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

% **Date of Decision: 5th August, 2020**

\+ EX.P. 275/2012 & EX.APPL. (OS) 193/2020

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

Through: Mr. S. S. Jauhar, Advocate

versus

M/S MAHARIA RAJ
JOINT VENTURE & ORS ..... Judgement Debtors

Through: Mr.Dayan Krishnan, Senior Advocate and Mr.Sanjiv Kakra, Advocate as Amici Curiae

\+ EX.P. 276/2012

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

Through: Mr. S. S. Jauhar, Advocate

versus

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

Through: Mr.Dayan Krishnan, Senior Advocate and Mr.Sanjiv Kakra, Advocate as Amici Curiae

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

J U D G M E N T

1. In execution proceeding, the Executing Court has to ascertain the assets and income of the judgment-debtor to determine, whether the judgment-debtor has the means to satisfy the money decree. In many developed countries, the law prescribes a comprehensive format of affidavit

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of assets, income, expenditure and liabilities to be filed by the judgment-debtor at the very threshold of execution proceedings to ascertain the financial means of judgment-debtor. However, Form 16A of Appendix E under Order XXI Rule 41(2) of the Code of Civil Procedure is not exhaustive to ascertain all the assets, income, expenditure and liabilities of the judgment-debtor.

2. Vide judgment dated 05th December, 2019, this Court, after considering the *best international practices* with respect to mandatory filing of an affidavit of assets, income, expenditure and liabilities by the judgment-debtor, formulated the formats of affidavits to be filed by the judgment-debtor at the very threshold of the execution proceedings. This Court also laid down the guidelines for expeditious hearing and disposal of execution cases.

3. Vide judgment dated 05th December, 2019, this Court sought the response and suggestions of the Courts below as well as the Delhi High Court Bar Association on the working of the aforesaid guidelines. The Trial Courts have submitted their response. Suggestions have been received from the Bar members, which have been considered by this Court.

4. This Court is of the view that the directions issued by this Court in the judgment dated 05th December, 2019 and formats of the affidavits (***Annexures A, B*** and ***C)*** formulated by this Court require modification, in order to make them more comprehensive. The judgment dated 05th December, 2019, is hereby modified. The modified directions are as under:

Modified Directions

5. Delays and difficulties in execution of decrees/awards erode public confidence and trust in the justice delivery system. Execution jurisdiction

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deserves special attention and expeditious disposal considering that the decree-holders have already succeeded in the litigation and hold a decree/award in their favour.

6. 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 still face the same problems. The Supreme Court further observed that if there is an unreasonable delay in execution of a decree, 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 aforestated judgment of the Privy Council in Kuer Jang Bahadur v. Bank of Upper India*

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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 aforestated 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)

7. Order XXI of the Code of Civil Procedure lays down the procedure for the execution of the decree. 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 an 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, after

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the awards are passed by Motor Accident Claims Tribunals in motor accident claims, the insurance companies voluntarily deposit the award amounts with the Claims Tribunal.

8. If the judgment-debtor does not voluntarily satisfy the decree/award, the decree-holder is compelled to initiate the execution proceedings. If the decree-holder is aware of the assets of the judgment-debtor, the Executing Court attaches the assets at the very threshold of the execution proceedings. The Executing Court thereafter initiates proceedings for sale of the attached assets of the judgment-debtor.

9. 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 of Appendix E under Order XXI Rule 41(2) of the Code of Civil Procedure.

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

11. In many countries namely United Kingdom, U.S.A, Canada, Australia, Singapore, Ireland, New Zealand and South Africa, the law prescribes a mandatory comprehensive format of assets, income, expenditure and liabilities to be filed by the judgment-debtor.

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

13. Justice is the ideal to be achieved by law. Justice is the goal of law.

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'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 J3 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)*

14. 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 the abuse of process of the Court in exercise of its inherent powers. The power under Section 151 of the Code of Civil Procedure is extraordinary in

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its nature and is to be exercised to do real and substantial justice, for which the Courts exist. Article 227 of the Constitution confers on this Court the power of superintendence over the subordinate Courts. 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.

15. In exercise of powers under Sections 30 and 151 and Order XXI Rule 41 of the Code of Civil Procedure read with Sections 106 and 165 of the Indian Evidence Act and Article 227 of the Constitution of India, this Court has formulated the formats of affidavit of assets, income, expenditure and liabilities to be mandatorily filed by the judgment-debtor in execution cases.

16. The modified format of affidavit of assets and income of the judgment-debtor is ***Annexure A1*** hereto. The modified format of affidavit of assets and income of a proprietorship firm/partnership firm/HUF/Company /Trust as a judgment-debtor is ***Annexure B1*** hereto. The modified format of the affidavit of expenditure of the judgment-debtor is ***Annexure C1*** hereto.

17. The aforesaid three affidavits, namely ***Annexures A1, B1*** and ***C1*** are very comprehensive and they give a complete overview of the entire assets, income, expenditure and liabilities as well as standard of living of the judgment-debtor.

Relevant Legal Provisions

18. ***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 judgment-debtor to disclose his assets on

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affidavit in Form 16A of 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***
> *(1)……*
> *(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."*

19. ***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…….. of ……..state 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 of ……..carried 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; Give particulars

(d) House property;

(e) Other property;

(f) Other securities;

9. The following debts are due to me:-

(give particulars)

(a) Form ……. of ……..

Rs.

(b) From …….of ……..

Rs……. .(etc.)

Sworn before me, etc.]

**Strike off the word which are not applicable"*

20. ***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(1) - 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."*

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(Emphasis Supplied)

21. ***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)***
> *(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."*

22. ***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 contains the provision relating to arrest and detention; Section 56 contains the provision relating to prohibition of arrest and detention of women; Section 58 contains the provision relating to duration of detention and release; Section 59 contains the provision relating to 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 contains the provision relating to warrants of arrest to the judgment-debtor; Section 57 and Order XXI Rule 39 contains the provisions relating to subsistence allowance for the judgment-debtor and Order XXI Rule 40 contains the provision relating to proceedings on appearance of the judgment-debtor.

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23. ***Attachment of Property in Execution of Decrees***

Sections 51(b), 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:

> *"**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 particulars 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*

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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 pensions;
(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, 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;

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

(kc) the interest of a 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 or 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 (I) "appropriate Government" means—

> *(i) as respects 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;*

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(ii) [* *]*

(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.

(1-A) 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."

24. ***Section 30 of the Code of Civil Procedure - Power to order discovery***

Section 30 of Code of Civil Procedure empowers the Court, either on its own or on the application of any party, to make such orders as may be for necessary for the admission of documents and facts, discovery, inspection, production, impounding and return of documents or other material objects producible as evidence; and any fact to be proved by affidavit. Section 30 of the Code of Civil Procedure reads as under:

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"Section 30 - Power to order discovery and the like

Subject to such conditions and limitations as may be prescribed, the Court may, at any time, either of its own motion or on the application of any party,—
(a) make such orders as may be necessary or reasonable in all matters relating to the delivery and answering of interrogatories, the admission of documents and facts, and the discovery, inspection, production, impounding and return of documents or other material objects producible as evidence;
(b) issue summonses to persons whose attendance is required either to give evidence or to produce documents or such other objects as aforesaid;
(c) order any fact to be proved by affidavit."

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

The assets and income of a 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 on the basis of the truth. 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

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purpose of finding 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 base its judgment on any**,** but only on relevant statements. 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 to 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."*

27. 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 considered ***Ram Chander v. State of Haryana***, (1981) 3 SCC 191,

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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.

28. ***Delhi High Court Rules for Execution of Decrees***

The 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*

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responsible for seeing that proper arrangements are made for execution work by all courts subordinate to them.

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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."

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,***

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(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. The presiding officer has 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.

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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 with 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 observations 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.

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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 further stressed that the 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.

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35. What people expect is that the Court should discharge its obligation to find out where in fact the truth lies. Right from inception of the judicial system it has been accepted that discovery, vindication and establishment of truth are the main purposes underlying the existence of the courts of justice.

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52. Truth is the foundation of justice. It must be the endeavour of all the judicial officers and judges to ascertain truth in every matter and no stone should be left unturned in achieving this object. Courts must give greater emphasis on the veracity of pleadings and documents in order to ascertain the truth."

(Emphasis Supplied)

False Claims and Defences

37. The greatest challenge before the judiciary today is the frivolous litigation. The judicial system in the country is choked with false claims and such litigants are consuming Courts' time for a wrong cause. False claims are a huge strain on the judicial system. False pleas are often taken and forged documents are filed indiscriminately in the Courts. The reluctance of the Courts to order prosecution encourages the litigants to raise false claims before the Court.

38. In ***Maria Margarida Sequeria Fernandes v. Erasmo Jack de Sequeria,*** (2012) 5 SCC 370, the Supreme Court observed that false claims and defences are serious problems. The Supreme Court held as under: -

"***False claims and false defences***

81. False claims and defences are really serious problems with real estate litigation, predominantly because of ever escalating prices of the real estate. Litigation pertaining to valuable real estate properties is dragged on by unscrupulous litigants in the hope that the other party will tire out and ultimately would settle with them by paying a huge amount. This happens

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because of the enormous delay in adjudication of cases in our Courts. If pragmatic approach is adopted, then this problem can be minimized to a large extent.

39. In ***Subrata Roy Sahara v. Union of India,*** (2014) 8 SCC 470, the Supreme Court observed that the Indian judicial system is grossly afflicted with frivolous litigation. Relevant portion of the said judgment is as under:

"191. The Indian judicial system is grossly afflicted, with frivolous litigation. Ways and means need to be evolved, to deter litigants from their compulsive obsession, towards senseless and ill-considered claims."

(Emphasis Supplied)

Consequences of Making a False Claim in Court

40. Section 209 of the Indian Penal Code provides an effective mechanism to curb the menace of frivolous litigation. Section 209 of the Indian Penal Code provides that dishonestly making a false claim in a Court is an offence punishable with punishment of imprisonment upto two years and fine. Section 209 of the Indian Penal Code is reproduced hereunder:

*"**Section 209** - **Dishonestly making false claim in Court** —*

Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine."

41. Section 209 of the Indian Penal Code, is a salutary provision enacted to preserve the sanctity of the Courts and to safeguard the administration of law by deterring the litigants from making the false claims. However, this provision has been seldom invoked by the Courts. The disastrous result of not invoking Section 209 is that the litigants indulge in false claims because of the confidence that no action will be taken.

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42. The judicial system has to protect itself from such wrongdoing by taking cognizance, directing prosecution, and punishing those found guilty. In ***H.S. Bedi v. National Highway Authority of India***, 2016 (227) DLT 129, this Court examined the scope of Section 209 of the Indian Penal Code.

Restitution

43. One major incentive for the obstruction and delay of execution proceedings by the judgment-debtors is the ability to benefit by either tiring out the decree-holders into giving up or coercing them to settle for less. This occurs because of the reluctance of the Executing Court to wield their power to order restitution.

44. Unless Courts disgorge all benefits that a party availed by obstruction or delays or non-compliance, there will always be incentive for non-compliance, and parties are ingenious enough to come up with all kinds of pleas and other tactics to achieve their end.

45. Whatever benefits a person has had or could have had by not complying with the judgment must be disgorged and paid to the decree-holder. This is the bounden duty and obligation of the Court.

46. In ***Ramrameshwari Devi v. Nirmala Devi,*** (2011) 8 SCC 249, the Supreme Court recognised the inherent power of the Court to order restitution to do real and substantive justice. Para 52 (G) of the judgment is reproduced hereunder:

> *"52. (G) The principle of restitution be fully applied in a pragmatic manner in order to do real and substantial justice."*
>
> *(Emphasis Supplied)*

47. In ***Indian Council for Enviro-Legal Action v. Union of India,*** (2011) 8 SCC 161, the Supreme Court again recognised the inherent power of the

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Court to order restitution. The Supreme Court held as under:

> *"148. The appellants must pay the amount is one thing but should they pay only that amount or something more? If the period were a few days or months it would have been different but here it is almost 14 years that have lapsed and the amount has not been paid. The questions, therefore, are really three:*
>
> *1. Can a party who does not comply with the court order be permitted to retain the benefits of his own wrong of non-compliance?*
>
> *2. Whether the successful party be not compensated by way of restitution for deprivation of its legitimate dues for more than fourteen years? and*
>
> *3. Whether the Court should not remove all incentives for not complying with the judgment of the Court?*
>
> *149. It is settled principle of law that no one can take advantage of his own wrong. Unless courts disgorge all benefits that a party availed by obstruction or delays or non-compliance, there will always be incentive for non-compliance, and parties are ingenious enough to come up with all kinds of pleas and other tactics to achieve their end because they know that in the end the benefit will remain with them.*
>
> *150. Whatever benefits a person has had or could have had by not complying with the judgment must be disgorged and paid to the judgment-creditor and not allowed to be retained by the judgment-debtor. This is the bounden duty and obligation of the court. In fact, it has to be looked at from the position of the creditor. Unless the deprivation by reason of delay is fully restituted, the creditor as a beneficiary remains a loser to the extent of the unrestituted amount."*
>
> *(Emphasis Supplied)*

48. In ***A. Shanmugam v. Ariya Kshatriya Rajakula Vamsathu Madalaya Nandhavana Paripalanai Sangam***, (2012) 6 SCC *430*, the Supreme Court again reiterated the principles relating to restitution. Relevant paras of the

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judgment are reproduced hereunder:

Restitution and Mesne Profits

34. Experience reveals that a large number of cases are filed on false claims or evasive pleas are introduced by the defendant to cause delay in the administration of justice and this can be sufficiently taken care of if the courts adopt realistic approach granting restitution.

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38. False averments of facts and untenable contentions are serious problems faced by our courts. The other problem is that litigants deliberately create confusion by introducing irrelevant and minimally relevant facts and documents. The court cannot reject such claims, defences and pleas at the first look. It may take quite some time, at times years, before the court is able to see through, discern and reach to the truth. More often than not, they appear attractive at first blush and only on a deeper examination the irrelevance and hollowness of those pleadings and documents come to light.

39. Our courts are usually short of time because of huge pendency of cases and at times the courts arrive at an erroneous conclusion because of false pleas, claims, defences and irrelevant facts. A litigant could deviate from the facts which are liable for all the conclusions. In the journey of discovering the truth, at times, this Court, at a later stage, but once discovered, it is the duty of the court to take appropriate remedial and preventive steps so that no one should derive benefits or advantages by abusing the process of law. The court must effectively discourage fraudulent and dishonest litigants.

43. On the facts of the present case, the following principles emerge:

43.1. It is the bounden duty of the court to uphold the truth and do justice.

43.2. Every litigant is expected to state truth before the law court whether it is pleadings, affidavits or evidence. Dishonest and unscrupulous litigants have no place in law courts.

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43.3. The ultimate object of the judicial proceedings is to discern the truth and do justice. It is imperative that pleadings and all other presentations before the court should be truthful.

43.4. Once the court discovers falsehood, concealment, distortion, obstruction or confusion in pleadings and documents, the court should in addition to full restitution impose appropriate costs. The court must ensure that there is no incentive for wrongdoer in the temple of justice. Truth is the foundation of justice and it has to be the common endeavour of all to uphold the truth and no one should be permitted to pollute the stream of justice.

43.5. It is the bounden obligation of the court to neutralise any unjust and/or undeserved benefit or advantage obtained by abusing the judicial process.

(Emphasis Supplied)

Imposition of Costs

49. Imposition of actual and realistic costs in appropriate cases would go a long way in controlling the tendency of filing false cases.

50. In ***Ramrameshwari Devi v. Nirmala Devi,*** (2011) 8 SCC 249, the Supreme Court held that the Courts have to take pragmatic realities into consideration and have to be realistic in imposing the costs. The relevant paragraphs of the said judgment are reproduced hereunder:-

"52.....C. Imposition of actual, realistic or proper costs and/or ordering prosecution would go a long way in controlling the tendency of introducing false pleadings and forged and fabricated documents by the litigants. Imposition of heavy costs would also control unnecessary adjournments by the parties. In appropriate cases the courts may consider ordering prosecution otherwise it may not be possible to maintain purity and sanctity of judicial proceedings.

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54. While imposing costs we have to take into consideration pragmatic realities and be realistic as to

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> *what the defendants or the respondents had to actually incur in contesting the litigation before different courts. We have to also broadly take into consideration the prevalent fee structure of the lawyers and other miscellaneous expenses which have to be incurred towards drafting and filing of the counter affidavit, miscellaneous charges towards typing, photocopying, court fee etc.*
>
> *(Emphasis Supplied)*

51. In ***Maria Margarida Sequeria Fernandes v. Erasmo Jack de Sequeria***, (2012) 5 SCC 370, the Supreme Court held that heavy costs and prosecution should be ordered in cases of false claims and defences. The relevant paragraph of the said judgment is reproduced hereunder:-

> *"82. This Court in a recent judgment in Ramrameshwari Devi (supra) aptly observed at p. 266 para 43 that unless wrongdoers are denied profit from frivolous litigation, it would be difficult to prevent it. In order to curb uncalled for and frivolous litigation, the courts have to ensure that there is no incentive or motive for uncalled for litigation. It is a matter of common experience that court's otherwise scarce time is consumed or more appropriately, wasted in a large number of uncalled for cases. In this very judgment, the Court provided that this problem can be solved or at least be minimised if exemplary cost is imposed for instituting frivolous litigation. The Court observed at pp. 267-268, para 58 that imposition of actual, realistic or proper costs and/or ordering prosecution in appropriate cases would go a long way in controlling the tendency of introducing false pleadings and forged and fabricated documents by the litigants. Imposition of heavy costs would also control unnecessary adjournments by the parties. In appropriate cases, the courts may consider ordering prosecution otherwise it may not be possible to maintain purity and sanctity of judicial proceedings."*
>
> *(Emphasis Supplied)*

52. In ***Indian Council for Enviro-Legal Action v. Union of India***, (2011)

8 SCC 161, the Supreme Court again held that the Court must adopt a pragmatic approach and in appropriate cases, realistic costs and compensation be ordered in order to discourage dishonest litigation. The relevant paragraphs of this judgment are reproduced hereunder:-

> *"191. In consonance with the principle of equity, justice and good conscience Judges should ensure that the legal process is not abused by the litigants in any manner. The court should never permit a litigant to perpetuate illegality by abusing the legal process. It is the bounden duty of the court to ensure that dishonesty and any attempt to abuse the legal process must be effectively curbed and the court must ensure that there is no wrongful, unauthorised or unjust gain for anyone by the abuse of the process of the court. One way to curb this tendency is to impose realistic costs, which the respondent or the defendant has in fact incurred in order to defend himself in the legal proceedings. The courts would be fully justified even imposing punitive costs where legal process has been abused. No one should be permitted to use the judicial process for earning undeserved gains or unjust profits. The court must effectively discourage fraudulent, unscrupulous and dishonest litigation.*
>
> *192. The court's constant endeavour must be to ensure that everyone gets just and fair treatment. The court while rendering justice must adopt a pragmatic approach and in appropriate cases realistic costs and compensation be ordered in order to discourage dishonest litigation. The object and true meaning of the concept of restitution cannot be achieved or accomplished unless the courts adopt a pragmatic approach in dealing with the cases."*
>
> *(Emphasis Supplied)*

International Best Practices

53. This Court has examined the formats of the affidavits of assets, income, expenditure and liabilities to be filed by the judgment-debtor in execution cases in United Kingdom, United States of America, Canada,

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Ireland, Australia, Singapore, New Zealand and South Africa. However, this Court has incorporated only important questions and documents to keep the format concise and precise. The Courts below are at liberty to consider the following formats used in various countries and to direct the judgment-debtor to disclose further relevant facts and documents as may be considered necessary to determine the assets, income, expenditure and liabilities of the judgment-debtor. The relevant particulars of the formats in the other Courts along with the applicable statues are as under:-

S. No	Country	Place/ Authority	Statue/ Applicable Rules	Form/Annexure /Appendix/ Affidavit	Hyper Link
1.	Australia	Supreme Court & Magistrates Court	Court Procedures Rules, 2006	Form 2.52-Statement of enforcement debtor's financial position	1. https://www.legislation.act.gov.au/View/af/2006-297/current/PDF/2006-297.PDF
2.	Australia	Magistrates Court of Western Australia	Civil Judgments Enforcement Regulations, 2005 Part 4 - Enforcement of monetary Judgments Division 2 - Means inquiry Regulation 17	Statement of financial affairs Form 38 - Statement of financial affairs Form 38A - Statement of Financial Affairs Corporation Form 38B - Affidavit of Financial Affairs	1. https://www.magistratescourt.wa.gov.au/_files/CJE_Form_38.pdf 2. https://www.magistratescourt.wa.gov.au/_files/CJE_Form_38A.pdf 3. https://www.magistratescourt.wa.gov.au/_files/CJE_Form_38B.pdf
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 04th December, 2019] Part X: Enforcement of Judgments and Orders Rule 80A. Examination of Judgment Debtor	Forms 11A - Examination of Judgment Debtor - Individual Forms 11B - Examination of Judgment Debtor - Company	1. https://epd.supremecourt.gov.sg/downloads/Appendix_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-EJDQuestionairre.doc

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					3. https://www.statecourts.gov.sg/cws/CivilCase/Documents/PD07032014-AppB-Form45-EJDQuestionairre.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

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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, 4th 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 16th 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 Judgments 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

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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

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

55. In execution proceedings, the Executing Court shall direct the judgment-debtor, at the first instance i.e. first date of filing, to file the affidavit of assets on the date of cause of action, date of the decree/award as well as on the date of the swearing of the affidavit in Form 16A of Appendix E under Order XXI Rule 41(2) of the Code of Civil Procedure within thirty days. The oral prayer/application of the decree-holder for issuance of such direction shall be sufficient compliance of Order XXI Rule 41(2) of the Code of Civil Procedure.

56. The Executing Court is empowered, at the initial stage itself, to

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

57. 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 as per law.

58. 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 the 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.

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

- ***Annexure A1*** - Affidavit of assets and income of the judgment-

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debtor;

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

60. The aforesaid affidavits are very comprehensive and are useful to determine whether the judgment-debtor has the means to satisfy the decree/award. In the aforesaid affidavits, the judgment-debtor is required to disclose his occupation and income from all sources in the last five years; particulars of immovable properties in his name as well as joint names; financial assets including all bank accounts, DEMAT accounts, safety deposit lockers; investments including FDRs, stocks, shares, insurance policies, loans, foreign investments; movable assets including motor vehicles, mobiles, computer, laptop, electronic gadgets, gold, silver and diamond jewellery etc.; intangible assets; garnishee(s)/trade receivables; corporate/business interests; disposal and parting away of properties; properties acquired by the family members, inheritance. A salaried judgment-debtor has to disclose the particulars of his employment including salary, D.A., commissions, incentives, bonus, perks, perquisites and other benefits, Income Tax, pension and retirement benefits etc. A self-employed judgment-debtor has to disclose the nature of business/profession, share in business/profession, net worth of the business, number of employees, amount of regular monthly withdrawals, Income Tax, net income, annual turnover/gross receipts, gross profits etc. The judgment-debtor is also required to disclose the income from other sources, namely, agricultural

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income, rent, interest on bank deposits and investments, dividends, profit on sale of movable/immovable assets, mutual funds, annuities etc. The judgment-debtor is also required to disclose whether he has ever been arrested or kept in detention; whether any Court has issued bailable/non-bailable warrants against him; whether he has ever been released on bail/anticipatory bail; whether he has ever been prosecuted and/or convicted; whether he has ever been declared as proclaimed offender/proclaimed person; particulars of all pending litigations, decided/disposed off litigations as well as unsatisfied decrees/awards. The judgment-debtor is further required to disclose his standard of living and lifestyle, namely, credit/debit cards, membership of clubs and other associations, loyalty programmes, social media accounts, domestic helps and their wages, mode of travel in city and outside city, category of hotels for stay, category of hospitals for medical treatment, frequency of foreign travel, frequent flyer cards, brand of mobile, wrist watch, pen, expenditure ordinarily incurred on family functions, festivals and marriage of family members, etc. ***Annexure C1*** requires the disclosure of expenditure on housing, household expenditure, maintenance of dependents, transport, medical expenditure, insurance, entertainment, holiday and vacations, litigation expenses, discharge of liabilities etc.

61. The Executing Court shall direct the judgment-debtor, at the initial stage itself, to file an affidavit of his assets and income in the format of ***Annexure A1*** 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 /Director/Promoter of a company/ Managing Trustee of a Trust, the judgment-debtor be directed to file an

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additional affidavit in respect of the assets and income of the firm/HUF /Company/Trust, as the case may be, in the format of ***Annexure B1***.

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

63. If the judgment-debtor is a Firm/Company/HUF/Trust, the Executing Court shall direct the judgment-debtor to disclose its assets and income in the format of ***Annexure B1*** within 30 days. The affidavit of the Firm/ Company/HUF/Trust shall be sworn by all Partners/Directors/ Promoters (other than independent/non-executive and nominee directors)/Members /Karta/ Trustees, as the case may be.

64. In pending execution cases, if the judgment-debtor has not already filed the affidavit of assets and income, the Executing Court shall direct the judgment-debtor to file the affidavit of his assets and income in terms of this judgment.

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

66. If any ground for lifting of the corporate veil of a judgment-debtor company is made out as per law, then all the Directors/Promoters (other than independent/non-executive and nominee directors) of the judgment-debtor Company shall be directed to disclose their personal assets and income in the format of ***Annexure A1*****.**

67. The Executing Court shall ensure that the filing of the affidavits by the judgment-debtor is not reduced to a mere ritual or formality. If the

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affidavits of the judgment-debtor are not in the prescribed format or are not accompanied with the relevant documents, the Court may take the affidavits on record and grant reasonable time to the judgment-debtor to remove the defects/deficiencies and simultaneously act on the information available in the deficient affidavit as per law.

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

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

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

71. In appropriate cases, Court may order interrogatories, discovery, inspection, production of any document and/or order any fact to be proved by affidavit under Section 30 of Code of Civil Procedure.

72. The Executing Court shall, thereafter, consider whether the oral

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examination of the judgment-debtor is necessary under Section 165 of the Indian Evidence Act. If the Executing Court consider it necessary, the Executing Court shall examine the judgment-debtor to elicit the truth. The principles relating to the scope and powers of the Court under Section 165 of the Evidence Act have been summarized in ***Ved Parkash Kharbanda v. Vimal Bindal***, (2013) 198 DLT 555, which may be referred to.

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

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

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55 to 59 and Order XXI Rules 37 to 40 of the Code of Civil Procedure for detention of the judgment-debtor.

75. In appropriate cases, the Executing Court may issue any of the following directions:- (i) Issue notice and direct the Garnishee(s) to deposit in Court the amount due to the judgment-debtor as per law; (ii) Permit the decree-holder to inspect all the assets and the records of the judgment-debtor in the presence of the Local Commissioner to be appointed by the Court; (iii) Direct the auditor of the judgment-debtor company to submit a report with respect to the affairs of the judgment-debtor company; (iv) Permit the decree-holder to serve interrogatories on the auditors of the judgment-debtor; (v) Permit the decree-holder to inspect the records of the judgment-debtor with the Income Tax and the other authorities to verify the disclosures made by the judgment-debtor; (vi) Appoint a receiver in respect of the attached properties of the judgment-debtor and (vii) In extreme cases, appoint a Chartered Accountant as a Local Commissioner to inspect all the records of the judgment-debtor and submit a report to the Court with respect to the affairs of the judgment-debtor.

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

77. Imposition of actual, realistic or proper costs and/or ordering prosecution would go a long way in controlling the tendency of introducing false claims by the judgment-debtor. The cost should be equal to the

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benefits derived by the litigants, and the harm and deprivation suffered by the rightful person so as to check the frivolous litigations and prevent the people from reaping a rich harvest of illegal acts through Court. The costs imposed by the Courts must be the real costs equal to the deprivation suffered by the rightful person and also considering how long they have compelled the other side to contest and defend the litigation in various courts. In appropriate cases, the Courts may consider ordering prosecution otherwise it may not be possible to maintain purity and sanctity of judicial proceedings.

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

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Section 340 Cr.P.C. Reference be made to ***Sanjeev Kumar Mittal v. State,*** 174 (2010) DLT 214 for principles relating to Section 340 Cr.P.C and ***H.S. Bedi v. National Highway Authority of India,*** 2016 (227) DLT 129 for principles relating to Section 209 IPC.

79. The directions contained in para 57 (vii) and (viii) of the judgment dated 05th December, 2019 with respect to the power of the Executing Court to restrain the judgment-debtor from leaving the country without permission and to impound the passport of the judgment-debtor, are for the present, recalled. However, this issue is kept pending and will be taken up for further hearing upon which appropriate orders would be passed.

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

81. The affidavits formulated by this Court namely ***Annexures A1, B1*** and ***C1*** or such of the information from the affidavits as is considered necessary, can be directed to be filed in any proceedings in which the Court considers it necessary to ascertain the financial capacity or status of a party such as proceedings under Order XXXVIII of the Code of Civil Procedure and proceedings under Section 9 of the Arbitration and Conciliation Act. The Arbitral Tribunals are also empowered to direct a party to file the aforesaid affidavits i.e. ***Annexures A1***, ***B1*** and ***C1*** or such of the information from the affidavits as is considered necessary, in the proceedings under

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Section 17 of the Arbitration and Conciliation Act to ascertain the financial capacity/status of a party.

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

83. The Courts below shall expedite the execution proceedings and shall make an endeavour to decide the execution cases within one year of institution. The Courts below shall send the list of all pending execution cases which are more than one year old, through their District Judges. The list shall contain the name of the case; date of institution; number of hearings that have taken place; whether the judgment-debtor has filed the affidavits in terms of the judgment dated 05th December, 2019 and the reasons for delay in disposal. List be prepared according to the seniority i.e. the oldest case shall be mentioned first. The Courts below shall also send a list of execution cases decided in the last one year. The District Judges shall compile the list of all its Courts and shall send them to the Registrar General of this Court by 31st December, 2020 for being placed before this Court.

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

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85. List for considering further suggestions, if any, on 06th November, 2020.

86. This Court appreciates the assistance rendered by Mr. Dayan Krishnan, Senior Advocate and Mr. Sanjiv Kakra, Advocate as amici curiae in formulating this procedure. Mr. Rajiv Nayyar, Senior Advocate; Mr. Rajiv Virmani, Senior Advocate; Mr. Jayant Mehta, Advocate; and Mr. Percival Billimoria, 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.

87. This Court is of the view that the mandatory filing of the affidavit of assets, income, expenditure and liabilities by judgment-debtor in a detailed prescribed form at the very threshold of execution litigation should be incorporated in the statutes, as in the developed countries. Let this suggestion be considered by the Central Government. Copy of this judgment along with ***Annexures A1, B1*** and ***C1*** be sent to Mr. Chetan Sharma, learned ASG for taking up the matter with Ministry of Law and Justice.

88. The modified directions and format of the affidavits (***Annexures A1, B1*** and ***C1)*** be uploaded on the website of the District Court (in .pdf format) to enable the lawyers/litigants to download the same.

89. Copy of this judgment and modified format of affidavits of assets, income and expenditure ***Annexures A1, B1*** and ***C1*** be sent to the Registrar General of this Court who shall circulate it to all the District Judges for being circulated to all the concerned courts.

90. Copy of this judgment be sent to Mr. Rahul Mehra, learned Standing Counsel for GNCTD who shall circulate it to all the SDM's dealing with

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execution cases as arrears of land revenue. The Principal Secretary (Revenue) shall ensure the compliance of these directions by all SDMs in execution cases.

91. Copy of the judgment along with ***Annexures A1, B1*** and ***C1*** be sent to the Delhi Judicial Academy to sensitize the judges about the modified directions laid down by this Court.

92. National Judicial Academy is reporting the best practices of the High Courts on their website (www.nja.nic.in) under the head of Practices & Initiatives of various High Courts. Copy of this judgment along with ***Annexures A1, B1*** and ***C1*** be sent to National Judicial Academy.

J.R. MIDHA, J.

AUGUST 5, 2020
ds/dk/ak

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ANNEXURE A1

FORMAT OF AFFIDAVIT OF ASSETS AND INCOME OF THE JUDGMENT-DEBTOR*

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

S. No.	Description	Particulars
1.	**Whether you have means to satisfy the award/ decree/order? If yes, please give the proposed Schedule of payment:**	
2.	Name	
3.	Age	
4.	Educational Qualifications	
5.	Professional Qualifications	
6.	Occupation	
7.	Monthly income from all sources including employment, business, vocation, interest, investment, income from properties, assets etc.	
8.	Current source of income as well as sources of the income in the last five years	
9.	Whether you are assessed to Income tax?	
10.	Marital Status	
11.	Complete details of the immediate family	

*_Note 1_ - ***If the judgment-debtor is a proprietor/partner of a Firm/member of HUF/ Director or Promoter in a company/member of trust/society, an additional affidavit in respect of the assets and income of the Firm/HUF/Company/Trust shall be filed by the judgment-debtor in the format of Annexure B1.***

Note 2 - ***All the documents attached to this affidavit have to be self-attested by the deponent.***

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	members (Name, age, relation, occupation, income, residence and office addresses in last ten years)	
12.	Addresses: (i) Present Residential Address (ii) Permanent Residential Address (iii) Present Office address (iv) E-mail (v) Mobile No.(s) (vi) Landline Phone No.(s) Residence:- Office:- (vii) Passport No. (viii) Aadhaar Card No. (ix) PAN Card No.	

STATEMENT OF ASSETS

S.No.	Assets	List of Assets			
		On the date of the cause of action	**On the date of the decree/ award**	**Present**	**Present Estimated Market Value**
13.	(i) ***Immovable properties*** 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. in the name of judgment-debtor or in joint names with the judgment-debtor				

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	(ii) ***Possession*** Whether the possession of the above properties is with the judgment-debtor? If no, give status of the possession (iii) ***Title documents*** Whether the title documents of the above properties are with the judgment-debtor? If no, give status of the possession of the title documents (iv) ***Litigation*** Whether any litigation is pending in respect of the above properties. If so, give particulars				

14.	***Financial Assets/Debts*** (i) Particulars of all bank accounts including Current and Savings Accounts in the name of judgment-debtor or in joint names with judgment-debtor held in the last ten years *Note : 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. CFM C. BC. No.1/23.04.001 /2016-17), give particulars of such bank accounts.*	**S.No.**	**Account Number**	**Name of Bank**	**Current Balance**
		1.			
		2.			
		3.			
		4.			
		5.			
		6.			
		7.			

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		Details	**Current Value of Shares**
	(ii) Particulars of DEMAT accounts held by judgment-debtor in last ten years		
	(iii) Cash in hand		
	(iv) Particulars of the safety deposit lockers in the name of the judgment-debtor or in joint names with the judgment-debtor		
	(v) Particulars of the debts/ liabilities of the judgment-debtor		
	(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		

15.	***Investments***	**Particulars**	**Current Value**
	(i) FDR(s), NSC, IVP, KVP, Post Office schemes etc. (ii) Deposits with Government and Non-Government entities (iii) Stocks, shares, debentures, bonds, units and mutual funds, etc. (iv) Insurance policies and their surrender value (v) Loan given to friends, relatives and others (vi) Details of the foreign investments made including those made in last ten years		

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	or from the date of beginning of cause of action, whichever is later (vii) Other investments not covered by above items		
16.	***Movable Assets*** (i) Motor Vehicles (List of cars, motorcycles, scooters etc. along with their brand and registration number) (ii) Livestock (iii) Plant & Equipments (iv) Mobile phone(s) (v) Computer/Laptop (vi) Other electronic gadgets including I-pad etc. (vii) TV, Fridge, Air Conditioner, Microwave, Washing machine etc. (viii) Other household appliances (ix) Quantity of gold, silver and diamond jewellery (x) Quantity of silver utensils (xi) List anything else of value that the judgment-debtor owns, including precious metals, collections, works of art, jewellery or household items of which the cost of acquisition is more than Rs.25,000/- each	**Particulars**	**Cost of Acquisition**
17.	***Intangible assets*** Intangible assets including patents, trademark, copyright, design, goodwill and their value		
18.	***Garnishee(s)/Trade receivables*** (i) Name(s) and addresses of Garnishee(s) and the particulars of		

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	the debt, share and other properties recoverable from the Garnishee(s) with complete details of the transactions (ii) Trade receivables along with name, address and amount due from each Garnishee(s)		
19.	***Corporate/Business Interests*** Particulars of the interest/ position/ association of the judgment-debtor, 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 date of beginning of cause of action, whichever is later		
20.	***Disposal and parting away of properties*** (i) 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 shareholding/investment etc. 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 consideration received from the transferee(s) (ii) Partition/severance of status/ change of status of your assets and/or business entities such as partnership/HUF or MOUs/ agreements etc.		

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21.	***Properties acquired by the family members of the judgment-debtors*** (i) Particulars of the properties (movable/ immovable) acquired by immediate family members of judgment-debtor in the last ten years or from the date of beginning of the cause of action, whichever is later (ii) Whether the judgment-debtor contributed any amount in the above acquisition. If so, give particulars of contribution (iii) Details of the funds transferred by the judgment-debtor in the name of immediate family members in the last ten years or from the date of beginning of the cause of action, whichever is later (iv) Details and particulars of shares purchased/investments made by the judgment-debtor in the name of immediate family members in the last ten years or from the date of beginning of the cause of action whichever is later		
22.	***Inheritance*** Particulars of the estate in which the judgment-debtor is a beneficiary of inheritance along with market value of the property inherited		
23.	***Existing charges on the assets*** (i) Particulars of all existing charges on the assets including mortgage, charge, pledge on the assets		

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	(ii) Whether the charges are registered, and the present status of the same (iii) Whether any of the assets are subject to attachment proceedings under any Act including Prevention of Money Laundering Act, 2002; Income Tax Act, 1961; Benami Transactions (Prohibition) Act, 1988 and Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015		
24.	List of other assets not itemized above		

STATEMENT OF INCOME

S. No	Description	On the date of the cause of action	On the date of the decree/award	Present
25.	***If the judgment-debtor is a salaried person:*** (i) Designation (ii) Name and address of the employer (iii) Date of appointment (iv) Gross Income including the salary, D.A., commissions/ incentives, bonus, perks etc. (v) Perquisites and other benefits provided by the employer including accommodation, cars/other automotive, landline, mobile, laptop, health insurance, sweeper, gardener, watchman or personal attendant, cooking gas, electricity, water,			

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	interest free or concessional loans, holiday expenses, free or concessional travel, free meals, free education, gifts, vouchers credit card expenses, club expenses, value of any other benefits/perquisites/amenities /services/privileges etc. (vi) Deductions from the gross income (vii) Income tax (viii) Net income (ix) Value of stock option benefits, if provided by the employer (x) Pension and retirement benefits payable at the time of retirement *Note:- If unemployed, give particulars of last employment; length of last employment; period of last employment; name and address of last employer; last drawn monthly salary, perquisites and other benefits provided by the employer and last drawn annual salary*			
26.	***<u>If the judgment-debtor is self-employed:</u>*** (i) Nature of business/ profession (ii) Whether the business/ profession is carried on as an individual, sole proprietorship concern, partnership concern, company or association of persons, HUF, joint family business or any other form. (iii) Give particulars of your share in the business/			

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	profession (iv) Amount of regular monthly withdrawal or drawings from the business (v) Whether you are a director or had been a director of a company in last five years? If so, give particulars (vi) Details of all firms and other business entities in which you have/had interest in the last five years (vii) Whether you have taken any loan/credit facility(s) from banks and other financial institutions in last five years? If so, give particulars (viii) Whether your accounts are audited (ix) Name and address of the auditors and date of last audit of accounts (x) Whether you are subject to audit under Section 44AB of the Income Tax Act, 1961 (xi) Whether you filed a Wealth Tax Return under the Wealth Tax Act, 1957 prior to abolition of Wealth Tax *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.*			
27.	***In case of a self-employed person /proprietorship firm:*** (i) Office address and the branch offices, if any, (ii) Net worth of the business (iii) Number of employees			

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	(iv) Annual turnover/ gross receipts (v) Gross Profit (vi) Income Tax (vii) Net Income (viii) Amount of regular monthly withdrawal or drawings from the business (ix) Value of your business interest(s) (x) Value of your business assets (xi) Location of your business assets (xii) Location of the statutory records and books of account of the business (xiii) Details and value of benefits in kind, perks or other remuneration received from the business e.g. provision of car, payment of accommodation etc.			
28.	***<u>In case of a Company, partnership, HUF, joint family business or any other form</u>*** (i) Details of registration and incorporation (ii) Registered Office and the branch offices, if any, of the judgment-debtor including all addresses from the date of beginning of cause of action till the date of filing of the present affidavit (iii) Details of shareholding of the partners, directors, promoters and their family members (iv) Details of all subsidiary Companies and sister concerns (v) Net worth of the Company			

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	/firm /HUF (vi) Number of employees (vii) Annual turnover/gross receipts (viii) Gross Profit (ix) Income Tax (x) Net Income (xi) Amount of regular monthly withdrawal or drawings from the business (xii) Value of your business interest(s) (xiii) Value of your business assets (xiv) Location of your business assets (xv) Location of the statutory records and books of account of the firm (xvi) Details and value of benefits in kind, perks or other remuneration received from the business e.g. provision of car, payment of accommodation etc. (xvii) Whether any partner/ Director/ member has taken loan/ overdrawn/ taken credit? If so, give particulars (xviii) Has the company/firm transferred any assets to any Director/ partner? If so, give particulars			
29.	***Income from other sources*** (i) Agricultural Income (ii) Rent (iii) Interest on bank deposits and FDRs (iv) Interest on investments including deposits, NSC, IVP, KVP, Post Office schemes, PPF, loans etc.			

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	(v) Dividends (vi) Income from machinery, plant or furniture let on hire (vii) Gifts (viii) Profit on sale of movable/ immovable assets (ix) Mutual Funds (x) Annuities (xi) Any other source of income not covered above *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*			
30.	Any other income not covered above			
TOTAL INCOME		**Annual**	Rs.	
		Monthly	Rs.	

PERSONAL INFORMATION OF THE JUDGMENT-DEBTOR

31.	Have you ever been arrested?	
32.	Have you ever been kept under detention?	
33.	Has any Court issued bailable/non-bailable warrants against you?	
34.	Have you ever been released on bail/anticipatory bail?	
35.	Have you ever been prosecuted for any offence?	
36.	Have you ever been convicted for any offence?	
37.	Have you ever been declared as proclaimed	

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<table>
<tr><td></td><td>offender/proclaimed person by any Court?</td><td colspan="3"></td></tr>
<tr><td>38.</td><td>If the answer to any of the above-mentioned questions is ‘Yes’, give full particulars of the case/arrest/bail/detention/ conviction/sentence/ punishment etc.</td><td colspan="3"></td></tr>
<tr><td>39.</td><td>Particulars of all pending litigations, disputes, claims, arbitrations, FIR, Complaints etc. pending in any Court, Tribunal, Forum, Authority, in which you are a party

Give the name of the case, name of the Court, nature of case, amount involved and the next date of hearing</td><td colspan="3"></td></tr>
<tr><td>40.</td><td>Particulars of all decided/disposed of litigations, disputes, claims, arbitrations, FIR, Complaints etc. decided in any Court, Tribunal, Forum, Authority, in which you were party

Give the name of the case, name of the Court, nature of case, amount involved and date of decision</td><td colspan="3"></td></tr>
<tr><td>41.</td><td>Particulars of all the unsatisfied decrees/awards</td><td colspan="3"></td></tr>
<tr><td>42.</td><td colspan="4">Particulars of place of residence where you have resided during the preceding five years
<table><tr><td colspan="2">Period</td><td rowspan="2">Address in full with Police Station & Distt. along with area (in sq. ft.) of the residential accommodation</td><td rowspan="2">Whether owner/tenant? If rented, the amount of rent?</td></tr><tr><td>From</td><td>To</td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr></table></td></tr>
</table>

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43.	Particulars of credit/debit cards, its limit and usage	
44.	Membership of clubs/health clubs/gyms, societies and other associations. Specify the membership fee and subscription	
45.	Particulars of loyalty programmes of airlines, hotels, retail chains and other merchants, to which you have subscribed, with membership numbers of each such programme	
46.	Particulars of your social media accounts, e.g., Facebook, Twitter, LinkedIn, Instagram, etc.	
47.	Number of part-time/full-time domestic helps and their wages	
48.	Mode of travel in city/outside city	
49.	Category of hotels ordinarily used for stay, official as well as personal	
50.	Category of hospitals opted for medical treatment including type of rooms	
51.	Frequency of foreign travel, business as well as personal	
52.	Particulars of the countries visited till date?	
53.	Do you intend to travel outside India? If yes, Give details of the visit, purpose of visit and the approximate expenditure on the visit	
54.	Particulars of frequent flyer cards	

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55.	Brand of mobile, wrist watch, pen, sunglasses, wallet, bags	
56.	Name of school(s) where the child or children are studying or have studied	
57.	Status of the judgment-debtor/family:	☐ Below poverty line ☐ Low ☐ Lower Middle ☐ Middle ☐ Upper Middle ☐ High ☐ Rich and Affluent

DOCUMENTS

S. No.	Document	Description of Document
58.	Aadhaar Card	
59.	Voter ID Card	
60.	Ration Card	
61.	PAN Card	
62.	Passport	
63.	Driving Licence	
64.	CIR/CIBIL Score	

Description		Please Tick		
		Attached	NA	To follow
65.	Statement of Account of all bank accounts including current, savings and DEMAT accounts of the judgment-debtor for last three years			
66.	***In case of salaried persons*** (i) Income Tax Return(s) along with the balance sheets, statement of income and Annexures for last five years (ii) Appointment Letter along with salary structure at time			

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	of appointment (iii) Salary slip (iv) Forms 16, 16A & 12BA (v) Cost to Company Certificate (vi) Copies of TDS certificates			
67.	***<u>In case of self-employed persons</u>*** (i) If the judgment-debtor carries on business in the name of a sole proprietorship concern - Income Tax Return(s) along with the balance sheets, Profit & Loss Account, statement of income and Annexures of the proprietorship firm for last five years (ii) If the judgment-debtor is a partner in a firm - Income Tax Return(s) along with the balance sheets, Profit & Loss Account, statement of income and Annexures of the partnership 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 (iii) If the judgment-debtor is a Director of the Company - Income Tax Return(s) along with the balance sheets, Profit & Loss Account, statement of income and Annexures of the Company for last five years (iv) If the judgment-debtor has a share in Association of Persons, HUF, Joint Family business or Trust - 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 for last five years (v) Account of the judgment-debtor in the books of the business (vi) GST/ VAT/ Excise/ Sales Tax registration, returns in last five years (vii) TDS certificates			
68.	***<u>In case of Income from other sources</u>:*** (i) Lease Deed(s)/ Rent Agreement(s)/ License Agreement(s) in respect of the rental income			

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	(ii) Interest Certificate in respect of the interest income on deposits and investments (iii) Dividend Certificates			
69.	Title deeds of the immovable properties of the judgment-debtor			
70.	Documents relating to the debt, shares and other properties of the judgment-debtor recoverable from the Garnishee(s)			
71.	Documents relating to the properties transferred, alienated or parted with or agreed to be transferred between the date of beginning of cause of action upto the date of filing of this affidavit			
72.	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, 2002; Income Tax Act, 1961; Benami Transactions (Prohibition) Act, 1988; and Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.			
73.	Form 26AS downloaded from the website of Income Tax Department for the last five financial years			
74.	Wealth Tax Returns with all schedules and particulars for five years prior to abolition of Wealth tax			
75.	Forms 3CA/3CB and 3CD, as applicable, pursuant to Section 44AB of the Income Tax Act, 1961 filed for the last five years			
76.	Documents relating to arrest/ detention/ warrants/ bails/ prosecutions/ convictions/ declarations of being proclaimed offender/person			
77.	Documents relating to the pending litigations including FIR in which the judgment-debtor was or is involved			
78.	Documents relating to the decided litigations			
79.	Documents relating to the unsatisfied decrees/awards			
80.	Other relevant documents relating to assets and income			

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BAIJNATH SAH KARKI
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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 those 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, 1860 punishable with imprisonment upto seven years and fine, and Section 209 of the Indian Penal Code, 1860 punishable with imprisonment upto two years and fine. I have read and understood Sections 191, 193, 199 and 209 of the Indian Penal Code, 1860.

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. I further verify that the copies of the documents filed along with the affidavit are true copies of the originals.

DEPONENT

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BAIJAYANDER SINGH
KARKI
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ANNEXURE B1

FORMAT OF AFFIDAVIT OF ASSETS AND INCOME OF THE JUDGMENT-DEBTOR*

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

S. No.	Description	Particulars
1.	**Whether judgment-debtor has the means to satisfy the award/ decree/order? If yes, please give the proposed Schedule of payment:**	
2.	Details of registration and incorporation	
3.	Current address of registered office and the addresses of registered offices in the last ten years	
4.	Particulars of shareholding of the judgment-debtor and inter-se relationship of shareholders	
5.	Particulars of the Partners/Directors/Promoters and other key managerial staff with 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	
6.	Name and addresses of the Partners/Directors/ Promoters on the date of the incorporation	

*__Note 1__ - **If the judgment debtor is a company, this affidavit has to be executed by all Directors/Promoters (other than independent/ non-executive/ nominee directors); If the judgment debtor is a partnership firm, this affidavit has to be executed by all its partners; If the judgment debtor is a proprietorship firm, this affidavit has to be executed, by its proprietor and in case of a trust, by its Managing Trustee.***

Note 2 - All the documents attached to this affidavit have to be self-attested by the deponent.

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7.	Name and addresses of the Partners/Directors/ Promoters on the date of the beginning of the cause of action	
8.	Name and addresses of the Partners/Directors/ Promoters on the date of the decree/ award was passed	
9.	Name and addresses of the Partners/Directors/ Promoters on date of the affidavit	
10.	Name and addresses of the nominee and official directors	
11.	Particulars of all related parties including subsidiary companies, sister concerns, agencies, distributors etc.	
12.	Net worth of the Business/Firm/Company	
13.	Number of employees	
14.	Location of the statutory records and books of account of the judgment-debtor	
15.	Location of the business assets of the judgment-debtor	
16.	Amount of regular monthly withdrawals or drawings by each of Directors/Promoters/Partners /Proprietor/ Trustee	
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.	Have any Directors/Promoters/Partners /Proprietor/ Trustee taken loan/overdrawn/credit from the judgment-debtor? If so, give particulars	
19.	Has the judgment-debtor transferred any assets to any Directors /Promoters /Partners /Proprietor/ Trustee? If so, give particulars	

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20.	Particulars of the benefits received by any Directors/Promoters/Partners/Proprietor/Trustee from the judgment-debtor other than by way of salary. e.g. provision of car, payment of accommodation etc.	

STATEMENT 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 decree /award	Present	
21.	(i) ***Immovable properties*** 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. of the judgment-debtor (ii) ***Possession*** Whether the possession of the above properties is with the judgment-debtor? If no, give status of the possession (iii) ***Title documents*** Whether the title documents of the above properties are with the judgment-debtor? If no, give status of the possession of the title documents (iv) ***Litigation*** Whether any litigation is pending in respect of the above properties. If so, give particulars				

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<table>
<tr><td rowspan="10">22.</td><td rowspan="9"><u>Financial Assets/Debts</u>:

(i) Particulars of all bank accounts including Current and Savings Accounts in judgment-debtors' name or joint names with the judgment-debtor held in the last ten years

<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) 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.</td><td>S.No.</td><td>Account Number</td><td>Name of Bank</td><td>Current Balance</td></tr>
<tr><td>1.</td><td></td><td></td><td></td></tr>
<tr><td>2.</td><td></td><td></td><td></td></tr>
<tr><td>3.</td><td></td><td></td><td></td></tr>
<tr><td>4.</td><td></td><td></td><td></td></tr>
<tr><td>5.</td><td></td><td></td><td></td></tr>
<tr><td>6.</td><td></td><td></td><td></td></tr>
<tr><td>7.</td><td></td><td></td><td></td></tr>
<tr><td>8.</td><td></td><td></td><td></td></tr>
<tr><td>(ii) Particulars of DEMAT accounts held by judgment-debtor in last ten years</td><td colspan="2">Details</td><td>Current Value of Shares</td></tr>
<tr><td></td><td colspan="2"></td><td></td></tr>
<tr><td>(iii) Cash in hand</td><td colspan="3"></td></tr>
<tr><td>(iv) Particulars of the safety deposit of lockers in the name of the judgment-debtor or in joint names with the judgment-debtor</td><td colspan="3"></td></tr>
<tr><td></td><td>(v) Particulars of the debts/ liabilities of the judgment-debtor</td><td colspan="3"></td></tr>
<tr><td></td><td>(vi) Particulars of the overdraft facility along with name and address of the bank, branch, account No., type and</td><td colspan="3"></td></tr>
</table>

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	particulars of the security given to secure the overdraft		
23.	***Investments*** (i) FDR(s), NSC, IVP, KVP, Post Office schemes, Provident Fund(s) etc. (ii) Deposits with Government and Non-Government entities (iii) Stocks, shares, debentures, bonds, units and mutual funds, etc. (iv) Insurance policies (v) Loan given (vi) Details of the foreign investments made including those made in last ten years or from the date of beginning of cause of action, whichever is later (vii) Other investments not covered by above items	**Particulars**	**Current Value**
24.	***Movable Assets*** (i) Motor Vehicles (List of cars, motorcycles, scooters etc. along with their brand and registration number) (ii) Livestock (iii) Plant & Equipments (iv) Mobile phone(s) (v) Computer/Laptop (vi) Other electronic gadgets including I-pad etc. (vii) TV, Fridge, Air Conditioner, etc. (viii) Any other movable assets having cost of acquisition of more than Rs.25,000/- each	**Particulars**	**Cost of Acquisition**

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25.	***Intangible assets*** Intangible assets including patents, trademark, copyright, design, goodwill and their value		
26.	***Garnishee(s)/Trade receivables*** (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 (ii) Trade receivables along with name, address and amount due from each Garnishee(s)		
27.	***Corporate/Business Interests*** (i) Particulars of the interest/ position/ association of the judgment-debtor, directly or indirectly, in any corporation, unincorporated business, Company, partnership, trust, joint venture and Association of Persons, Society etc. in the past ten years or from the date of beginning of cause of action, whichever is later (ii) 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		
28.	***About disposal of properties*** (i) Particulars of properties transferred/agreed to be transferred or parted with the possession by		

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	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 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) (ii) List of properties that have ever been in judgment-debtors' name or in which judgment-debtor had any right/ interest		
29.	***Existing charges on the assets*** (i) Particulars of existing charges on the assets of the judgment-debtor including mortgage, charge, pledge on the assets (ii) Whether the charges are registered, and the present status of the same (iii) Whether any of the assets are subject to attachment proceedings under any Act including Prevention of Money Laundering Act, 2002; Income Tax Act, 1961; Benami Transactions (Prohibition) Act,1988 and Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015		
30.	***List of other assets not itemized above***		

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STATEMENT OF INCOME

S. No	Description	On the date of the cause of action	On the date of the award/decree	Present
31.	***Income from business/profession*** (i) Annual turnover / gross receipts (ii) Gross Profit (iii) Income Tax (iv) Net Income *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*			
32.	***Income from Other Sources*** (i) Agricultural Income (ii) Rent (iii) Interest on bank deposits and FDRs (iv) Interest on investments including deposits, NSC, IVP, KVP, Post Office schemes, PPF, loans etc. (v) Dividends (vi) Income from machinery, plant or furniture let on hire (vii) Profit on sale of movable/ immovable assets (viii) Any other sources of income not covered above *Note: - If the judgment-debtor is*			

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	expecting to receive a lump sum payment in the future, give further details including the amount and expected date of receipt of the payment			
33.	***Any other income not covered above***			

OTHER RELEVANT INFORMATION

34.	Whether the Proprietor / Partners /Directors /Promoters / Trustees/ other key persons of the judgment-debtor have ever been arrested?	
35.	Whether the Directors/Promoters/Partners/Proprietor/ Trustees/ other key persons of the judgment-debtor have ever been kept under detention?	
36.	Whether any Court issued bailable/non-bailable warrants for appearance of Directors/Promoters/Partners/Proprietor/ Trustees/ other key persons of the judgment-debtor?	
37.	Whether the Directors/Promoters/Partners/Proprietor/ Trustees/ other key persons of the judgment-debtor have ever sought bail/anticipatory bail?	
38.	Whether the Directors/Promoters/Partners/Proprietor/ Trustees/ other key persons of the judgment-debtor have ever been prosecuted for any offence?	
39.	Whether the Directors/Promoters/Partners/Proprietor/ Trustees/ other key persons of the judgment-debtor have ever been convicted for any offence?	
40.	Whether the Directors/Promoters/Partners/Proprietor/ Trustees/ other key persons of the judgment-debtor have ever been declared as proclaimed offender/ proclaimed person?	
41.	If the answer to any of the above-mentioned questions is	

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	'Yes', give full particulars of the case/ arrest/bail/detention/conviction/sentence/ punishment etc. and/or the details of the case	
42.	Details of all litigations, disputes, claims, arbitrations FIR's, Complaints etc. pending in any Court, Tribunal, Forum, Authority, Arbitrator, etc. in which judgment-debtor is a party Give the details of the case, name of the Court, nature of case, amount involved and the next date of hearing	
43.	Details of all litigations, disputes, claims, arbitrations FIR's, Complaints etc. decided by any Court, Tribunal, Forum, Authority, Arbitrator, etc. in which judgment-debtor was a party Give the details of the case, name of the Court, value of case, amount involved and date of decision	
44.	Particulars of the unsatisfied decrees/awards against the judgment-debtor	
45.	Details of loan/credit facility(s) taken from banks and other financial institutions in the last five years and the present status	
46.	Details of the charitable institutions or other bodies in which judgment-debtor made donations, gifts, grants, etc. in last ten years or from the date of beginning of cause of action, whichever is later	
47.	Name and address of the auditors and date of last audit of accounts	
48.	Whether 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	

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DOCUMENTS

S. No.	Document	Description of Document
49.	Aadhaar Card	
50.	Voter ID Card	
51.	Ration Card	
52.	PAN Card	
53.	Passport	
54.	Driving Licence	
55.	CIR/CIBIL Score	

Description		Please Tick		
		Attached	NA	To follow
56.	Statement of Account of all bank accounts including current, savings and DEMAT accounts of the judgment-debtor for last three years			
57.	(i) If the judgment-debtor is a sole proprietorship concern - Income Tax Return(s) along with the balance sheets, Profit & Loss Account, statement of income and Annexures of the proprietorship firm for last five years (ii) If the judgment-debtor is a partnership firm - Income Tax Return(s) along with the balance sheets, Profit & Loss Account, statement of income and Annexures of the partnership 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 (iii) If the judgment-debtor is a Company - Income Tax Return(s) along with the balance sheets, Profit & Loss Account, statement of income and Annexures of the Company for last five years (iv) If the judgment-debtor in an Association of Persons, HUF, Joint Family business or Trust - Income Tax			

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	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 for last five years (v) GST/ VAT/ Excise/ Sales Tax registration, returns in last five years (vi) TDS certificates			
58.	***In case of Income from other sources:*** (i) Lease Deed(s)/ Rent Agreement(s)/ License Agreement(s) in respect of the rental income (ii) Interest Certificate in respect of the interest income on deposits and investments (iii) Dividend Certificates			
59.	Title deeds of the immovable properties of the judgment-debtor			
60.	Documents relating to the debt, shares and other properties of the judgment-debtor recoverable from the Garnishee(s)			
61.	Documents relating to the properties transferred, alienated or parted with person or agreed to be transferred by the judgment-debtor			
62.	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, 2002; Income Tax Act, 1961; Benami Transactions (Prohibition) Act, 1988; and Black Money (Undisclosed Foreign Income and Assets)and Imposition of Tax Act, 2015			
63.	Form 26AS downloaded from the website of Income Tax Department for the last five financial years			
64.	Forms 3CA/3CB and 3CD, as applicable, pursuant to Section 44AB of the Income Tax Act, 1961 filed for the last five years			

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65.	Documents relating to arrest/ detention/ warrants/ bails/ prosecutions/ convictions/ declarations of being proclaimed offender/person			
66.	Documents relating to the pending litigations including FIR in which the judgment-debtor was or is involved			
67.	Documents relating to the decided litigations			
68.	Documents relating to the unsatisfied decrees/awards			
69.	Other relevant documents relating to assets and income			

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 those 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, 1860 punishable with imprisonment upto seven years and fine, and Section 209 of the Indian Penal Code, 1860 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, 1860.

DEPONENT

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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. I/we further verify that the copies of the documents filed along with the affidavit are true copies of the originals.

DEPONENT

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KARKI
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ANNEXURE C1

FORMAT OF AFFIDAVIT OF EXPENDITURE*

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

STATEMENT OF EXPENDITURE

S. No.	Description		Amount (in Rs.) Per Month
1.	***Housing***	(i) Monthly rent	
		(ii) Mortgage payment(s)	
		(iii) Repairs & Maintenance	
		(iv) Property tax	
2.	***Household Expenditure***	(i) Groceries/Food/Personal care/clothing	
		(ii) Water	
		(iii) Electricity	
		(iv) Cooking Gas	
		(v) Telephone	
		(vi) TV Cable/Set-top Box & Internet services	
		(vii) Domestic full time/part time helper(s)	
		(viii) Others (specify)	
3.	***Maintenance of Dependents***	(i) Parents	

* ***Note 1 - All the documents attached to this affidavit have to be self-attested by the deponent.***

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		(ii) Children	
		(iii) Others	
4.	***Transport***	(i) Personal Vehicle(s) along with the details	
		(a) Driver(s)	
		(b) Fuel	
		(c) Repair/Maintenance	
		(d) Insurance	
		(ii) Public Transport	
		(a) Bus	
		(b) Taxi	
		(c) Metro	
		(d) Auto	
5.	***Medical Expenditure***	(i) Doctor	
		(ii) Medication	
		(iii) Hospital	
		(iv) Others (specify)	
6.	***Insurance***	(i) Life	
		(ii) Annuity	
		(iii) Householders	
		(iv) Medi-claim	
7.	***Entertainment & Recreation***	(i) Club	
		(ii) Health Club	
		(iii) Gym	

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8.	***Holiday & Vacations***		
9.	***Legal/litigation Expenses***		
10.	***Discharge of Liabilities***	(i) Credit card(s) payment	
		(ii) Hire purchase/lease	
		(iii) Repayment of Loans	
		(a) House loan	
		(b) Car loan	
		(c) Personal loan	
		(d) Business loan	
		(e) Any other loan	
		(iv) Name of the lenders	
		(v) Mode of repayment	
		(vi) Instalment amount	
		(vii) Other liabilities	
11.	***Miscellaneous***	(i) Newspapers, magazines, books	
		(ii) Religious contributions/ Charities	
		(iii) Donations, gift and grants	
12.	***Pocket Money/Allowance***		
13.	***Other Expenditure*** (*Not specified above)*		
Total Expenditure		**Monthly**	Rs.
		Annual	Rs.

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DOCUMENTS

S. No.	Documents	Please Tick		
		Attached	NA	To follow
14.	***Documents relating to expenditure on :***			
	(i) Housing including Rent and maintenance receipts			
	(ii) Household expenditure including electricity, water, security, cooking gas bills, mobile and landline phone bills, internet services bills, TV cable/ Set-Top Box bills, salary paid to the employees including domestic help(s)			
	(iii) Maintenance of dependents			
	(iv) Education of children including tuition fees			
	(v) Conveyance & transport including salary of driver(s)			
	(vi) Medical expenditure			
	(vii) Insurance policies along with receipts of premium of insurance policies			
	(viii) Entertainment and recreation including expenditure on health clubs, gym.			
	(ix) Holidays and vacations			
	(x) Debit and Credit Card statements of all cards			
	(xi) Repayment of the loans			
	(xii) Frequent Flier's Card statements			
	(xiii) PPF, EPF and other superannuation fund receipts			
	(xiv) Receipts of payments in respect of mutual funds			
	(xv) Payment of interest on bank and other loans			
	(xvi) Payment of taxes, including Income Tax and Property Tax			
	(xvii) Other relevant documents relating to expenditure			

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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 those 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, 1860 punishable with imprisonment upto seven years and fine, and Section 209 of the Indian Penal Code, 1860 punishable with imprisonment upto two years and fine. I have read and understood Sections 191, 193, 199 and 209 of the Indian Penal Code, 1860.

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. I further verify that the copies of the documents filed along with the affidavit are true copies of the originals.

DEPONENT

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By:RAJENDER SINGH KARKI
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