



ARBITRATION AND CONCILIATION

Pending Section 37 Appeal Without Stay Does Not Arrest Execution: Supreme Court Order in Chakardhari Sureka v. Prem Lata Sureka

AUTHOR Supriya Bhosale, Rahul Sundaram

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The Supreme Court of India, by a short order pronounced on 15 September 2025 in Civil Appeal No. 11840 of 2025 (SLP(C) No. 20480 of 2025), has removed an impediment placed by the Delhi High Court on the execution of an arbitral award. The order, delivered by Justice Manoj Misra and Justice Ujjal Bhuyan, records that once an application under section 34 of the Arbitration and Conciliation Act, 1996 has been dismissed and no stay of the award has been granted in the subsequent section 37 appeal, the executing court is not justified in adjourning the execution proceedings merely because the appeal remains pending.

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Facts as found in the order

The appellant, Chakardhari Sureka, obtained an arbitral award in his favour. The respondents, Prem Lata Sureka through her constituted attorney and others, filed an objection under section 34 which was rejected by the High Court of Delhi. An appeal under section 37 was preferred, but no interim order staying the award was passed. The decree-holder initiated execution; by the impugned order dated 9 May 2025 the Execution Court adjourned the hearing on the ground that the appeal was pending. The present appeal is directed against that adjournment.

Contentions noted by the Court

The order records that learned counsel for the parties were not in dispute over the fact that no interim order operating against the award exists. They differed only on the question whether the award could still be resisted in execution. The respondents suggested that certain objections to executability had been raised; the appellant insisted that the execution could not be deferred in the absence of a stay.

Reasoning of the Court

The Court observed that the issue of executability can be examined by the Execution Court in accordance with law whenever objections are raised. It, however, held that it would not be proper for the Execution Court to defer consideration of the execution application and the objections thereto only because an appeal under section 37 is pending when no interim order operating against the award is in place.

Final directions

The appeal is disposed of with the clarification that, subject to any interim order that may hereafter be passed in the section 37 appeal, the Execution Court shall be free to proceed with the execution of the award in accordance with law. If any objection as to executability is raised, the same shall be addressed in accordance with law after giving opportunity of hearing to the parties. Pending applications, if any, stand disposed of.

Conclusion

The order re-affirms the statutory position that the dismissal of a section 34 application, unaccompanied by a stay in the ensuing section 37 proceeding, leaves the award enforceable; an executing court may not defer execution on the sole ground that an appeal is pending.

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