RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGMENTS IN INDIA: AN IN-DEPTH UNDERSTANDING OF FOREIGN JUDGMENTS

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ABSTRACT

This research paper delves deep to explore the Recognition and enforcement of foreign judgements in India, having more focus towards the concept of *Reciprocity* enshrined in the Section 44A of Code of Civil Procedure, 1908. This paper through a descriptive and explanatory approach, using the Secondary data collection method, this paper attempts to seek answer to these crucial questions: (a) How does the enforcement concerning foreign judgements take place in India? (b) Do all foreign judgements valid in India? (c) Examining the concept of reciprocity with its legal effects?

The final findings of the paper concludes that even after Indian legislative framework is very straightforward yet the practical enforcement involves complex legal interpretation and procedural diligence. The recent judicial reforms and increased involvement of India in international legal cooperation point outs the emergent shift towards a more predictable and globally integrated enforcement system. With each passing day as Cross-border transactions and international arbitration becomes the new normal, India with world must evolve and adapt accordingly, to reinforce its Commitment towards International legal standards while safeguarding the domestic legal principles.

RESEARCH METHODOLOGY

This research adopts the Doctrinal approach, focusing on the analysis of legal principles, statutes, and case law relevant to Recognition and enforcement of foreign judgements in India. The primary sources of data are secondary data in understanding the current legal scenario and subsequently analysing Enforceability and recognition of foreign judgements.

For collection of the required data, we undertook research on various secondary sources. They include Statutes and Legislative Texts, Judicial Decisions, Academic Journals and Articles, Books and Treatises, and Government Reports and White Papers. Analysis is the diligent examination of the secondary data collected for the intent of determining trends, themes, and pertinent legal principles of the research issues.

INTRODUCTION

With advent of 20th century, Globalization was also started to rise which in result helped in the growth of cross border transactions which ultimately lead to the increased disputes. International law and commerce law in India now depends on CPC,1908 as it deals with the foreign judgments. With this the Indian Courts of law have started to face problems when it comes to Interpretation of foreign judgment. This paper evaluates foreign judgments enforcement standards in India while examining the reciprocity concept with its legal effects. This study will examine legal provisions together with judicial and practical considerations regarding foreign judgment enforcement with cases.

India's law on foreign judgment recognition and enforcement is essentially based on the Code of Civil Procedure (CPC), 1908. The key statute is the paradigm for the management of foreign court judgments under Indian law. Even though judicial precedents supplement the CPC, it tries to balance international comity with respect for India's sovereignty in law

CODE OF CIVIL PROCEDURE (CPC), 1908: THE STATUTORY BASIS

The CPC is the cornerstone of Indian foreign judgment enforcement law. It establishes the procedure, terms, and limitations under which a foreign judgment can be enforced and registered by Indian courts. The Code makes a complete scheme for dealing with judgments of courts of foreign countries so that enforcement is in accordance with notions of justice, equity, and public policy.

I. SECTION 13 OF THE CPC

Section 13 of the CPC is significant as it sets out conditions under which a foreign judgment will be binding between the parties. It simply states that a foreign court judgment will be made effective in India as if it were a binding judgment in Indian law except in cases of exceptions. Exceptions are intended to prevent enforcement of judgments against the norms of Indian law or international justice.

Exceptions provided under Section 13 are:

- Lack of Competent Jurisdiction: Foreign court lacked jurisdiction to hear and determine the case.
- Judgment Not on Merits: The judgment was not on merits of the arguments and evidence presented before the court by both sides.
- Misconception of International Law: Foreign court procedure was founded on a misconception or misinterpretation of international law, or neglect of Indian law where it was relevant.
- Violation of Natural Justice: Foreign court proceedings were not in accordance with the laws of justice and fairness.
- Judgment Obtained by Fraud: The judgment was obtained through fraudulent or fictitious means.
- Violations of Indian Law: The ruling is based on a complaint that violates any law in force in India.

If any one of these exceptions is proven to exist, the Indian court will refuse to recognise and enforce the foreign judgment. Section 13 is thus a protection against judgments contrary to the principles of Indian law or unjustly obtained.

II. SECTION 44A OF THE CPC

Section 44A of the CPC is a swift procedure for enforcement of judgments that are obtained from "reciprocating territories." "Reciprocating territory" refers to a nation or a region which has been especially notified by the Indian government in the Official Gazette, as a reciprocating territory on the basis of mutual arrangements for enforcement of judgments.

Pursuant to Section 44A, a decree of an Indian superior court of a reciprocating territory can be enforced in India directly as if it is a decree of a court within India. That is, the creditor can obtain a certified copy of the decree in a District Court in India, and the court will go on and execute the same without a new suit being instituted.

The Section 44A direct enforcement provision provides a mechanism of enforcement of judgment of reciprocating territories that is very easy and quick. Section 44A, however, applies only to judgments for money only and not to any other order. Additionally, the judgment needs to fulfil the criteria of Section 13 of the CPC.

ESSENTIAL REQUIREMENTS FOR ENFORCEMENT OF FOREIGN JUDGMENTS IN INDIA

The foreign judgment will first be examined for some stipulated conditions under Section 13 of the Code of Civil Procedure (CPC), 1908, before it can be enforced in India. The conditions attempt to find out whether the foreign judgment is fair, reasonable in law, and according to the Indian public policy. Failure to satisfy any one of the prerequisites can lead to the Indian court not enforcing the foreign judgment or not providing effect to the foreign judgment.

I. COMPETENT JURISDICTION

The most basic prerequisite is that the judgment was delivered by a court that had the jurisdiction to try and determine the matter. This "competent jurisdiction" is subject matter jurisdiction (nature of the controversy) and jurisdiction over parties (parties against whom the suit is brought). Jurisdiction normally depends on whether the defendant resides, the place where the cause of action occurred, or voluntary appearance by the defendant to the foreign court's jurisdiction. Indian courts would examine very closely the jurisdictional basis of the order of the foreign court. If the Indian court was to hold that the foreign court lacked the necessary jurisdiction, the judgment would be denied enforcement. This is in line with the principle that a court should not exercise jurisdiction that it does not have in itself.

Section 14 of the CPC gives a presumption that a foreign judgment has been rendered by a competent court. But such is rebuttable presumption, i.e., the party against whom enforcement is being sought can produce evidence impeaching the jurisdiction of the foreign court. The proof then reverts to the party seeking enforcement to demonstrate that the foreign court did have jurisdiction. The Indian Supreme Court in *"Sankaran Govindan v Lakshmi Bharathi"*[1] placed utmost significance on jurisdiction, as it declared that a judgment that is obtained by a court not having jurisdiction cannot be made enforceable in India.

II. MERITS OF THE CASE

Such a rule demands that the foreign judgment must be on serious consideration of evidence and submissions of parties before it. The foreign court would have considered the issues of substance in question very seriously and have determined the same on fact and law. A procedural or technical decision, without a determination of the essential issues, is unlikely to be enforced. A determination "on merits" suggests the court engaged constructively with the evidence, assessed the credibility of witnesses, and applied relevant legal principles to conclusions on fact. It cannot be a default judgment on non-appearance of defendant, except when the court continues to consider the merits of the plaintiff's case. Indian courts, in regard to the foreign judgment, will look for evidence of consideration of merits by the foreign court. This can be found in cogent reasons in the judgment, reference to evidence led, and enunciation of consideration of opposing reasons.

Indian Supreme Court in "*International Woolen Mills v Standard Wool (UK) Ltd"*[2] held that a foreign judgment would be "on merits" only where the court has adjudicated on the case after hearing the evidence and documents according to its procedure.

III. CORRECT VIEW OF INTERNATIONAL LAW

This principle guarantees that the proceedings of the foreign court were consistent with international law principles and did not preclude relevant Indian law. This does not necessitate that the foreign court use Indian law but that, if it is the law to apply, they should not preclude it. The ruling of the foreign court must be in conformity with established international legal principles of jurisdiction, choice of law, and recognition of foreign law.

If Indian law governed the dispute (say, since the contract was to be executed in India), then

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[1] Sankaran Govindan v. Lakshmi Bharathi, 1974 AIR 1764.
[2] International Woolen Mills v. Standard Wool (UK) Ltd., (2001) 5 SCC 265.

the foreign court ought not to have gone ahead in flagrant disregard of such law. This test needs to strike a fine balance because Indian courts desire that foreign courts remain independent but insist that fundamental maxims of international law and Indian law are not trampled upon. The case of "*I&G Investment Trust v Raja of Khalikote*"[3] shows the need to be bound by international law and not to deny recognition of Indian law where it does bind.

IV. PRINCIPLES OF NATURAL JUSTICE

Natural justice is a form of reflection of the most important elements of fairness and justice in the judicial process. They include the right to be heard, the right to present evidence, the right to cross-examine witnesses, and the right to a fair decision-maker. The most important elements of natural justice are:

- The defendant should have been given proper notice of the proceedings against him.
- The defendant should have been given a fair chance to present their case and dispute the evidence of the other party.
- The court should have been objective and impartial.

Indian courts will scrutinize the foreign proceedings cautiously to see if these principles were followed. If there was not enough chance given to the defendant to be heard, the order will not be enforced. The decree will be declared null and void if made in ignorance or disregard of principles of natural justice.

V. ABSENCE OF FRAUD

A judgment obtained by fraud cannot be enforced in India. Fraud can be in the form of misrepresentation, concealment of facts, or collusive transactions between parties with intent to deceive the court. Fraud is thus defined as anything done with the intent to defraud the court or the other party. Indian courts are keen to discover and prevent enforcement of judgments on the basis of fraud. Where there is valid proof of fraud, the court will decline to give effect to the judgment.

[3] I&G Investment Trust v Raja of Khalikote, AIR 1952 Cal 508.

On account of "*Sankaran v Lakshmi*"[4] stipulates that while a foreign judgment cannot be impeached just because the foreign court misguided itself on the merits, it can be impeached if the foreign court had been "imposed upon or deceived into issuing the judgment."

VI. NO VIOLATION OF INDIAN LAW

A foreign judgment will not be enforced where it advances a claim which is contrary to any law in India. This is to ensure that foreign judgments are not used to override Indian laws and policies. This test aligns with the principle that Indian courts would not enforce foreign judgments against Indian public policy. This may involve judgments doing justice to Indian law illegal contracts, or judgments against fundamental rights that are assured in the Indian Constitution. "*T Sundaram Pillai v Kandaswami Pillai*"[5] is a prime example of the aforementioned rule.

RECIPROCITY AND ENFORCEMENT (ENFORCEMENT PROCESS) IN INDIA

The principle of reciprocity plays a significant role in enforcing foreign judgments in India. Indian law makes a difference between the nations with which there is a reciprocity of agreements on the recognition and enforcement of judgements ("reciprocating territories") and those with which there is no such agreement ("non-reciprocating territories"). This has significant implications for the process and ease with which a foreign judgment can be enforced in India.

I. RECIPROCATING TERRITORY

A "reciprocating territory" is a foreign country or territory outside India to which the government of India has declared itself to be so by notification in the Official Gazette. This is on the condition that there are mutual arrangements between India and such a foreign country for the enforcement of Indian court orders in the foreign country. It's a sort of "you scratch my back; I'll scratch yours" deal when enforcing court orders.

The government of India, under Section 44A of the Code of Civil Procedure (COP), has listed a set of reciprocating states. United Kingdom, Singapore, Malaysia, United Arab Emirates (UAE), Fiji, and New Zealand are some of them. The reciprocating states may keep varying

[4] Sankaran v Lakshmi, AIR 1974 SC 1764.
[5] T Sundaram Pillai v Kandaswami Pillai, AIR 1941 Mad. 387.

from time to time, and hence it is always better to check the latest list available from authentic government sources before proceeding to file enforcement proceedings.

II. PROCESS FOR ENFORCEMENT OF JUDGMENTS FROM RECIPROCATING STATES

Where there are foreign judgments passed by a higher court of a reciprocating state, enforcement itself becomes very easy in India due to "Section 44A of the CPC". The judgment can be directly enforced in India as if it is an Indian District Court decree. This direct ease of execution lessens significantly the time, cost, and botheration of enforcement of foreign judgments.

The procedure is generally as follows:

1. **Filing an Execution Application**: The enforcer (the judgment holder) is required to file an execution application with an Indian District Court. The application should be backed by a certified copy of the foreign judgment and supporting documents.

2. **Court Issues Show-Cause Notice**: Indian court, on receipt of the application for enforcement, will issue a show-cause notice to the judgment debtor (the defendant against whom judgment has been entered). The notice summons the judgment debtor to come to the court and explain to the court why the foreign judgment should not be enforced against him.

3. **Scope to Object**: The judgment debtor has the right to object to the enforcement of the judgment. Such objections, however, are mostly confined to the reasons mentioned under Section 13 of the CPC (well elaborated in depth above), i.e., lack of jurisdiction, fraud, or contravention of the canons of natural justice.

4. **Enforcement as an Indian Decree**: If the judgment debtor does not have sufficient reasons to prove, or else their objections are not entertained by the court, then the foreign judgment is enforced as an Indian court decree. That is, the judgment holder may proceed to attach assets of the judgment debtor, garnish wages, or pursue other measures towards enforcement of the judgment according to Indian law.

5. **Disclosure of Assets and Attachment/Sale of Assets:** The court can empower the

judgment holder to direct the judgment debtor to disclose all of its assets and liabilities and then proceed and attach and sell such assets.

Section 44A applies only with effect to money decrees (judgments for the payment of some amount of money). Other judgments of order, such as orders of specific performance and injunctions, can be different in their enforcement procedure. Other than that, even judgments of reciprocating jurisdictions, Indian courts would examine if the judgment fits into the conditions needed under Section 13 of the CPC prior to enforcing.

III. PROCESS OF ENFORCEMENT OF JUDGMENTS OF NON-RECIPROCATING TERRITORIES

Where the foreign judgment is rendered by a non-reciprocating jurisdiction (a state to which India has not extended the reciprocating jurisdiction status), enforcement becomes far more onerous. Direct enforcement is not available. The judgment creditor has to file a new suit before an Indian court either on the foreign judgment or the original cause of action.

It is brought in this new environment as proof. It cannot be automatically enforced on the Indian court, however. The Indian court will rule on the merits of the case in its jurisdiction and determine if it will render a judgment in favour of the plaintiff (judgment holder).

The procedure is generally as follows:

1. **Filing a New Suit**: The judgment holder must file a new suit before an Indian court, based on the foreign judgment.

2. **Producing Evidence**: The judgment holder must produce evidence to support his/her case, i.e., the foreign judgment and other supporting documents.

3. **Indian Court Analysis**: The Indian court will examine the pleadings and evidence produced by both sides and decide whether it is to give judgment in favour of the plaintiff or not. The court will also decide if the foreign judgment meets the requirements in Section 13 of the CPC.

4. **Execution of the Indian Decree**: If the Indian court passes a decree in favour of the plaintiff, the same would constitute a domestic decree and can be enforced under Indian

law.

In such a case, a new suit will have to be initiated in an effective Indian court on the foreign judgment or on the original cause of action, or on both. Foreign judgment may be relied on as evidence in the suit and the consequent judgment shall be a domestic decree for enforcement under Order 21 of the Code.

JURISDICTIONAL FACTORS IN FOREIGN JUDGMENTS ENFORCEMENT IN INDIA

Jurisdictional aspects are the determining factors in deciding whether the foreign judgment can be enforced in India. Indian courts stringently verify if the foreign court had jurisdiction to adjudicate upon the case (competent jurisdiction). This verification ensures that the judgment conforms to Indian law standards and international standards.

I. COMPETENT JURISDICTION OF THE FOREIGN COURT

The minimum requirement for the enforcement of a foreign judgment in India is that the foreign court should have exercised jurisdiction over the cause and the parties. Indian courts follow the following principles to ascertain jurisdictional validity:

1. A foreign court would be considered competent if:

    a. The defendant was present or was conducting business in the foreign jurisdiction at the time when the action was instituted.

    b. The foreign source of the action (i.e., tort, breach of contract) arose.

    c. The defendant subjected itself to the jurisdiction of the foreign court (e.g., under contract provisions or in proceedings).

2. Indian courts inquire whether the foreign court's jurisdictional foundation is consistent with Indian principles of justice. For example, an assertion of jurisdiction by a foreign court simply on the basis of the plaintiff's nationality can be denied in India. The Supreme Court in "*Sankaran Govindan v Lakshmi Bharathi*"[6] reiterated again that

[6] Sankaran Govindan v Lakshmi Bharathi, 1974 AIR 1764.

jurisdiction will have to be based on a "real and substantial connection" between the dispute and the foreign court.

3. Jurisdiction through temporary presence (i.e., giving notice to a temporarily present defendant in the foreign jurisdiction) is generally regarded to be invalid in India. Such practices have been regarded as against justice.

II. SECTION 14 OF THE CPC: PRESUMPTION OF COMPETENT JURISDICTION

Section 14 of the Code of Civil Procedure (CPC), 1908, provides a rebuttable presumption of jurisdiction of the foreign court. The section facilitates enforcement by reversing the burden of proof against the resisting party. It has:

- A foreign judgment shall be presumed to have been pronounced by a competent court of jurisdiction unless to the contrary established.

- The defendant-judgment debtor is required to provide concrete proof to counter this presumption. For instance, they can establish that they were not resident in the foreign state or voluntarily submitted to their jurisdiction.

- This presumption is extended to reciprocating and non-reciprocating state judgments. However, courts have the ability to impose strict scrutiny on non-reciprocating states.

In "*Moloji Nar Singh Rao v Shankar Saran*"[7], the Supreme Court elucidated that Section 14 does not exempt Indian courts from the responsibility of ascertaining jurisdictional competence on their own. The presumption merely eases the initial burden on the judgment holder.

III. ENFORCEMENT AGAINST A STATE: SPECIAL CHALLENGES

Execution of a foreign judgment against the government of an Indian state has other complicating factors regarding sovereign immunity and protection of procedure:

- The CPC does not have any specific provisions to enforce against states. The judgment creditor will have to meet the general requirements of Section 13 (e.g., jurisdiction, no

[7] Moloji Nar Singh Rao v Shankar Saran, AIR 1962 SC 1737.

fraud, natural justice).

- Indian courts insist on evidence that the state was given reasonable notice of the initial proceedings before the foreign court. This is for the sake of preserving principles of natural justice. In a case of commercial disputes against state-owned companies, for example, courts strive to establish whether or not the state was given reasonable opportunity to defend itself.

- Although India is a signatory to the Vienna Convention on Diplomatic Relations (1961) and the UN Convention on Jurisdictional Immunities (2004), the treaties exclude state property (i.e., embassy properties, military properties) from enforcement. State commercial properties utilized for non-sovereign purposes are enforceable.

LIMITATIONS PERIOD

Cross-border trade has become more common in the globalised age because of which the enforcement of foreign judgments is becoming a priority agenda of international law and business. Code of civil procedure 1908, which primarily governs India's legal system, enacts a provision for enforcing and recognising foreign judgements. It is an intricate process more so which has to do with the doctrine of reciprocity.

Its enforceability in India would be contingent upon whether a judgment was rendered in a reciprocating or non-reciprocating state. While the Limitation Act prescribes a time limit for enforcement procedure, the CPC contains specific provisions on the procedure of enforcement.

The issue of the period of limitation in which a decree of a foreign Court should be enforced is one of the numerous issues which "India's courts have grappled with over the years until the Supreme Court delivered its verdict on the same".

"Article 101 of the limitation act 1963" provides that the period of limitation in bringing a suit to enforce a foreign judgement is "3 years from the date on which the judgement becomes enforceable" in the foreign nation.[8]

[8] Limitation Act 1963, § 101, Acts of Parliament, 1963.

SECTION 13 – Conditions for the enforceability of foreign judgments, If a foreign judgment fulfils the following conditions, it is final between the parties:

a) It was administered by a court which had jurisdiction to administer it.

b) The merits of the case were the basis of the decision.

c) It was not acquired through fraud.

d) It does not offend natural justice principles.

e) Indian law and public policy are neither offended.

f) It does not offend any of the laws which are in operation at present in India[9].

"**SECTION 14** – Presumption as to foreign judgments":

The pronunciation of foreign judgement by a "*court of competent jurisdiction*" will be presumed by the Indian court when it is served with the certified copy of that judgement unless proven otherwise.[10]

Section 44A of the CPC - foreign judgements rendered by any "superior Court" or any in "reciprocating territory" alone can be executed in India. From time-to-time notification by the central government regarding what are "the reciprocating territories and the respective superior courts. Reciprocating territories within quotes is any country or territory outside India which the Central government of India may declare a reciprocating territory for the purpose of section 44A by notification when referring to any such territory within "higher court" referred to courts covered under the notification".

"India's central government recently declared the United Arab Emirates UAE as the reciprocating country for the purpose of enforcing judgements of UAE code under section 44A of code of civil procedure from 17th January 2020".

With this the reciprocating countries of India now include "UAE, United Kingdom, Fiji, Singapore, Malaysia, Trinidad and Tobago, New Zealand, Hong Kong, poor and new and

[9] Code of Civil Procedure 1908, § 13, Acts of Parliament, 1908.
[10] Code of Civil Procedure 1908, § 14, Acts of Parliament, 1908.

Bangladesh.". Where there are non-reciprocating areas, the foreign degree can be enforced only by initiating a suit before the district court for a judgment on the foreign said judgement. Further, only reductions under which an amount of money bracket open other than taxes and charges of a similar nature or fine or other penalty are payable are executable under section 44A of the CPC. Under 44 A in bracket one section, if a certified copy of the decree is brought before the district court, it can be held to have been passed by such district court.[11]

A fresh suit must be brought within three years of the date judgment has been pronounced by non-reciprocating nations, as per the Limitation Act, 1963. Courts have put more stress on strict adherence of limitation periods in the cases of foreign judgement with vision to limit the unnecessary delay in its enforcement.[12]

SPECIAL ENFORCEMENT REGIMES (BILATERAL AGREEMENTS)

India has created an efficient and effective method of specific regime of enforcement by signing bilateral agreements and treaties with other countries, which works as an additional enforcement apart from the general regime enshrined in the code of civil procedure, 1908 and in Limitation act of 1963. One of the great achievements of this method is that it ensures efficient legal procedure which ultimately leads to fewer jurisdictional disputes, furthermore, these treaties create a system which recognizes and enforces the foreign judgement as well as arbitral awards.

By providing direct channels for the recognition and enforcement of awards, they complement the CPC provisions, especially in relation to civil liability, investment arbitration disputes, and commercial contracts.

BILATERAL INVESTMENT TREATIES (BITS)

Agreements between two countries which promote and protect foreign investments are known as "lateral investment treaties" these contain "mechanisms for disputes redressal such as permanent Court of arbitration United Nations commission on international trade law International Centre for settlement of investment disputes arbitral award under bits can be

[11] Namibita deb, Can foreign decree be executed in india, ipleaders (30/05/2025, 04.43 Pm IST), https://blog.ipleaders.in/can-a-foreign-decree-be-executed-in-india/?amp=1 .
[12] Code of Civil Procedure 1908, § 44A, Acts of Parliament, 1908.

enforced under the arbitration and consideration act 1996 establishing the New York convention".

According to "Section 44A of the Code of Civil Procedure (CPC)", India has special regimes of enforcement of foreign judgments through bilateral arrangements in the form of direct enforcement of judgments in countries with mutual arrangements with the exception of judgments under Section 13 exceptions.

Judicial information transference, civil and commercial judgment being enforced directly, legal document service across the border are advantages of such arrangements

KEY BILATERAL TREATIES FOR ENFORCEMENT OF FOREIGN JUDGMENTS

India has entered into bilateral agreements with most countries for mutual recognition and enforcement of civil and commercial judgments. Some of the major treaties include:

1. **TREATY BETWEEN INDIA AND THE UK**

The UK is a reciprocating country under section 44A of the CPC. It is not necessary to institute a new case for the judgments of the British courts because it can be enforced directly in India. The treaty mentions Civil liability and responsibility, family laws related matters, business contracts.

For example: An Indian District Court is able to directly enforce a breach of contract bakery order given by the High Court of London.[13]

2. **TREATY BETWEEN INDIA AND SINGAPORE**

the provisions of CPC recognize Singapore as a notified reciprocating jurisdiction under section 44 A. Judgments of Singapore courts can be enforced directly in India. This treaty provides for the enforcement of conflicts in sea laws, business agreement disputes relating to intellectual property.

For example, an Indian court can enforce a money judgment for a breach of contract from the

[13] Treaty between India and the UK – 'Treaty between India and the UK' (Government of India, 1996).

Singapore High Court without having to initiate a fresh or new suit for the same.[14]

3. TREATY COVERING JUDICIAL COOPERATION AGREEMENT BETWEEN UAE AND INDIA

UAE and India joined cooperation agreement in 1999 although UAE was not a reciprocating jurisdiction but the treaty allowed. Transmission of information by judicial documents. Enforcement and recognition of court orders and direct enforcement of criminal orders in relation to extradition.[15]

LEGAL DEVELOPMENTS

In the recent judgment of "Bank of Baroda versus Kotak Mahindra Bank 2020"[16], Supreme Court judged the limitation period for enforcement of a foreign degree in India under section 44A of code of civil procedure.

“The Supreme Court laid down that section 40A only transfers the power of a district court to grant a foreign degree as if it is enacted by the district court but it cannot determine the period of limitation. The 12-year period of limitation from the date of the degree will be applicable to Indian decrease but not to foreign decrease under section 44A of the CPC but the law of the cause country which is the reciprocating territory whose superior court awarded the degree will be adopted in order to determine the period of limitation at the same time the period of limitation for the filing of an application for the execution of foreign degree will be three years from the date on which the right to apply is born, there may be two different scenarios where the question arises as to when the right to apply arises which are discussed below”[17],

“if no steps are taken by the decree holder in the cost country to enforce the decree, the right to apply will have arisen at the moment when the foreign court issues the decree. The limitation period in such a situation would be under the law of the cause country and would be deemed to have started on the day on which the decree had been issued in the cause country"[18].

[14] Treaty between India and Singapore – ‘Treaty between India and Singapore’ (Government of India, 2005).
[15] Judicial Cooperation Agreement between UAE and India – ‘Judicial Cooperation Agreement between UAE and India’ (Government of India, 1999).
[16] Bank of Baroda versus Kotak Mahindra Bank, (2020) 5 SCC 530.
[17] Namibita deb, Can foreign decree be executed in india, ipleaders (30/05/2025, 04.43 Pm IST), https://blog.ipleaders.in/can-a-foreign-decree-be-executed-in-india/?amp=1.
[18] Id, No.17.

Even after the steps taken, the decree holder is not content to the core in order to enact the decree in the country, the right to apply exists where the execution proceedings of the country are concluded. From the date of conclusion of such proceedings of execution, an application may be made by the decree holder for execution of foreign decree before the relevant district court under section 40A within a limit of three years which will be consistent with article 137 of limitation act 1963. "The Supreme Court has also clarified that the lapsed period in obtaining the certified copies of these foreign decree shall not be excluded from consideration in the process while calculating the limitation.". One of the most widely used case and situation that took place in Bhopal, "*The Union Carbide Corporation v. Union of India*"[19] where there was a gas leak at the Union Carbide India Ltd plant that caused vast death and harm to the public as well as employees of the company.[20]

Union carbide (UC) is an American company which challenged the jurisdiction of Indian courts over the matter. Indian government had filed a compensation claim in the US district court, which was dismissed on "*forum non convenience*" (more suitable in Indian courts). This case was then lodged in the Bhopal district court that led to a settlement in 1989 where union carbide agreed to pay four $70 million as full and final settlement and an interim relief of 5 million paid by the company in the US Court was also adjusted against the settlement fund. The Supreme Court reiterated the settlement in reiterating that the Indian courts are competent in handling such cases due to the direct effect on the Indian public and citizens this case enforces the doctrine that foreign judgments must align with Indian laws and public policy under section 13 and section 44A of the CPC 1908 so that it may be enforced in India." In the landmark case of Raj Rajendra Sardar Maloji Nar Singh Rao Shitole v. Sri Shankar Saran and Others, the point was whether the ex-parte decree which was issued by the Gwalior Court could be termed as a foreign court at the time could or not be carried out in Allahabad India. Here the Supreme Court held that the Gwalior court decree was a foreign judgement, as Gwalior was not a reciprocating area outlined under section 44A of the CPC 1908 thus the decree was not directly enforceable in India. Instead of this, the appellant had to file a fresh suit before a competent Indian court which shall be on the foreign judgement or the original cause of action.

This judgment clarified that the judgements received from non-reciprocating states will not be enforced in India directly and if anyone wishes to enforce such judgements then one should

[19] The Union Carbide Corporation v. Union of India, 1992 AIR 248.
[20] Bank of Baroda v Kotak Mahindra Bank Ltd, (2020) 5 SCC 530.

file a fresh suit before an Indian court where the foreign judgement can be used as evidence.

In the case of "*Y. Narasimha Rao and Others v. Y. Venkata Lakshmi and Another*"[21] which is a Supreme Court of India judgment where the court addresses the issue of recognition of foreign divorces decree in India.

"This case is regarding divorce decree made by Missouri court, the couple separated in July 1978 and after that Narasimha Rao filed an application for dissolution of marriage in the circuit court of St Louis County Missouri USA, the court granted divorce on February 19, 1980 and the decree was passed on the ground of an "irretrievable breakdown of marriage" which was a ground not recognized under the "Hindu marriage act 1955"[22]"[23].

while keeping in view all facts and circumstances of the case the Supreme Court held that since the decree is not having jurisdiction as in that "the Missouri court didn't have jurisdiction under the Hindu marriage act 1955 and both parties didn't reside in Missouri and that the irretrievable breakdown of marriage is not a recognising ground for divorce under Indian laws"[24].

Such a decree will not be accepted in India. This trail blazing judgement that foreign divorce decree will not be accepted automatically in India unless they are in accordance with the Indian legal principles keeping in mind especially the grounds of divorce and jurisdiction. This judgement gives an assurance that people cannot evade Indian matrimonial laws by approaching divorce decrease from foreign court on grounds which are not accepted in India.

CONCLUSION

After studying the whole thing, we can make a conclusion that one area of Indian law which is developing and coming forward is the enforcement and recognition of foreign judgements and CPC.

Where on one hand a line has been marked down by the section 13 and 44A of CPC for enforcement and recognition of foreign judgements a legal framework with a structure along

[21] Y. Narasimha Rao and Others v. Y. Venkata Lakshmi and Another, 1991 SCR (2) 821.
[22] Hindu marriage act 1955, Acts of Parliament, 1955
[23] Yousuf khan, Case Study: Y. Narasimha Rao and Ors v. Y. Venkata Lakshmi and Ors, legal-wires (30/05/2025, 04:59 Pm IST), https://legal-wires.com/case-study/case-study-y-narasimha-rao-and-ors-v-y-venkata-lakshmi-and-ors/ .
[24] Id, No. 23.

with judicial interpretations is provided by virtue of that.

The legal framework still remains influenced by the issues of jurisdiction, public policy and fraud but recent court guidelines and amendments in the legislations have made the enforcement process more effective and certain. "Due to application of section 13 of the CPC", "if a judgement or decree is passed by a foreign court against an Indian defendant the judgement or decree will not be enforceable against him". The plaintiff will either turn towards India to obtain the foreign judgement enforced "under section 40A or fine a new suit here to obtain such judgement enforced in India", thus it is preferable that if the defendant is situated in India then a foreign plaintiff will file suits in India if he is willing to undergo the long judicial processes in civil matters because by obtaining a judgement in a foreign court the plaintiff not only avoid the difficulty of being made to produce evidence before Indian courts but also exposes himself to a great amount of risk under section 13. “The law governing foreign judgements is extremely simple in India and the method of obtaining them enforced is extremely simple, thus a foreign judgement can be enforced in India very easily if certain conditions are met since India has a well-established legal system to enforce foreign judgements”[25].

We can perceive this as a progressive step towards the development of an open and interdependent legal system by India's deepening involvement with bilateral pacts and international arbitration. India's enforcement mechanism is strong, equitable and follows the international norms of law because of the judiciary balanced approach, which is respectful to the foreign judgment yet complies with the domestic public policy.

with the increasing significance of cross border transactions, commercial arbitration and international trade, India's enforcement and recognition of foreign decisions is bound to change in the future.

Greater aspiration to harmonise domestic legal standards to bring it into confluence with the global standards has been noted via growing numbers of bilateral treaties and following of international agreements by India. Future developments may focus on making more territories reciprocate, broadening the judicial cooperation with the emerging nations and initiation of speedy measures for enforcing business judgements with regard to the commercial sphere.

[25] Namibita deb, Can foreign decree be executed in india, ipleaders (30/05/2025, 04.43 Pm IST), https://blog.ipleaders.in/can-a-foreign-decree-be-executed-in-india/?amp=1.

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