/2018-10/Examination-of-judgment-debtor-corporation-Form-67C.pdf
4.	Australia	Supreme Court of Queensland	Uniform Civil Procedure Rules 1999, Rule 807	Statement of Financial Position Form 71, Version 3	1. https://www.courts.qld.gov.au/_data/assets/word_doc/0005/88421/form-071-statement-of-financial-position.doc
5.	Australia	New South Wales	Civil Procedure Act, 2005 Uniform Civil Procedure Rules, 2005 Part 38 - Examination of judgment debtor etc. Rule 38.1	Form - 51 Examination Notice - Individual Form – 52 Examination Notice - Corporation	1. http://www.ucprforms.justice.nsw.gov.au/Documents/PDF/ucpr_form_51_v3.pdf 2. http://www.ucprforms.justice.nsw.gov.au/Documents/PDF/ucpr_form_53_v3.pdf
6.	Ireland	The Courts Services of Ireland	District Court (Civil Procedure) Rules, 2014 Enforcement of Court Orders Act 1926, Part – II, Section 15(1) - Examination of Debtors	Order 51A, Rule 4 - Schedule: C - Forms in civil proceedings Form: 51A.02 Statement of means	1. http://www.courts.ie/rules.nsf/53bd32841fc5bbf280256d2b0045bb5d/8bce12e35729552e80257c91005a71fa?OpenDocument
7.	New Zealand	New Zealand Ministry of Justice	District Court Act, 2016 Part 10 - Enforcement of judgments – Sections 145 – 153 District Court Rules, 2014 [Repealed] Part 19 - Enforcement – Rule 19.15 - 19.19	Financial Statement of judgment debtor Individual - Form 36 MOJ36/05/14, MOJ208/10/19 Organization - Form 36a MOJ36a/02/14, MOJ208/10/19	1. https://www.justice.govt.nz/assets/Documents/Forms/208w-filing-a-statement-of-judgment-debtor.pdf 2. https://www.justice.govt.nz/assets/Documents/Forms/Financial-statement-individual-form36.pdf 3. https://www.justice.govt.nz/assets/Documents/Forms/209-filing-a-statement-of-judgment-debtor-organisation.pdf 4. https://www.justice.govt.nz/assets/Documents/Forms/Financial-statement-company-36a.pdf
8.	Singapore	Supreme Court of Singapore	Supreme Court Practice Directions, 2013 [Last updated on 04 th December,	Forms 11A - Examination of Judgment	1. https://epd.supremecourt.gov.sg/downloads/Appendix

			2019] Part X: Enforcement of Judgments and Orders Rule 80A. Examination of Judgment Debtor	Debtor - Individual Forms 11B - Examination of Judgment Debtor - Company	A/Form_11A.pdf 2. https://epd.supremecourt.gov.sg/downloads/Appendix_A/Form_11B.pdf
9.	Singapore	The State Courts of Singapore, Civil Justice Division		Examination of Judgment debtor - Toolkit Forms 44 - Examination of Judgment Debtor - Individual Forms 45 - Examination of Judgment Debtor - Company	1. https://www.statecourts.gov.sg/cws/CivilCase/Documents/Civil_Toolkit_EJD_17022014.pdf 2. https://www.statecourts.gov.sg/cws/CivilCase/Documents/PD07032014-AppB-Form44-EJDQuestionnaire.doc 3. https://www.statecourts.gov.sg/cws/CivilCase/Documents/PD07032014-AppB-Form45-EJDQuestionnaire.doc
10.	U.K.	Her Majesty's Courts and Tribunals Service (HMCTS) County Courts'	Civil Procedure Rules, 1998 PART 71 - Orders To Obtain Information From Judgment Debtors Practice Direction Part 71 – Orders To Obtain Information From Judgment Debtors Rule 71.6 of Orders To Obtain Information From Judgment Debtors Para (4.1) of Practice Direction Part 71 – Orders To Obtain Information From	Appendix A - Form EX140: Record of evidence (individual debtor) Appendix B - Form EX141 : Record of evidence (Officer of a company Form N316: Apply for an order for a debtor to attend court Form N316A: Application for order that officer of the debtor company attend court for questioning	1. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/688117/ex140-eng.pdf 2. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/688119/ex141-eng.pdf 3. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/688613/n316-eng.pdf 4. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/688616/n316a-eng.pdf
11.	Canada	Court of Queen's Bench of Alberta	Civil Enforcement Act Civil Enforcement Regulation Alberta Regulation 276/1995 With amendments up to and including Alberta Regulation 221/2017	Form 13 - Financial Statement of Debtor (Individual Debtor) Form 14 - Financial Statement of Debtor (Corporate Debtor)	1. https://albertacourts.ca/docs/default-source/qb/form14.doc?sfvrsn=2a82ad80_0 2. https://albertacourts.ca/docs/default-source/qb/form14.doc?sfvrsn=2a82ad80_0

12.	Canada	Ontario	Ontario Regulation 258/98: Rules of the Small Claims Court under Courts of Justice Act, R.S.O. 1990, c. C.43	Form 20I Ontario Regulation 258/98	1. http://www.ontariocourtforms.on.ca/forms/scc/20i/SCR-20I-Jan14-fil-EN.doc
13.	Republic of South Africa	Department of Justice and Constitutional Development	Magistrates' Courts Act 32 of 1944 - Section 65I(2) & 74A	Form No. 45 Statement of Affairs of Debtor	1. https://www.justice.gov.za/forms/MCR/J927-form45.pdf
14.	Republic of South Africa	Johannesburg Central Magistrate's Court Civil Section	The National Credit Act 34 OF 2005 Section 86(7)(c)	Form B - Statement of Affairs of Debtor	1. https://www.justice.gov.za/mc/mcjhb/form-B.pdf
15.	U.S.A.	Minnesota Judicial Branch, 4 th Judicial District	Minnesota Statutes Civil Procedure Minnesota Statutes 2012, sections 491A.02, subdivision 9; 550.011	Financial Disclosure Form	1. http://www.mncourts.gov/mncourtsgov/media/CourtForms/JGM301.doc?ext=.doc
16.	U.S.A.	District Court of County, Kansas	The 16 th Judicial District, Small Claims	Financial Statement of Debtor	1. http://www.kscourts.org/dstcts/16scjdsa.pdf
17.	U.S.A.	Administrative Office of the U.S. Courts		Form No. CJA 23 Financial Affidavit	1. https://www.uscourts.gov/sites/default/files/cja23.pdf
18.	U.S.A.	Judicial Council of California	Code Of Civil Procedure, Part 1. of Courts of Justice, Title 1. Organization & Jurisdiction, Chapter 5.5. Small Claims Court, Article 8. Satisfaction and Enforcement of Judgment. Sections 116.620(a), 116.830	Judgment Debtor Statement of Assets	1. https://www.courts.ca.gov/documents/sc133.pdf
19.	U.S.A.	Michigan Courts	Michigan Compiled Laws MCL 600.6001 et seq., MCR 600.8410 in small claims cases only, and MCR 2.621. Revised Judicature Act of 1961	Financial Statement	1. https://courts.michigan.gov/Administration/SCAO/Forms/courtforms/mc287.pdf

20.	U.S.A.	United States District Court, District of Connecticut	General Statutes of Connecticut Volume- 13, Title 52-Civil Actions, Chapters 906- Post Judgements Procedure, Section 52-397	Financial Affidavit	1. https://www.jud.ct.gov/webforms/forms/fm006-long.pdf
21.	U.S.A.	Commonwealth of Massachusetts	Massachusetts Trial Court Rules Trial Court Rule III: Uniform Small Claims Rules Uniform Small Claims Rule 9: Enforcement of Judgments Sub Rule (c)	Financial Statement of Judgment Debtor	1. https://www.mass.gov/files/documents/2018/12/31/jud-financial-statement-of-judgment-debtor.pdf
22.	U.S.A.	The Delaware Municipal Court, Delaware County, Ohio	Ohio Revised Code, 1953 Title XIX Courts - Municipal - Mayor's - County - Chapter 1925: Small Claims Divisions - Collecting & enforcing judgments - 1925.13 (B)	Motion for Debtor Exam or Financial Disclosure (Proceeding in Aid of Execution - Small-Claims Court) RC Section 1925.13	1. http://www.municipalcourt.org/wp-content/uploads/Debtor-Exam-or-Financial-Disclosure-Application-for.pdf
23.	U.S.A	Wisconsin Statutes	(Small Claims) Sections 799.26, 812.34 & 812.39, Wisconsin Statutes	C-506B, 11/17 Financial Disclosure Statement	1. https://www.wicourts.gov/formdisplay/SC-506B.pdf?formNumber=SC-506B&formType=Form&formatId=2&language=en
24.	U.S.A	Florida	Florida Rules of Civil Procedure, Discovery I Aid of Execution - Rule 1.560 (b),(c)	Florida Rule of Civil Procedure Form 1.977 (Fact Information Sheet)	1. https://www.15thcircuit.com/sites/default/files/divisions/county-civil/rb/Civil-Procedure-Rules-Updated-8-4-2017.pdf
25.	U.S.A	New Jersey Courts Superior Court of New Jersey	Rules Governing the Courts of the State of New Jersey Process to Enforce Judgments - Orders for Discovery; Information Subpoenas - Rule 6:7-2 (b)	Civil Action Information Subpoena Appendix XI-L	1. https://njcourts.gov/forms/11840_infor_sub_written_quest.pdf

Conclusion

38. The execution of decrees/awards deserves special attention considering that inordinate delay in execution proceedings frustrates the decree-holder from reaping the benefits of the decree/award.

39. In cases of execution of decrees/awards for recovery of money, the Executing Court shall direct the judgment debtor, at the first instance, to file an affidavit of assets on the date of cause of action, date of the decree/award as well as on the date of the swearing of the affidavit in Form 16A, Appendix E under Order XXI Rule 41(2) of the Code of Civil Procedure within thirty days. The oral prayer/application of the decree-holder for issuance of this direction is sufficient compliance of Order XXI Rule 41(2) of the Code of Civil Procedure.

40. The Executing Court is empowered, at the initial stage itself, to restrain the judgment debtor from transferring, alienating or disposing of or otherwise parting with the possession of any assets to the tune of the decretal/award amount except in the ordinary course of business such as payment of salary and statutory dues. However, the judgment debtor shall not discharge any financial liability, other than the liabilities of Banks/financial institutions, without the permission of the Executing Court.

41. If the judgment debtor fails to appear before the Court upon service of notice, the Executing Court shall ensure his presence initially by issuing bailable warrants and thereafter, by issuing non-bailable warrants.

42. In the event of the default of the judgment debtor to file the aforesaid affidavit within the stipulated time, the Executing Court shall consider detention of the judgment debtor in civil prison for a term not exceeding three months under Order XXI Rule 41(3) of the Code of Civil Procedure by directing the decree-holder to deposit the subsistence allowance @ Rs.40 per day per person with the Executing Court for detention of the judgment debtor. Upon deposit of the subsistence allowance, the Executing Court shall issue non-bailable warrants against the judgment debtor for his detention.

43. Since Form 16A, Appendix E under Order XXI Rule 41(2) of the Code of Civil Procedure is not exhaustive to ascertain all the assets of the decree-holder, the Executing Court shall, in exercise of power under Section 151 and Order XXI Rule 41 of the Code of Civil Procedure read with Section 106 and Section 165 of the Indian Evidence Act, direct the judgment debtor to file an additional affidavit of his assets and income in the format of **Annexure-A** along with documents mentioned therein within thirty days. If the judgment debtor is a proprietor of a proprietorship firm; partner of a partnership firm; member of an HUF and/or Director of a company, additional affidavits be filed by the judgment debtor in respect of the assets of each firm/HUF/Company, as the case may be, in the format of **Annexure-B**.

44. After examining **Annexure-A**, the Court may direct the judgment debtor to file an additional affidavit of his expenditure in the format of **Annexure-C**.

45. If the judgment debtor is a Firm/Company/HUF/Trust, the Court shall direct the judgment debtor to disclose its assets and income in the format of **Annexure-B**. This affidavit of the Firm/Company/HUF/Trust shall be sworn by all Partners/Directors (other than independent/ non-executive and nominee directors) /Members/Managing Trustee, as the case may be.

46. If any ground for lifting of the corporate veil is made out, then all the Directors (other than independent/ non-executive and nominee directors) of the judgment debtor Company be directed to disclose their personal assets and income in the format of **Annexure-A**.

47. Upon filing of affidavits in Form 16A, Appendix E under Order XXI Rule 41(2) of the Code of Civil Procedure as well as the additional affidavits

namely *Annexure-A, B* and *C*, the Executing Court shall give liberty to the decree-holder to verify the disclosures made in the affidavits, either himself or through an Investigator.

48. While formulating the affidavits *Annexure-A, B* and *C*, many more questions and documents were considered by this Court which would have complicated the affidavits and caused inconvenience to the litigants. In order to keep the affidavits concise and precise, this Court incorporated only important questions and documents. However, the Courts are at liberty to direct the parties to disclose further relevant facts and documents to determine the true assets and income of the judgment debtor. The Courts are also at liberty to consider the rules and formats of affidavits mentioned in para 37 to develop and further improve the format of the affidavits formulated by this Court.

49. The Courts shall ensure that the filing of the affidavits by the judgment debtor is not reduced to a mere ritual or formality. If the affidavit of the judgment debtor is not in the prescribed format or is not accompanied with the relevant documents, the Court may grant reasonable time to the judgment debtor to remove the defects/ deficiencies.

50. The Courts/Arbitral Tribunals are empowered to direct a party to file the aforesaid affidavits in proceedings under Order XXXVIII of the Code of Civil Procedure and proceedings under Sections 9, 17 and 36 of the Arbitration and Conciliation Act.

51. The decree-holder is at liberty to serve the interrogatories and seek production of relevant documents from the judgment debtor.

52. The Executing Court shall, thereafter, consider whether the oral examination of the judgment debtor is necessary under Section 165 of the

Evidence Act. If so, the Executing Court shall proceed to examine the judgment debtor.

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

54. When the Executing Court finds that the judgment debtor is not satisfying the decree/award despite having means/capacity to pay, the decree-holder is at liberty to file an application for detention of the judgment debtor whereupon the Executing Court shall issue a show cause notice to the judgment debtor to show cause as to why he should not be committed to civil prison. The Court shall, upon being satisfied that the judgment debtor has means to pay the decretal amount or substantial part thereof and has refused or neglected to pay the same, pass an order for detention of the judgment debtor in civil prison for a period not exceeding three months in terms of Section 58 (1) (a) of the Code of Civil Procedure. Even after release from detention, the judgment debtor shall remain liable to satisfy the decree/award in terms of Section 58 (2) of the Code of Civil Procedure. However, the judgment debtor who has no means to satisfy the decree/award, cannot be detained in civil prison. The Court shall follow the procedure laid down in Sections 51(c), 55 to 59 and Order XXI Rules 37 to

40 of the Code of Civil Procedure for detention of the judgment debtor.

55. In appropriate cases, the Executing Court may (i) issue notice and direct the Garnishee(s) to deposit in Court the amount due to the judgment debtor as per law; (ii) permit the decree-holder to inspect all the assets and the records of the judgment debtor in the presence of the Local Commissioner to be appointed by the Court; (iii) direct the auditor of the judgment debtor company to submit a report with respect to the affairs of the judgment debtor; (iv) permit the decree-holder to serve interrogatories on the auditors of the judgment debtor; (v) permit the decree-holder to inspect the records of the judgment debtor with the Income Tax and the other authorities to verify the disclosures made by the judgment debtor; (vi) in extreme cases, appoint a Chartered Accountant as a Local Commissioner to inspect all the records of the judgment debtor and submit a report to the Court with respect to the affairs of the judgment debtor; (vii) restrain the judgment debtor from leaving the country without the permission of the Court; and (viii) impound the passport of the judgment debtor.

56. If the judgment debtor has made any misrepresentation, concealment or false statement in the affidavits, the decree-holder is at liberty to invoke Section 340 Cr.P.C. Reference be made to the principles laid down in *Sanjeev Kumar Mittal v. State*, 174 (2010) DLT 214 and *H.S. Bedi v. National Highway Authority of India*, 2016 (227) DLT 129.

Directions to the District Courts

57. The District Courts shall implement these guidelines with immediate effect by directing the judgment debtor to file the affidavit of assets and income on the date of the cause of action, date of decree/award and on the date of the swearing of the affidavit in Form 16A, Appendix E under Order

XXI Rule 41(2) of the Code of Civil Procedure as well as additional affidavits in the format of *Annexure-A* or *Annexure-B*, as the case may be, within thirty days.

58. Delhi High Court Rules for execution of decrees [*Volume I of High Court Rules and Orders, Part C, Chapter 12 – Part A – ‘General’*] provides for expeditious disposal of the execution cases by District Courts. Rule 2 provides at least one day every week to be reserved for execution work to ensure expeditious disposal. Rules 4 and 5 provide for close supervision and control of the execution cases by the District Judge and report to the High Court in the event of any delay in the disposal of execution cases. *Rules 2, 4 and 5 of Volume I of High Court Rules and Orders, Part C, Chapter 12, Part A General of Delhi High Court Rules* are reproduced hereunder:

“CHAPTER 12
Execution of Decrees
Part A - GENERAL

2. Special day to be reserved for execution work

Execution of decrees should receive the same attention from the Courts as original civil work and should be methodically and regularly dealt with, as expeditiously as possible. Where parties have to be heard or evidence recorded in the course of execution proceedings, notice should be given, processes issued and dates fixed as in the case of original suits. As a rule one day during the week should be reserved for execution works so as to ensure proper attention being paid to it; some times two days are necessary. District Judges are responsible for seeing that proper arrangements are made for execution work by all courts subordinate to them.

xxx

xxx

xxx

4. Distribution of execution work by District Judge

District Judges should record standing orders regulating the distribution of applications for the execution of decrees

among the Courts subordinate to them, providing for the disposal of cases in which decrees were passed by officers who have ceased to be attached to the district, and for carrying on the execution proceedings already pending before such officers at the time of their ceasing to be employed therein. In framing such orders, every Court should be required as far as possible, to execute all decrees passed by itself; but, where this is not possible and it is necessary to send the decree to another Court for execution, care should be taken to see that it is a Court of competent jurisdiction [Section 39(2)]. Court shall demand to be a Court of Competent jurisdiction, if at the time of making the application for the transfer of decree to it, such Court would have jurisdiction to try the suit in which such decree was passed [Section 39(3) added by Amending Act, 1976].

5. District Judge to see that execution work is not neglected in lower Courts

Close supervision and control should be exercised by District Judges over the execution of degree business pending in all Courts subordinate to them; and where any officer is found habitually to neglect this branch of work or to dispose of it in a perfunctory manner, he should be reported to the High Court.

(Emphasis Supplied)

59. All the District Judges are directed to send the report with respect to the compliance of Rules 2, 4 and 5 of Delhi High Court Rules by the Courts below in execution cases. The reports shall give the year-wise pendency of execution cases district wise along with their present status. The Courts below shall expedite the execution cases and endeavour to decide the same within a period of one year.

60. The Courts below are also directed to give their inputs with respect to

the impact of these guidelines on the execution jurisdiction before the next date of hearing. The reports be submitted through the Registrar General of this Court who shall compile and place the same before this Court on the next date of hearing.

61. If any counsel/litigant has any further suggestions with respect to these directions, the same be submitted to this Court through the learned amicus curiae, Mr. Dayan Krishnan, Senior Advocate, Mr. Sanjiv Kakra, Advocate or through the Honorary Secretary of the High Court Bar Association.

62. Paras 7, 8 and 10 of the judgment dated 11th January, 2016 titled ***Bhandari Engineers & Builders Pvt. Ltd. v. Maharia Raj Joint Venture***, (2016) 227 DLT 302 are modified to the extent that the judgment debtors shall henceforth file the affidavit of assets and income in terms of this judgment.

63. List for considering the impact reports and further suggestions on 11th February, 2020.

64. This Court appreciates the assistance rendered by Mr. Dayan Krishnan, Senior Advocate and Mr. Sanjiv Kakra, Advocate as amicus curiae in formulating this procedure. Mr. Rajiv Nayyar, Senior Advocate; Mr. Rajiv Virmani, Senior Advocate; and Mr. Jayant Mehta, Advocate have also given valuable inputs. This Court also appreciates the extensive research on corresponding law in other countries by Mr. Akshay Chowdhary, Law Researcher, attached to this Court.

65. Copy of this judgment along with ***Annexure-A, B*** and ***C*** be sent to all the District Judges who shall circulate the same to all the concerned Courts.

66. The format of the affidavits ***Annexure-A, B*** and ***C*** be uploaded on the

website of the District Court (both in .doc/.docx and .pdf format) to enable the lawyers/litigants to download the same.

67. Copy of the judgment along with *Annexures-A, B* and *C* be sent to the Judicial Academy to sensitize the judges about the principles laid down by this Court.

68. Copy of this judgment be given *dasti* to counsel for the parties as well as to learned amicus curiae and to Honorary Secretary, Delhi High Court Bar Association who shall assist this Court with respect to the suggestions received from the Bar.

DECEMBER 5, 2019

dk/ds/ak

J.R. MIDHA, J.



न्यायमेव जयते

ANNEXURE - A

FORMAT OF AFFIDAVIT OF ASSETS AND INCOME

[If the judgment debtor is a proprietor/partner of a Firm/member of HUF/or Director in a company, an additional affidavit be filed in respect of the assets and income of the Firm/HUF/Company, as the case may be, in the format of Annexure-B]

I _____, son of / daughter of / wife of / _____, aged about ____ years, resident of _____, do hereby solemnly affirm and declare as under:

S. No.	Description	Particulars
1.	<u>Whether you have means to satisfy the award/decree/order? If yes, please give the proposed schedule of payment:</u>	
2.	Full name	
3.	Age	
4.	Educational/ Professional qualifications	
5.	Occupation	
6.	Total monthly income from all sources including employment, business, vocation, interest or investment, income from properties, assets, etc.	
7.	Current source of income as well as sources of the income in the last five years	
8.	Marital Status	
9.	Complete details of the immediate family members (Name, age, relation, occupation, income, residence and office addresses in last ten years)	
10.	(a) Present residential address	
	(b) Permanent residential address	

	(c) Present Office address	
	(d) E-mail address	
	(e) Mobile No.(s)	
	(f) Landline Phone No.(s) Residence:- Office:-	
	(g) Passport No.	
	(h) Aadhaar Card No.	
	(i) PAN Card No.	

DECLARATION OF ASSETS

S.No.	Assets	List of Assets			Present Estimated Market Value
		On the date of the cause of action	On the date of the award/decreed	Present	
11.	<p><u>Immovable properties</u></p> <p>Particulars of the immovable properties including joint properties, built up properties, lease hold properties, land/ agricultural land and investment in real estate such as booking of plots, flats, etc.</p> <p><u>Possession</u></p> <p>Whether the possession of the above properties is with the deponent? If no, give status of the possession.</p> <p><u>Title documents</u></p> <p>Whether the title documents of the above properties are with the deponent? If no, give status of the possession of the title documents.</p>				

	<p><u>Litigation</u> Whether any litigation is pending in respect of the above properties. If so, give particulars.</p>																				
12.	<p><u>Movable Assets</u></p> <p>(i) Motor Vehicles (List of cars, motorcycles, scooters etc. along with their brand and registration number)</p> <p>(ii) Livestock</p> <p>(iii) Plant & Equipments</p> <p>(iv) Mobile phone(s)</p> <p>(v) Computer/Laptop</p> <p>(vi) Other electronic gadgets including I-pad etc.</p> <p>(vii) TV, Fridge, Air Conditioner, etc.</p> <p>(viii) Other household appliances</p> <p>(ix) Quantity of gold, silver and diamond jewellery</p> <p>(x) Quantity of silver utensils</p> <p>(xi) List anything else of value that you own, including precious metals, collections, works of art, jewellery or household items of value of more than Rs.25,000/- each.</p>																				
13.	<p><u>Financial Assets/Debts</u></p> <p>(i) Particulars of all bank accounts including Current and Savings Accounts in your name or joint names held in the last ten years.</p> <p><u>Note :</u> If any bank account(s) has/have been classified by the banks as willful defaulter under the Master Circular on 'Wilful Defaulters' dated 01.07.2015 [RBI/2015-16/100DBR.No.CID.BC .22/20.16.003/2015-16] or Reserve Bank of India (Frauds classification and reporting by commercial banks and select Financial Institutions)</p>	<table border="1"> <thead> <tr> <th colspan="2">Account Number</th> <th>Name of Bank</th> <th>Current Balance</th> </tr> </thead> <tbody> <tr> <td>(i)</td> <td></td> <td></td> <td rowspan="4"></td> </tr> <tr> <td>(ii)</td> <td></td> <td></td> </tr> <tr> <td>(iii)</td> <td></td> <td></td> </tr> <tr> <td>(iv)</td> <td></td> <td></td> </tr> </tbody> </table>	Account Number		Name of Bank	Current Balance	(i)				(ii)			(iii)			(iv)				
Account Number		Name of Bank	Current Balance																		
(i)																					
(ii)																					
(iii)																					
(iv)																					

	<i>directions 2016 under Master Circular dated 01.07.2016(RBI /DBS/2016-17/28 DBS. CO. CFMC. BC. No.1/23.04.001 /2016-17), give particulars of such bank accounts.</i>			
		Details		Current Value
	(ii) Particulars of DEMAT accounts held in last ten years			
	(iii) Cash in hand			
	(iv) Particulars of the safety deposit of lockers			
	(v) Particulars of the debts/liabilities			
	(vi) Particulars of the overdraft facility along with name and address of the bank, branch, account No., type and particulars of the security given to secure the overdraft.			
14.	<p><u>Investments</u></p> <p>Details of all investments you hold or, in which you have interest and their current value:</p> <p>(i) FDR(s), NSC, IVP, KVP, Post Office schemes etc.</p> <p>(ii) Deposits with Government and Non-Government entities</p> <p>(iii) Stocks, shares, debentures, bonds, units and mutual funds, etc.</p> <p>(iv) All insurance policies and their surrender value</p> <p>(v) Loan given to friends, relatives and others</p> <p>(vi) Details of all the foreign investments made including those made in last ten years or from the date of beginning of cause of action, whichever is later</p> <p>(vii) Details of the charity institutions or other bodies in which you made donations, gifts, grants, etc in last ten years or from the date of beginning of cause of</p>			

	<p>action, whichever is later.</p> <p>(viii) Retirement Savings Plan and other retirement benefits and honorarium received till date. - Indicate name of institution where accounts are held, name and address of plan and details.</p> <p>(ix) Other investments not covered by above items</p>		
15.	<p><u>Intangible assets</u></p> <p>Intangible assets including patents, trademark, copyright, design, goodwill held by the individual and their value</p>		
16.	<p><u>Garnishee(s)/Trade receivables</u></p> <p>(i) Name(s) and addresses of Garnishee(s) and the particulars of the debt, share and other properties recoverable from the Garnishee(s) with complete details of the transactions</p> <p>(ii) Trade receivables along with name, address and amount due from each entity.</p>		
17.	<p><u>Corporate/Business Interests</u></p> <p>Particulars of the interest/ position/ association you hold, directly or indirectly, in any corporation, unincorporated business, company, partnership, trust, joint venture and Association of Persons, Society etc in the last ten years or from the beginning of cause of action, whichever is later.</p>		
18.	<p><u>Properties acquired by the judgment debtor in the name of the family members</u></p> <p>(i) Particulars of the properties (movable/ immovable) acquired by your immediate family members (wife/husband/children/ parents) in the last ten years or from the date</p>		

	<p>of beginning of the cause of action, whichever is later.</p> <p>(ii) Whether the deponent contributed any amount in the above acquisition. If so, give particulars of contribution.</p> <p>(iii) Details of the funds transferred by you in the name of immediate family members in the last ten years or from the date of beginning cause of action, whichever is later.</p> <p>(iv) Details and particulars of shares purchased/investments made by you in the name of immediate family members in the last ten years or from the date of beginning cause of action whichever is later.</p>		
19.	<p><u>Existing charges on the assets</u></p> <p>Particulars of all existing charges on the assets including mortgage, charge, pledge on the assets.</p> <p>Whether the charges are registered, and the present status of the same.</p> <p>Whether any of the assets are subject to attachment proceedings under any Act including Prevention of Money Laundering Act, Income Tax Act, Benami Transactions (Prohibition) Act and Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act.</p>		
20.	<p><u>About disposal of properties</u></p> <p>Particulars of all properties transferred/agreed to be transferred or parted with the possession by any mode including sale, gift, relinquishment, General power of attorney, Special power of attorney, exchange, agreement, family settlement, lease, transfer of share holding/investment, etc in any company, partnership, trust,</p>		

	<p>joint venture and Association of Persons, Society in the last ten years or from the date of beginning of cause of action, whichever is later; name/address of the transferee and the sale consideration received from the transferee(s)</p> <p>List of all the properties that were ever been in your name or in which you had any right/interest.</p>		
21.	<p><u>About parting away of properties</u></p> <p>Complete details of all gift deeds, relinquishment deeds or any other deed of disposition/transfer executed in favour of children, grand children or in favour of anyone else, details of the funds transferred by the person in the name of immediate family members in the last ten years or from the date of beginning of cause of action whichever is later</p>		
22.	<p><u>Inheritance</u></p> <p>Particulars of the estate in which you are beneficiary of inheritance along with market value of the property inherited.</p>		
23.	<p>List of other incomes not itemized above</p>		

DECLARATION OF INCOME

S. No	Description	On the date of the cause of action	On the date of the award/decrece	Present
24.	<p><u>In case of salaried persons</u></p> <p>(i) Designation</p> <p>(ii) Name and address of the employer</p> <p>(iii) Date of employment</p> <p>(iv) Gross Income including the</p>			

	<p>salary, D.A., commissions/incentives, bonus, perks etc.</p> <p>(v) Perquisites and other benefits provided by the employer including accommodation, cars/other automotive, sweeper, gardener, watchman or personal attendant, gas, electricity, water, interest free or concessional loans, holiday expenses, free or concessional travel, free meals, free education, gifts, vouchers, etc. credit card expenses, club expenses, use of movable assets by employees, transfer of assets to employees, value of any other benefit/amenity/service/ privilege and the value of such perquisites and benefits</p> <p>(vi) Deductions from the gross income</p> <p>(vii) Income tax paid</p> <p>(viii) Net income</p> <p>(ix) Value of stock option benefits, if provided by the employer</p> <p><i>Note:- If unemployed, give particulars of last employment; length of last employment; period of last employment; name and address of last employer and earnings from the last employment</i></p>			
25.	<p><u>In case of self-employed persons</u></p> <p>(i) Nature of business/ profession</p> <p>(ii) Whether the business/ profession is carried on as an individual, sole proprietorship concern, partnership concern, company or association of persons, HUF, joint family</p>			

	<p>business or any other form.</p> <p><i>Note: If the business is closed/non-active, give the date of closure, assets on the date of closure, present status of the assets and if the assets have been transferred, the particulars of the transfer and consideration received.</i></p>			
26.	<p><u>In case of an individual /proprietorship firm</u></p> <p>(i) Office address and the branch offices, if any,</p> <p>(ii) Number of employees</p> <p>(iii) Annual turnover/ gross receipts</p> <p>(iv) Gross Profit</p> <p>(v) Income Tax</p> <p>(vi) Net Income</p> <p>(vii) Details and value of benefits in kind, perks or other remuneration received from the business e.g. provision of car, payment of accommodation etc.</p> <p>(viii) Amount of regular monthly withdrawal or drawings from the business</p> <p>(ix) Value of your business interest(s)</p> <p>(x) Value of your business assets</p> <p>(xi) Location of your business assets</p> <p>(xii) Location of the statutory records and books of account of the business</p>			
27.	<p><u>In case of Company, partnership, HUF, joint family business or any other form</u></p> <p>(i) Details of registration and incorporation</p> <p>(ii) Address of the Registered Office and the branch offices,</p>			

	<p>if any, of the firm including all addresses from the date of beginning of cause of action till the date of filing of the present affidavit.</p> <p>(iii) Details of shareholding of the partners, directors, promoters and their family members</p> <p>(iv) Details of all subsidiary Companies and sister concerns</p> <p>(v) Net worth of the Company /firm/HUF.</p> <p>(vi) Number of employees</p> <p>(vii) Annual turnover/gross receipts</p> <p>(viii) Gross Profit</p> <p>(ix) Income Tax</p> <p>(x) Net Income</p> <p>(xi) Details and value of benefits in kind, perks or other remuneration received from the business e.g. provision of car, payment of accommodation etc.</p> <p>(xii) Value of your business interest(s)</p> <p>(xiii) Value of your business assets</p> <p>(xiii) Location of your business assets</p> <p>(xiv) Location of the statutory records and books of account of the firm</p>			
28.	<p><u>Income from Other Sources</u></p> <p>(i) Agricultural Income</p> <p>(ii) Rent</p> <p>(iii) Interest on bank deposits and FDRs</p> <p>(iv) Interest on investments including deposits, NSC, IVP, KVP, Post Office schemes, PPF, loans etc.</p> <p>(v) Dividends</p> <p>(vi) Income from machinery, plant or furniture let on hire.</p> <p>(vii) Gifts</p>			

	(viii) Profit on sale of movable/ immovable assets			
29.	Whether any partner/ Director has taken loan/overdrawn/ taken credit? If so, give particulars.	Details		Current Value
30.	Has the company/firm transferred any assets to any Director/partner? If so, give particulars.			
31.	Particulars of the benefits received by any Director/ partner from the company/firm other than by way of salary.			
32.	Amount of regular monthly withdrawal or drawings from the business			
33.	Any other income not covered above <i>Note : - If you are expecting to receive a lump sum payment in the future, give further details including the amount and expected date of receipt of the payment.</i>			
TOTAL MONTHLY INCOME				

PERSONAL INFORMATION OF THE DEPONENT

34.	Have you ever been arrested?	
35.	Have you ever been kept under detention?	
36.	Have any Court issued bailable/non-bailable warrants for appearance against you?	
37.	Have you ever been released on bail/anticipatory bail?	

38.	Have you ever been prosecuted for any offence?	
39.	Have you ever been convicted for any offence?	
40.	Have you ever been declared as proclaimed offender/proclaimed person by any Court?	
41.	If the answer to any of the above mentioned questions (S.No. 34-40) is 'Yes', give full particulars of the case/arrest/bail/detention/conviction/sentence/punishment etc.	
42.	Particulars of all pending litigations, disputes, claims, arbitrations, FIR's, Complaints etc pending in any Court, Tribunal, Forum, Authority, in which you <u>are</u> party. Give the name of the case, name of the Court, nature of case, amount involved and the next date of hearing.	
43.	Details of all decided/disposed off litigations, disputes, claims, arbitrations, FIR's, Complaints etc decided in any Court, Tribunal, Forum, Authority, in which you <u>were</u> party. Give the name of the case, name of the Court, nature of case, amount involved and date of decision.	
44.	Particulars of all the unsatisfied decrees/awards.	
45.	Details of Company(s) in which you are a director or had been a director in the last five years	
46.	Details of all firms and other business entities in which you have/had interest in the last five years.	
47.	Details of loan/credit facility(s) taken from banks and other financial institutions in the last five years and the present status.	
48.	Whether the judgment debtor is subject to audit under Section 44AB of the Income Tax Act, 1961?	
49.	Whether the judgment debtor filed a Wealth Tax Return under the Wealth Tax Act, 1957 prior to abolition of	

	Wealth Tax in the year 2015?		
50.	Name and address of the auditors and date of last audit of accounts		
51.	Particulars of place of residence where you have resided during the preceding five years		
	<div>Period</div> <div> <div>From</div> <div>To</div> </div>		<div>Address in full with Police Station & Distt. along with area (in sq. ft.) of the residential accommodation</div> <div>Whether owner/tenant? If rented, the amount of rent?</div>
52.	Frequency of foreign travel, business as well as personal		
53.	Particulars of the countries visited till now?		
54.	Do you intend to travel outside India? If yes, Give details of the visit, purpose of visit and the approximate expenditure on the visit.		
55.	Category of hotels ordinarily used for stay, official as well as personal		
56.	Particulars of loyalty programmes of airlines, hotels, retail chains and other merchants, to which you have subscribed, with membership numbers of each such programme.		
57.	Particulars of your social media accounts, e.g., Facebook, Twitter, LinkedIn, Instagram, etc.		

58.	Particulars of credit/debit cards, its limit and usage	
59.	Mode of travel in city/outside city	
60.	Category of hospitals opted for medical treatment including type of rooms	
61.	Name of school(s) where the child or children are studying or have studied	
62.	Status of the deponent/family:	<ul style="list-style-type: none"> ○ High ○ Upper Middle ○ Middle ○ Lower Middle ○ Low ○ Below poverty line

DOCUMENTS RELATING TO PERSONAL INFORMATION, ASSETS AND INCOME

S. No.	Document	Description of Document
63.	Aadhaar Card	
64.	PAN Card	
65.	Passport	
66.	CIR/CIBIL	
67.	Title deeds of the immovable properties of the deponent.	
68.	Documents pertaining to any pre-existing charge on the assets, or orders pertaining to attachment of assets by authorities including but not limited under Prevention of Money Laundering Act, Income Tax Act, Benami Transactions (Prohibition) Act and Black Money (Undisclosed Foreign Income and Assets) and	

	Imposition of Tax Act.	
69.	Documents relating to the debt, share and other properties of the deponent recoverable from the Garnishee(s).	
70.	Title documents relating to the properties transferred, alienated or parted with person or agreed to be transferred between the date of beginning of cause of action upto the date of filing of this affidavit.	
71.	Statement of Account of all bank accounts including current and savings accounts for last three years.	
72.	Transfer documents in respect of the profit on sale of property/properties between the date of beginning of cause of action upto the date of filing of this affidavit.	
73.	<p><u>In case of Salaried Persons</u></p> <p>(i) Income Tax Return(s) along with the balance sheets, statement of income and Annexures for last five years.</p> <p>(ii) Appointment Letter</p> <p>(iii) Salary slip</p> <p>(iv) Forms 16, 16A & 12BA</p> <p>(v) Cost to Company Certificate</p> <p>(vi) Copies of TDS certificates</p>	
74.	<p><u>In case of self-employed persons</u></p> <p>(i) Income Tax Return(s) along with the balance sheets, Profit & Loss Account, statement of income and Annexures for last five years.</p> <p>(ii) Income Tax Return(s) along with the balance sheets, Profit & Loss Account, statement of income and Annexures of the proprietorship firm, if the business is carried on in the name of a sole proprietorship concern for last five years.</p> <p>(iii) Income Tax Return(s) along with</p>	

	<p>the balance sheets, Profit & Loss Account, statement of income and Annexures of the partnership firm, if the deponent is a partner in a firm along with the Schedule showing the distribution of partners' remuneration and share of profits/losses of the partnership firm and the copy of the partnership deed for last five years.</p> <p>(iv) Income Tax Return(s) along with the balance sheets, Profit & Loss Account, statement of income and Annexures of the Company in which the deponent is a Director for last five years.</p> <p>(v) Income Tax Return(s) along with the balance sheets, Profit & Loss Account, statement of income and Annexures of the Association of Persons, HUF, Joint Family business or Trust in which the deponent has share for last five years.</p> <p>(vi) Account of the deponent in the books of the business</p> <p>(vii) GST/ VAT/ Excise/ Sales Tax registration, returns of the person in last ten years or from the date of beginning cause of action whichever is later.</p> <p>(viii) TDS certificates</p>	
75.	<p><u>In case of Income from other sources:</u></p> <p>(i) Lease Deed(s)/ Rent Agreement(s)/ License Agreement(s) in respect of the rental income.</p> <p>(ii) Interest Certificate in respect of the interest income on deposits and investments.</p> <p>(iii) Dividend Certificates</p>	
76.	<p>(a) Form 26AS downloaded from the website of Income Tax Department for the last five financial years.</p>	

	(b) Wealth Tax Returns with all schedules and particulars for five years prior to abolition of Wealth tax.	
	(c) Forms 3CA/3CB and 3CD, as applicable, pursuant to Section 44AB of the Income Tax Act, 1961 filed for the last five years.	
77.	Documents relating to the pending litigations	
78.	Documents relating to the decided litigations	
79.	Documents relating to the unsatisfied decrees/awards	
80.	FIR(s) in which the deponent was or is involved	
81.	Other relevant documents relating to Income and Assets	

Declaration:

1. I declare that I have made accurate, true and complete disclosure of my income and assets from all sources. I further declare that I have no assets, income or financial resources other than set out in this affidavit.
2. I undertake to inform this Court immediately upon any material change in my income and assets or any other information disclosed in this affidavit.
3. I hereby declare that the contents of this affidavit have been duly explained to me and have been understood by me.
4. The copies of the documents filed with the affidavit are the true copies of the originals and I have self attested the copies after comparing them with their originals.
5. I understand that any false statement and misrepresentation in this affidavit may constitute an offence under Section 199 read with Sections 191 and 193 of

the Indian Penal Code punishable with imprisonment upto seven years and fine, and Section 209 of the Indian Penal Code punishable with imprisonment upto two years and fine. I have read and understood Sections 191, 193 199 and 209 of the Indian Penal Code.

DEPONENT

Verification:

Verified at _____ on this ____ day of _____ that the contents of the above affidavit relating to my income and assets are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

DEPONENT

ANNEXURE - B

FORMAT OF AFFIDAVIT OF ASSETS AND INCOME

[The affidavit has to be executed by all Directors (other than independent/non-executive/nominee directors) in case of a company; all the partners in case of a partnership firm; proprietor in case of proprietorship firm and Managing Trustee in case of a trust.]

I/we _____, son of / wife of /daughter of _____, aged about _____ years, resident of _____, am/are the Proprietor/Directors/Partners/Managing Trustee of the _____ and I/we do hereby solemnly affirm and declare as under:

S. No.	Description	Particulars
1.	<u>Whether you have means to satisfy the award/decree/order? If yes, please give the proposed schedule of payment:</u>	
2.	Details of registration and incorporation	
3.	Current registered office and the registered offices in the last ten years	
4.	Shareholding of the Firm/Company, its fair market value and inter-se relationship of shareholders	
5.	Particulars of shareholding of the Partners/Directors/Promoters and their family members	
6.	Particulars of the Partners/Directors/Promoters and other key managerial staff (including but not limited to their name, age, designation, length of employment, past employment details of past ten years, complete residence address, their shareholding in the Company, its subsidiaries, its joint ventures and other associated entities)	

7.	Name and addresses of the Partners/Directors/ Promoters on the date of the incorporation	
8.	Name and addresses of the Partners/Directors/ Promoters on the date of the beginning of the cause of action	
9.	Name and addresses of the Partners/Directors/ Promoters on the date of the decree/ award was passed	
10.	Name and addresses of the Partners/Directors/ Promoters on date of the affidavit	
11.	Name and addresses of the nominee and official directors	
12.	Net worth of the Firm/Company	
13.	Number of employees	
14.	Location of the statutory records and books of account of the Firm/Company	
15.	Location of the business assets of the Firm/Company	
16.	Particulars of all related parties including subsidiary companies, sister concerns, agencies, distributors etc.	
17.	Particulars of the transactions with the related parties whether in the form of expenses, loans or otherwise from the date of the beginning of cause of action upto the date of the affidavit	
18.	Has any of the Directors/Partners/Proprietor/ Trustee has taken loan/overdrawn/ credit? If so, give particulars.	
19.	Has the Company/Firm transferred any assets to any Director/partner? If so, give particulars.	
20.	Particulars of the benefits received by any Director/ Partner from the Company/Firm other than by way of salary	

DECLARATION OF ASSETS

S.No.	Assets	List of Assets			Present Estimated Market Value
		On the date of the cause of action	On the date of the award/decree	Present	
21.	<p><u>Immovable properties</u></p> <p>Particulars of the immovable properties including joint properties, built up properties, lease hold properties, land /agricultural land and investment in real estate such as booking of plots, flats, etc.</p> <p><u>Possession</u> Whether the possession of the above properties is with the deponent? If no, give status of the possession.</p> <p><u>Title documents</u> Whether the title documents of the above properties are with the deponent? If no, give status of the possession of the title documents.</p> <p><u>Litigation</u> Whether any litigation is pending in respect of the above properties. If so, give particulars.</p>				
22.	<p><u>Movable Assets</u></p> <p>(i) Motor Vehicles (List of cars, motorcycles, scooters etc. along with their brand and registration number)</p> <p>(ii) Livestock</p> <p>(iii) Plant & Equipments</p> <p>(iv) Mobile phone(s)</p> <p>(v) Computer/Laptop</p> <p>(vi) Other electronic gadgets including I-pad etc.</p> <p>(vii) TV, Fridge, Air Conditioner, etc.</p> <p>(viii) List anything else of value</p>				

	of more than Rs.25,000/- each				
23.	<p><u>Financial Assets/Debts:</u></p> <p>(i) Particulars of all bank accounts including Current and Savings Accounts in your name or joint names held in the last ten years.</p> <p><u>Note :</u> <i>If any bank account(s) has/have been classified by the banks as willful defaulter under the Master Circular on 'Wilful Defaulters' dated 01.07.2015 [RBI/2015-16/100DBR.No.CID.BC.22/20.16.003/2015-16] or Reserve Bank of India (Frauds classification and reporting by commercial banks and select Financial Institutions) directions 2016 under Master Circular dated 01.07.2016(RBI/DBS/2016-17/28 DBS. CO. CFMC. BC. No.1/23.04.001 /2016-17), give particulars of such bank accounts.</i></p>	Account Number		Name of Bank	Current Balance
	(i)				
	(ii)				
	(iii)				
	(iv)				
	(ii) Particulars of DEMAT accounts held in last ten years				
	(iii) Cash in hand				
	(iv) Particulars of the safety deposit of lockers				
	(v) Particulars of the debts/liabilities				
	(vi) Particulars of the overdraft facility along with name and address of the bank, branch, account No., type and particulars of the security given to secure the overdraft.				
24.	<p><u>Investments</u></p> <p>Details of all investments you hold or, in which you have interest and their current value:</p> <p>(i) FDR(s), NSC, IVP, KVP,</p>				

	<p>Post Office schemes, Provident Fund(s) etc.</p> <p>(ii) Deposits with Government and Non-Government entities</p> <p>(iii) Stocks, shares, debentures, bonds, units and mutual funds, etc.</p> <p>(iv) All insurance policies including</p> <p>(v) Loan given</p> <p>(vi) Details of all the foreign investments made including those made in last ten years or from the date of beginning of cause of action, whichever is later</p> <p>(vii) Details of the charity institutions or other bodies in which you made donations, gifts, grants, etc in last ten years or from the date of beginning of cause of action, whichever is later.</p> <p>(viii) Other investments not covered by above items</p>				
25.	<p><u>Intangible assets</u></p> <p>Intangible assets including patents, trademark, copyright, design, goodwill held by the individual and their value</p>				
26.	<p><u>Garnishee(s)/Trade receivables</u></p> <p>(i) Name(s) and addresses of Garnishee(s) and the particulars of the debt, share and other properties recoverable from the Garnishee(s) with complete details of the transactions</p> <p>(ii) Trade receivables along with name, address and amount due from each entity</p>	Details			Current Value
27.	<p><u>Corporate/Business Interests</u></p> <p>Particulars of the interest/ position/ association you hold, directly or indirectly, in any corporation, unincorporated business, Company, partnership,</p>				

	<p>trust, joint venture and Association of Persons, Society etc in the past ten years or from the beginning of cause of action, whichever is later.</p> <p>Complete details of all the subsidiary Companies, their operations and balance sheets for the past ten years or from the date of beginning of cause of action, whichever is later.</p>		
28.	<p><u>Existing charges on the assets</u></p> <p>Particulars of all existing charges on the assets including mortgage, charge, pledge on the assets.</p> <p>Whether the charges are registered, and the present status of the same.</p> <p>Whether any of the assets are subject to attachment proceedings under any Act including Prevention of Money Laundering Act, Income Tax Act, Benami Transactions (Prohibition) Act and Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act.</p>		
29.	<p><u>About disposal of properties</u></p> <p>Particulars of all properties transferred/agreed to be transferred or parted with the possession by any mode including sale, gift, relinquishment, General Power of Attorney, Special Power of Attorney, exchange, agreement, family settlement, lease, transfer of share holding/investment, etc in any company, partnership, trust, joint venture and Association of Persons, Society in the past ten years or from the date of beginning of cause of action, whichever is later; name/address of the transferee and the sale consideration received from the transferee(s)</p> <p>List of all the properties that were</p>		

	ever been in your name or in which you had any right/interest.		
30.	List of other incomes not itemized above		

DECLARATION OF INCOME

S. No	Description	On the date of the cause of action	On the date of the award/decrece	Present
31.	Income from business/profession			
32.	<p>Income from Other Sources -</p> <p>(i) Agricultural Income</p> <p>(ii) Rent</p> <p>(iii) Interest on bank deposits and FDRs</p> <p>(iv) Interest on investments including deposits, NSC, IVP, KVP, Post Office schemes, PPF, loans etc.</p> <p>(v) Dividends</p> <p>(vi) Income from machinery, plant or furniture let on hire.</p> <p>(vii) Profit on sale of movable/immovable assets.</p> <p>(viii) Any other income not covered above</p> <p><i>Note: If the business is closed/non-active, give the date of closure, assets on the date of closure, present status of the assets and if the assets have been transferred, the particulars of the transfer and consideration received.</i></p>			
33.	Annual turnover/gross receipt			
34.	Gross Profit			

35.	Income Tax			
36.	Net Income			

OTHER RELEVANT INFORMATION

37.	Whether Proprietor / Partners /Directors /Promoters / Trustee other key persons of the judgment debtor ever been arrested in the last ten years?	
38.	Whether Proprietor / Partners /Directors /Promoters/ Trustees /other key persons /of the judgment debtor ever been kept under detention in the last ten years?	
39.	Whether any Court issued bailable/non-bailable warrants for appearance of Proprietor / Partners /Directors /Promoters / Trustee /other key persons of the judgment debtor in the last ten years?	
40.	Whether Proprietor / Partners /Directors /Promoters / Trustee /other key persons of the judgment debtor ever been released on bail/anticipatory bail in the last ten years?	
41.	Whether Proprietor / Partners /Directors / Trustee /other key persons of the judgment debtor ever been prosecuted for any offence in the last ten years?	
42.	Whether Proprietor / Partners /Directors /Promoters / Trustee /other key persons of the judgment debtor ever been convicted for any offence in the last ten years?	
43.	Whether Proprietor / Partners /Directors /Promoters Trustee /other key persons of the judgment debtor have ever been declared as proclaimed offender/ proclaimed person in the last ten years?	
44.	If the answer to any of the above mentioned questions (S.No. 37- 43) is 'Yes', give full particulars of the case/ arrest/bail/detention/conviction/sentence/ punishment etc. and/or the name of the case.	
45.	Details of all litigations, disputes, claims, arbitrations FIR's, Complaints etc. pending in any Court, Tribunal, Forum, Authority, Arbitrator, etc. in which judgment	

	debtor <u>is a</u> party. Give the name of the case, name of the Court, nature of case, amount involved and the next date of hearing.	
46.	Details of all litigations, disputes, claims, arbitrations FIR's, Complaints etc. decided by any Court, Tribunal, Forum, Authority, Arbitrator, etc. in which judgment debtor <u>was a</u> party. Give the name of the case, name of the Court, value of case, amount involved and date of decision.	
47.	Particulars of the unsatisfied decrees/awards against the judgment debtor.	
48.	Details of loan/credit facility(s) taken from banks and other financial institutions in the last five years and the present status.	
49.	Name and address of the auditors and date of last audit of accounts	
50.	Do the Proprietor / Partners /Directors /Promoters/ Trustee of the judgment debtor intend to travel outside India? If yes, Give details of the visit, purpose of visit and the approximate expenditure on the visit.	

DOCUMENTS TO BE FILED ALONG WITH AFFIDAVIT

S. No.	Document	Description of Document
51.	Statement of Account of all bank accounts including current, savings and DEMAT accounts for last three years	
52.	Income Tax Return(s) along with the balance sheets, Profit & Loss Account, statement of income and Annexures of the Company/Firm/Trust for last five years.	

53.	Title deeds of the immovable properties of the Firm/Company/Trust.	
54.	Documents pertaining to any pre-existing charge on the assets, or orders pertaining to attachment of assets by authorities including but not limited under Prevention of Money Laundering Act, Income Tax Act, Benami Transactions (Prohibition) Act and Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act.	
55.	(a) Form 26AS downloaded from the website of Income Tax Department for the last five financial years.	
	(b) Wealth Tax Returns with all schedules and particulars for five years prior to abolition of Wealth tax.	
	(c) Forms 3CA/3CB and 3CD, as applicable, pursuant to Section 44AB of the Income Tax Act, 1961 filed for the last five years.	
	(d) GST/ VAT/Excise/Sales Tax registration, returns of the person in last ten years or from the date of beginning cause of action whichever is later.	
56.	Documents relating to the income from other sources including Lease Deed(s)/ Rent Agreement(s)/ License Agreement(s) in respect of the rental income; Interest Certificate in respect of the interest income; and Dividend Certificates	
57.	Title deeds of the immovable properties of the judgment debtor	
58.	Documents relating to the debt, share and other properties recoverable from the Garnishee(s).	
59.	Title documents relating to the properties transferred, alienated or parted with person or agreed	

	to be transferred between the date of the cause of action upto the date of filing of this affidavit.	
60.	Transfer documents in respect of the profit on sale of property/properties	
61.	Documents relating to the pending litigations	
62.	Documents relating to the decided litigations	
63.	Documents relating to the unsatisfied decrees/ awards	
64.	Other relevant documents relating to Income and Assets	

Declaration:

1. I/we declare that I/we have made accurate, true and complete disclosure of income and assets of the judgment debtor from all sources. I/we further declare that the judgment debtor has no assets, income or financial resources other than set out in this affidavit.
2. I/we undertake to inform this Court immediately upon any material change in the income and assets of the judgment debtor or any other information disclosed in this affidavit.
3. I/we hereby declare that the contents of this affidavit have been duly explained to me and have been understood by me.
4. The copies of the documents filed with the affidavit are the true copies of the originals and I/we have self attested the copies after comparing them with their originals.
5. I/we understand that any false statement and misrepresentation in this affidavit may constitute an offence under Section 199 read with Sections 191 and 193 of the Indian Penal Code punishable with imprisonment upto seven years and fine, and Section 209 of the Indian Penal Code punishable with imprisonment

upto two years and fine. I/we have read and understood Sections 191, 193 199 and 209 of the Indian Penal Code.

DEPONENT

Verification:

Verified at _____ on this ____ day of _____ that the contents of the above affidavit relating to the income and assets of the judgment debtor are true to my/our knowledge, no part of it is false and nothing material has been concealed therefrom.

DEPONENT



सत्यमेव जयते

ANNEXURE - C

FORMAT OF AFFIDAVIT OF EXPENDITURE

I _____, son of / wife of _____, aged about _____ years, resident of _____, do hereby solemnly affirm and declare as under:

S. No.	Monthly expenditure		Amount (in Rs.)
1.	Housing	Monthly rent	
		Mortgage payment(s)	
		Repairs & Maintenance	
		Property tax	
2.	Household expenditure	Groceries/Food/Personal care/clothing	
		Water	
		Electricity	
		Gas	
		Telephone	
		TV Cable/Set-top Box charges & Internet services	
		Maintenance, replacement and repair of household items, appliances and kitchenware items.	
		Telephone	
		Domestic full time/part time servant(s) and their wages	
		Others (specify)	
3.	Transport	(i) Car/Scooter	
		(a) Driver(s)	

		(b) Fuel	
		(c) Repair/Maintenance	
		(d) Insurance	
		(e) Loan repayment	
		(ii) Public Transport	
		(a) Bus	
		(b) Taxi	
		(c) Metro	
		(d) Auto	
4.	Expenditure on Children		
5.	Medical expenditure	Doctor	
		Medication	
		Hospital	
		Other medical expenditure	
		Others (specify)	
6.	Insurance	Life	
		Annuity	
		Householders	
7.	Entertainment and recreation	Club	
		Health Club	
		Gym	
8.	Holiday and vacations		
9.	Gifts		
10.	Pocket money/allowance		
11.	Legal/litigation expenses including expenses		

	incurred in this litigation		
12.	Discharge of Liabilities	Credit card(s) payment	
		Hire purchase/lease	
		(i) Repayment of Loans	
		(a) House loan	
		(b) Car loan	
		(c) Personal loan	
		(d) Business loan	
		(e) Any other loan	
		(ii) Name of the lenders	
		(iii) Mode of repayment	
		(iv) Installment amount	
		(v) Other liabilities	
13.	Expenditure ordinarily incurred on family functions including birthday of the children		
14.	Expenditure ordinarily incurred on festivals		
15.	Expenditure on marriage of family members		
16.	Miscellaneous	Newspapers, magazines, books	
		Religious contributions/ Charities	
		Others (specify)	
17.	Other expenditure (not specified above)		
TOTAL MONTHLY EXPENDITURE			

DOCUMENTS RELATING TO EXPENDITURE

S. No.	Document	Description of Document
1.	<ul style="list-style-type: none"> (i) Documents relating to the expenditure on education of children including tuition fees (ii) Rent and maintenance receipts (iii) Electricity, water, security and gas bills (iv) Documents relating to the salary paid to the employees including servant(s) (v) Documents relating to expenditure on conveyance (vi) Debit and Credit Card statements (vii) Frequent Flier's Card statements (viii) Mobile and landline phone bills (ix) Internet and TV cable/ Set -Top Box bills (x) Documents relating to the re-payment of the loans (xi) Receipts of premium of insurance policies (xii) Receipts of payments in respect of mutual funds (xiii) Documents relating to payment of interest on bank and other loans (xiv) Documents relating to the payment of taxes, including Income Tax and Property Tax 	
2.	Other relevant documents relating to Expenditure	

Declaration:

1. I declare that I have made accurate, true and complete disclosure of my expenditure from all sources. I further declare that I have no expenditure other than set out in this affidavit.
2. I undertake to inform this Court immediately upon any material change in my expenditure or any other information disclosed in this affidavit.
3. I hereby declare that the contents of this affidavit have been duly explained to me and have been understood by me.
4. The copies of the documents filed with the affidavit are the true copies of the originals and I have self attested the copies after comparing them with their originals.
5. I understand that any false statement and misrepresentation in this affidavit may constitute an offence under Section 199 read with Sections 191 and 193 of the Indian Penal Code punishable with imprisonment upto seven years and fine, and Section 209 of the Indian Penal Code punishable with imprisonment upto two years and fine. I have read and understood Sections 191, 193 199 and 209 of the Indian Penal Code.

DEPONENT

Verification:

Verified at _____ on this ____ day of _____ that the contents of the above affidavit relating to my expenditure are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

DEPONENT

\$~O-46 & O-47

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

+ EX.P. 275/2012 & EX.APPL.(OS) 221/2018

46 M/S BHANDARI ENGINEERS &
BUILDERS PVT LTD

..... Decree Holder

Through: Mr. S. S. Jauhar, Advocate

versus

M/S MAHARIA RAJ
JOINT VENTURE & ORS

..... Judgment Debtors

Through: Mr.Sanjay Agnihotri, Mr.Rakesh
Kumar, Mr.Vikram Singh Yadav and
Mr.Akash Kumar, Advocates for JD
No.4

Mr.Dayan Krishnan, Senior Advocate
as Amicus Curiae with Ms. Aakashi
Lodha, Mr. Sanjeevi Seshadri and
Ms.Niharika Kaul, Advocates
Mr.Sanjiv Kakra, Advocate as
Amicus Curiae with Mr.Irfan Ahmad
and Mr.Mayank Bhargava, Advocates

+ EX.P. 276/2012

47 M/S BHANDARI ENGINEERS &
BUILDERS PVT LTD

..... Decree Holder

Through: Mr. S. S. Jauhar, Advocate

versus

M/S YOU ONE MAHARIA
(JV) DELHI & ORS

..... Judgment Debtors

Through: Mr.Dayan Krishnan, Senior Advocate
as Amicus Curiae with Ms. Aakashi
Lodha, Mr. Sanjeevi Seshadri and
Ms.Niharika Kaul, Advocates
Mr.Sanjiv Kakra, Advocate as
Amicus Curiae with Mr.Irfan Ahmad
and Mr.Mayank Bhargava, Advocates

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **05.12.2019**

1. After some hearing, learned counsel for judgment debtor No.4

submits that judgment debtor No.4 is willing to pay 25% of the award amount to the decree holder but not the remaining portion. Let the said amount be paid to the decree holder.

2. Learned counsel for the decree holder submits that the judgment debtor No.4 has means and capacity to pay the amount but is not deliberately paying the same and therefore, is liable to be detained in prison. He further submits that he would be filing an appropriate application for the detention of judgment debtor No.4.

3. Learned counsel for decree holder seeks permission to serve interrogatories on judgment debtor No.4 with respect to the affidavit of assets filed by the judgment debtor. The decree holder is permitted to serve the interrogatories on judgment debtor No.4 through his counsel whereupon judgment debtor No.4 shall reply to the same on affidavit within a period of three weeks thereafter.

EX.APPL.(OS) 221/2018

4. The decree holder is seeking substitution of legal representatives of judgment debtor No.2. The application is allowed and the two legal heirs of judgment debtor No.2 mentioned in para 3 (i) and (ii) of the application are substituted in place of deceased judgment debtor No.2.

EX.P. 275/2012 & EX.P. 276/2012

5. Issue fresh notice to newly added judgment debtor No.2 (i) and (ii) by all modes including *dasti* returnable on 11th February, 2020.

6. The order dated 11th January, 2016 is modified and fresh guidelines are issued today by a separate judgment.

J.R. MIDHA, J.

DECEMBER 05, 2019
ds