

NOTES AND COMMENTS

INDIA- UAE TREATY AND THE LATEST TRENDS IN EXECUTION OF FOREIGN DECREES

Abstract

The background of this paper is dictated by the latest notification of Government of India on January 17, 2020, adhering with the stipulation under section 44A of CPC to recognize decrees passed by United Arab Emirates (UAE) Courts. The countries entered into Agreement for Juridical and Judicial Cooperation in Civil and Commercial Matters for the Service of Summons, Judicial Documents, Commissions, Execution of Judgments and Arbitral Awards' in 1999. But the agreement became relevant only by the latest notification. In some of the cases, various high courts observed that since the notification is not published, it is impossible to recognize decrees of UAE Court. This stand has been changed by the latest notification.

The paper is divided into two major parts other than introduction and conclusion. First part discusses the provisions of the agreement and second part concerns the latest trends of foreign decree execution in India. Various judgements in the light of section 13 of CPC are analyzed to narrate different perceptions. India always held the relationship with other countries with priority. This new change will bring more cooperation in legal sector of India and UAE.

I Introduction

THE FREE movement of goods, wealth and people are essential for sustainable growth of a country. Along with trade, the juridical and judicial cooperation is adequate in the world. The applicability of municipal laws and regulations beyond the boundaries always remains as a substantial legal concern. Maintaining the balance between the sovereignty of nations and plurality of laws without intervening cross border business is one of the greatest challenges ever before social scientists. Often the deliberations on judicial cooperation are limited to extradition in criminal cases. Despite a few multilateral conventions, trade relationships between many countries are yet to be cooperative in legal matters.

The International Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters was initially signed in 1965 but it took a long time for getting it assented by other countries.¹ Eventually, the

1 Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters was primarily presented in Tenth Session of the Hague Conference on Private International Law in 1965 but came into force in 1969 when US enforced it.

number of member countries reached 85 in 2019.² The Convention aimed for harmonization of different legal systems, encouraging administration of soft laws and cooperation of member countries. It ensures speed and efficiency on the circulation of judicial and extrajudicial documents (in civil and commercial matters), with the desire to simplify the process of serving documents abroad to parties who reside in its signatory states.

India assented the Hague Convention in 2006, with reservation to certain clauses.³ The country has mutual trade and business partnerships with many others, in which there are countries not assented to the Hague Convention. Especially, the Arab Countries including UAE, with which India has significant business relationships since immemorial time, though it has not ratified the Hague Convention.⁴ The determining factors of civil laws and other substantial legal concerns due to the differences in origin, call back these nations to adhere with the general conventions. An alternate is the utilization of bilateral treaties between such countries.

The Indian legal system, which has been evolved from the colonialist British Common Law principles, has wide distinctions from the Sharia Canon based legal system of United Arab Emirates. It is essential for both the countries to have a mutually consented agreement for juridical and judicial cooperation. Thus, in 1999, when Mohammed Bin Kanhira Al Dhaheri, Minister of Justice, UAE Islamic Affairs and Awqaf visited India, signed an 'Agreement for Juridical and Judicial Cooperation in Civil and Commercial Matters for the Service of Summons, Judicial Documents, Commissions, Execution of Judgements and Arbitral Awards' along with an Extradition Treaty and an agreement on Mutual Legal Assistance in Criminal Matters.⁵ This was even before India assenting to the International Convention of Hague. The bilateral agreement with UAE is aimed to strengthen the cooperation between the countries in the service of summons and other judicial documents or processes, in the taking of evidence by means of letters of requests or commissions, execution of decrees, settlements and arbitral awards. It is applied to any requests for mutual legal assistance relating to any civil or commercial matter arising either prior to or after its entry into force. Even though the treaty was signed, a preemptive condition under the Civil Procedure Code, 1908 (CPC) for execution of foreign decrees in India was remained unattended. The explanation 1 of section 44A of the CPC states that the Central Government must declare another

2 Available at: <https://www.hcch.net/en/states/hcch-members>(last visited on Feb 20, 2021).

3 India assented to the Convention with reservations to art.8,10,15,16.

4 UAE is not a party to Hague Convention but it is party to multilateral agreements such as Riyadh Arab Agreement for Judicial Cooperation of League of Arab States, Gulf Cooperation Council (GCC) Convention for the Execution of Judgements, Delegations and Judicial Notifications of 1996 and other bilateral agreements.

5 Lok Sabha Debates on Oct. 27, 1999, available at: <http://loksabhaph.nic.in/Debates/Result13.aspx?dbsl=6626> (last visited on Feb. 28, 2021).

country as ‘reciprocating country’ for the purpose of execution of foreign decrees by a notification in the Official Gazette. Being the governing law in India, recognition foreign court decrees is subjected to fulfillment of the conditions under section 44A of CPC, 1908.

For the past several decades, Indians were emigrating and establishing trade relationships with counterparts in UAE. Workers from India have an invincible role in the growth and development of current affluent cities of Emirates. Indians became the largest expatriate community in UAE. Eventually, with the increase of emigrants and relationship in various sectors conflicts and subsequent attempts for legal remedies are inevitable. Fugitives running back India leaving meager assets in UAE became a common seen during the period of market fluctuations. Thus, the signing of the agreement made a landmark in relationship between the two countries. Further to comply with the governing laws on execution of UAE Courts decrees in India, *i.e.*, section 44A of CPC, the Government of India granted reciprocating status to UAE Courts notifying Official Gazette on January 17, 2020.⁶ This was after 20 years of signing of the respective agreement.

II Ingredients of the agreement

The preamble of the Agreement for Juridical and Judicial Cooperation in Civil and Commercial Matters for the Service of Summons, Judicial Documents, Commissions, Execution of Judgements and Arbitral Awards’, 1999 states that this is to strengthen the bond of friendship between the two countries and promoting fruitful cooperation in the judicial and legal spheres. It is recognizing the need for facilitating the widest measure of legal assistance in civil and commercial matters.⁷ When the treaties were debated in Lok Sabha, the then Minister of External Affairs Jaswant Singh commented that:⁸

this Agreement is aimed to facilitate the widest measure of legal assistance in pursuing in cases. It will be possible to serve summons and other judicial documents issued by the courts of one country in the territory of the other. The judicial documents issued by the courts of one country in the territory of the other, take evidence. Further the courts of one country would also be able to execute decrees and arbitration awards passed in the territory of the other.

6 The Gazette of India, Notification no. CG DL E 18012020-215535, Extraordinary published in New Delhi on Jan. 17,2020.

7 Agreement on Juridical and Judicial Cooperation in Civil and Commercial Matters for the Service of Summons, Judicial Documents, Commissions, Execution of Judgements and Arbitral Awards, 1999 (hereafter the Agreement).

8 *Supra* note 5.

The Agreement is an aggregate of 26 articles widely covering scope of application, definition of central authorities and authentication of documents, provisions regarding service of summons, judicial documents, and papers, taking of evidence, arbitral awards, ratifications, and termination and so on. It states that this agreement shall be applied without prejudice to the rights and obligations under any other treaties or arrangements. The request for legal assistance shall be made through the central authorities of the contracting parties. In India, the Ministry of Law and Justice⁹ and in UAE, the Ministry of Justice are the central authorities appointed for this.

This Agreement specified that legal assistance includes service of summons, issuance of commissions, execution of judgements *etc.*¹⁰ The powers of authorities in the requested party shall be limited only to the delivery of the judicial documents and papers to the addressee.¹¹ The documents in connection with the legal assistance must be signed by the court under its seal which shall be authenticated by the central authority. It should be in one of the official languages of the country, where it will be delivered. For instance, if the document is sent from India to UAE, one duplicate in Arabic language is required.

It is deemed as the judicial documents, which have been served in the territory of the issuing country. The receiving country should not refuse the service unless it infringes their sovereignty, security and public policy. The state of accreditation shall not entail responsibility if the service is effected through diplomatic or consular representatives. But it may be served directly through postal channels or by delivery to an addressee who accepts it voluntarily without application of any compulsion.¹² For taking of evidence, the judicial authorities of the party may in accordance with the law make request addressed to the competent authorities of the other country. It can be for taking of the statements, on oath or otherwise, of a witness or the submission of oath to a witness regarding any legal proceedings and the production, identification or examination of documents or records. The letter of request shall specify the judicial or other competent authority requesting the evidence, the nature of proceedings for which the evidence is required, the names and addresses of the parties to the proceedings, the evidence to be obtained and the names of addresses of the persons to be examined. When it is deemed necessary, the letter of request can be accompanied by a list of interrogatories to be put to the witnesses or other persons involved or a statement of the subject matter about which they are to be examined.

The country which has received the letter for execution may follow any special method or procedure insofar as it is not incompatible with its laws and practices. If it so

9 *Supra* note 7 art. II.

10 *Ibid.*

11 *Supra* note 7 art. VII.

12 *Supra* note 7 art. III, cl. 5.

desires, the country which is requesting, shall be informed of the time when, and the place where, the proceedings will take place. After execution, the necessary documents can be sent to the country which has requested. If the letter of request cannot be executed, the reasons shall be informed immediately. It can be refused if the execution of the letter is not within the functions of the judiciary or affecting the sovereignty of the country. The refusal should be not solely on the ground that jurisdiction of the subject matter is exclusively in the country of which is asked to execute.

A diplomatic officer or consular agent or commissioner can be appointed by the courts to take evidence in the territory of the other country.¹³ The decrees passed by the courts of the contracting parties shall execute in other contracting party in civil, commercial, personal matters and by criminal courts in civil matters. It is expressly mentioned in the agreement that it is not applicable to taxation and allowances.¹⁴ If the dispute is regarding the capacity or status of a person, then the country of which the person is a national can determine on it. If the dispute is regarding the immovable property, the country in which it is situated shall be competent to determine on the disputes.¹⁵

Other than the exceptions given, the contracting countries shall be having jurisdiction on the following matters, such as:¹⁶

- a) if the defendant has his domicile or residence in the territory of that State at the time of institution of the suit.
- b) or the defendant has at the time of institution of the suit, a place, or a branch of commercial or industrial nature or works for gain in the territory of that state, and the suit related to such activity
- c) or by an express or implied agreement between the plaintiff and the defendant, the contractual obligations giving rise to the litigation are or must be performed in the territory of that State.
- d) Or the defendant expressly or impliedly submitted to the jurisdiction of the courts of that state and the law of the state allows such submission
- e) Or any application for provisional measures, if the courts of such state are deemed competent to hear the principal dispute by virtue of the provisions of the agreement

13 *Supra* note 7 art. XIII.

14 *Supra* note 7 art. XV cl. (3).

15 *Supra* note 7 art. XVI, XVII.

16 *Supra* note 7 art. XVIII.

Like the section 13 of Civil Procedure Code, India 1908, but in an enhanced perception the article XX of the Agreement between India and UAE provides the following reasons for not executing a decree:¹⁷

- a) if it is not conclusive and executable; or
- b) it has not been pronounced by a court of competent jurisdiction; or
- c) it has not been given on; the merits of the cases; or
- d) it appears on the face of the proceedings to be founded on an incorrect view of international law or refusal to recognize the law of the requested party in cases in which such law is applicable; or
- e) the proceedings in which the judgement was obtained are opposed to natural justice; or
- f) it has been obtained by fraud; or
- g) it sustains a claim founded on a breach of any law in force or is contrary to the constitutional rules or the principles of public order in the requested country; or
- h) it contravenes the rules concerning the legal representation or persons suffering from lack of capacity in the requested country; or
- i) it is passed in absentia and the defaulting party was not duly summoned in accordance with the rules applicable in his country; or
- j) the dispute in which the decree was passed is pending in a suit before one of the courts in the requested country, between the same parties and involving the same cause of action, and that suit was raised before one of the courts of the latter state, at a date prior to the raising of that dispute in the court of the state which passed the decree and provided that the court before which the suit was raised is competent to here and decide upon it.

CPC, 1908 specifically prescribed the procedures for execution of decrees. Especially regarding the documents required for the execution, which establishes the legality of decree passed by another court. Similarly, the India UAE Treaty prescribes that the central authority of the contracting party requesting recognition or execution of a decree in the other contracting party shall submit:¹⁸

- a) an official copy of the decree
- b) a certificate showing that the decree is final and executable, unless that provided for in the decree itself

17 *Supra* note 7 art. XX.

18 *Supra* note 7 art. XXIII.

- c) in case of a decree in absentia, an authenticated copy of the summons or any other document showing that the defendant was duly summoned
- d) if the request is only for execution of a decree, an official copy in properly executable form

The agreement discusses recognition of arbitral awards in a separate provision. Like the stipulations on judicial decrees, for the execution of arbitral awards, the certificate of the competent judicial authority in the requesting country is essential along with the copy of arbitration agreement between the disputed parties. Further, the agreement is concluded providing a termination clause. It states that the either of the countries may terminate the agreement by giving six months' notice.

III Latest trends in execution of foreign decrees in India

In litigations, there are mainly three stages such as (i) initiation of litigation (ii) adjudication of litigation (iii) implementation of litigation. For this last stage of litigation, generally, the courts pronounce a judgment in open court and conclude the legal suit. Then, the judgement debtor against whom the decree is passed, owes the responsibility to effectuate the decision. Sections 36 to 74 and Order 21 (Rules 1 to 106) of CPC are dealing with execution of decrees. The reasons for a decision are called a judgement while the operative part of the judgement is called a decree. The CPC defines 'decree' as a formal expression of an adjudication which, so far as regards the court expressing it conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final.¹⁹ The code defines the term foreign judgement as the judgement of a court situate outside India and not established or continued by Indian Government.²⁰

The Indian laws which are evolved from the English Common Law, advocates foreign judgements as final and conclusive judgements, excluding those for tax or penalty, so long as it has been originated from a foreign court of law, having international 'jurisdictional competence' to render that judgement.²¹ In depth analysis, it can be found that the section 44A of CPC is an independent provision enabling a set of litigants whose litigation has come to an end by way of a foreign decree and who is desirous of enforcement of it. In the case of *Gustave Nounion v. Freeman*²² it was held that if a judgement finally and conclusively settles the existence of the debt it shall become *res judicata* between parties. A decree of a foreign court is normally recognized by a court in another jurisdiction as a matter of comity and public policy, but no

19 Civil Procedure Code, 1908, s. 44A, exp.2.

20 *Id.*, s.2 cl.5 and cl.6.

21 Eg, A Briggs, *Civil Jurisdiction and Judgments* 7.46 (Abingdon: Informa Law, Routledge, 6th edn., 2015).

22 (1889)15 AC 1.

country is bound to recognize and give effect to such a decree, if it is repugnant to its own laws and public policy.²³

This irony of differences is resolved in India by virtue of section 13 of the CPC. It provides that if a decree is not on merits, then it cannot be enforced in India.²⁴ In line with the branch of conflict of laws, section 13 of CPC states that the foreign judgements are not conclusive if:

- a) it has not been pronounced by a Court of competent jurisdiction.
- b) it has not been given on the merits of the case.
- c) it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognize the law of India in cases in which such law is applicable.
- d) the proceedings in which the judgement was obtained are opposed to natural justice.
- e) it has been obtained by fraud
- f) it sustains a claim founded on a breach of any law in force in India.

It could be seen that article XX of the India-UAE Agreement expressly providing a similar content. The Agreement gives additional grounds for determining the conclusiveness of the foreign decrees. It highlights the relevance of serving of summons and legal representation of the parties in adjudicating territory. Also, emphasized the probability of *lis pendens* of suit in the requested country, when the requesting country apply for execution of decree, on the same cause of action, which was filed even before raising that dispute in the court of that state which passed the decree. The agreement prescribes that in such situations the court in the latter country, before which the suit is pending, shall be competent and decide upon it.

The decree passed by any foreign court to be conclusive between the parties except where the same falls under any one of the clauses from (a) to (f) enumerated above.²⁵ Again, the section 14 of CPC further creates possibility for a presumption that the production of any document purporting to be a certified copy of a foreign judgement that such judgement was pronounced by a court of competent jurisdiction. Similarly, the illustration of section 114 of Indian Evidence Act, 1872²⁶ indicates the possibility of a court to presume that all the judicial and official acts are performed regularly. It

23 *Shiv Indersen Mirchandani v. Natasha Harish Adnani* 2002 (2) Bom CR 436.

24 *International Woolen Mills v. Standard Wool* (UK) AIR 2001 SC 2134.

25 Sarkar S.C., *Commentary on The Code of Civil Procedure 1908* (Dwivedi Law Agency, Allahabad, Vol.1, 2011)

26 Indian Evidence Act, 1872, s.114, Illustration (e) The court may presume that judicial and official acts have been regularly performed.

can be deduced from these sections of CPC and Evidence Act, that the judgments of the courts shall be generally presumed as conclusive unless such contrariness should appear on the face of the record. On the other hand, judicial discussions reveal that the law leaves an opportunity for the parties to displace the presumption by proving lack of jurisdiction.

In the case of *Emirates Bank International PJSC v. Vijay Talwar*,²⁷ the appellant presented the case based on the judgement and decree passed by the Dubai Court of First Instance for the recovery of remaining amount which could not be recovered despite sale of the mortgaged assets of the plaintiff. The decree remained unsatisfied on account of the absconding of the defendant from Dubai without payment of the dues invoking personal guarantee executed by the respondent. The High Court of Delhi observed that the Dubai Court did not even take care to see if service of summons on the defendant had been properly effected or not and in any case the Dubai Court proceeded to decree the claim on the basis of photo copies of documents taken on record without examining any witness. The appeal was dismissed. However, the court highlighted that in cases where parties themselves invited the court to pass judgement and order by giving their consent and/or arrived at settlement between the parties, is precluded from raising contention that the said judgement and/or decree is not in terms of the provisions of section 13.²⁸ In a genuine international sense, there is a possibility for the adjudicating court not merely to apply law of the country but emphasizing the law of the foreign state. For instance, UAE Courts are invoking the personal laws of India if the parties intend to apply. The mutual agreement prescribes that in the case of decrees in absentia the parties should submit an authenticated copy of the summons or any other document showing that the defendant was duly summoned.²⁹ This shall be helpful for establishing the proper conduction of the case in requesting country.

The rights under section 44A CPC is an independent right conferred on to a foreign decree holder for enforcement of its decree in India.³⁰ In the famous case of *M. V. Al Quamar v. Tsavlis Salvage (International) Ltd.*,³¹ in which the Supreme Court examined competency of the courts of execution in domestic and foreign decrees. Firstly, that as regards domestic decrees, the transferee court is deemed to be a court competent to execute such a transferred decree, if at the time of making the application for transfer of decree it is shown to have jurisdiction to try the suit in which such a decree was passed. But in the case of execution of foreign decrees under section 44A, which is not required to be a court which could have been competent to pass such a decree if

27 MANU/DE/ 2799/ 2009.

28 *Supra* note 25.

29 *Supra* note 7 art. XXIII cl.(c).

30 AIR 2000 SC 2826.

31 *Ibid.*

in the first instance such a suit was filed by a foreign national against another foreign national in India. Still the Supreme Court highlighted that the section 44A expressly permits the foreign decree to be questioned before an executing court in India on any of the grounds mentioned in clauses (a) to (f) of section 13.

In the case of *International Woolen Mills v. Standard Wool (UK)*,³² the respondent filed a case in central London County Court in United Kingdom and gained an *ex-parte* decree. They filed an execution petition before the Court of Civil Judge (Senior Division), Ludhiana. The appellant argued that he had not been served summons in the case. The court dismissed the contention. The appellant filed revision petition, in which the high court found that the decree was not on merits, but it was still dismissed. The appellant approached Supreme Court by special leave petition against the portion of the impugned judgement which holds that the decree was not on merits. It is observed that a decree that follows a judgement that is not on merits cannot be enforced in India.

In *R. Viswanathan v. Rukn-ul-Mulk Syed Abdul Wajid*,³³ the Supreme Court of India quoted from Cheshire on private international law held that, “What the Courts are vigilant to watch is that the defendant has not been deprived of an opportunity to present his side of the case”. Cheshire indicated two cases. The first is that of assumed jurisdiction over absent defendant. Second is that of a litigant, who, though present at the proceedings, was unfairly prejudiced in the presentation of his case to the Court.” In *Marine Geotechnics LLC v. Coastal Marine Construction & Engineering Ltd.*, the High Court of Bombay³⁴ held that an *ex-parte* decree is not necessarily one that is always, and ipso facto, not on merits. If a court has considered and weighed the plaintiffs’ case and assessed his evidence it will be on merits, notwithstanding that it is *ex-parte*. If there is an immediate default summary judgement only on account of the defendants’ failure to appear and without examination of the material or the evidence, that judgement is not enforceable in India. The court held that even where the defendant chooses to remain *ex-parte* and to keep out, it is possible for the plaintiff to adduce evidence in support of his claim so that the court may give a decision on merits of his case after a due consideration of such evidence instead of dispensing with such consideration and giving a decree merely on account of the default of appearance of the defendant.

Under section 13 CPC, there is no distinction applied on whether the decree is from reciprocating territory or not. It comes under the section 44A only. The section 13 is established principle of private international law. It can be concluded from the above case briefs, nonappearance of the defendant will not by itself determine the nature of

32 AIR 2001 SC 2134.

33 AIR 1963 SC 1.

34 2014 (2) Bom CR 769.

the judgement one way or the other. This can be the reason why section 13 does not refer to ex-parte judgement falling under a separate category by themselves.³⁵

The Supreme Court considered the issue of what is the limitation for filing an application for execution of a foreign decree of a reciprocating country in India in its latest judgement in *Bank of Baroda v. Kotak Mahindra Bank Ltd.*,³⁶ the appellant filed an execution petition of a decree obtained from London Court 14 years after the date. The petition was dismissed by the Additional City Civil and Session Judge, Bangalore as time barred holding under the Limitation Act, 1963. The appellant approached the high court and on which lower court decision was upheld. The matter is applied to the Supreme Court under article 136.

Considering the arguments of both the sides, the Supreme Court India analyzed the below following issues:³⁷

- a) Does the section 44A merely provide for manner of execution of foreign decrees or does it indicate the period of limitation for filing execution proceedings for the same?
- b) What is the period of limitation for executing a decree passed by a foreign court from a reciprocating country in India?
- c) From which date the period of limitation will run in relation to a foreign decree (passed in a reciprocating country) sought to be executed in India?

The Supreme Court viewed that section 44A is only an enabling provision. It provides power to the district court to execute the decree as if the decree had been passed by an Indian court. It does not deal with the period of limitation. The court referred to the Dicey's 'Conflict of Laws'³⁸ in which stated that law of limitation of the forum country (*i.e.*, the country to which the decree holder would have to go) shall apply. It is viewed that if the law of the forum country is silent about limitation prescribed for execution of a decree then the limitation of the cause country would apply. Thus, it held that the limitation period for executing a decree passed by a foreign court (from reciprocating country) in India will be the limitation prescribed in the reciprocating foreign country. The limitation would start from the date the decree was passed in the cause country and the period of limitation prescribed in the forum country would not apply. Whereas if the decree holder takes steps in aid to execute the decree in the cause country and it is partly satisfied due to the insufficient assets of the judgement debtor, then application can be filed within three years of the finalization of the execution proceedings in the

35 *Supra* note 32.

36 2020 SCC Online SC 324.

37 *Id.*, para11.

38 AV Dicey, *Conflict of Laws* 860-861 (Stevens and Sons Ltd., Sweet and Maxwell, Ltd., 6th edn.1949).

cause country. It is analyzed that article 137 of Limitation Act, 1963 shall be applicable for such instances. Hence the decree holder must approach the Indian court along with the certified copy of the decree and the requisite certificate within three years period.

The court executing the decree under section 44A should provide a notice to the person against whom execution is applied for requesting him to show cause why the decree should not be executed against him.³⁹ Provided that if such application within two years of the date of the decree or it is against legal representative of judgement debtor then notice is not required to be issued. If the party raises any objections, then court should consider such objection otherwise order the decree to be executed.

It is important to notice the comment of the Supreme Court in *International Woolen Mills*⁴⁰ that under section 44A sub clause (3), the burden is upon the defendant who resists execution, to establish, to the satisfaction of the court which is called upon to execute the decree, that the foreign decree suffers under any one of the infirmities covered by any of the exceptions specified in clauses (a) to (f) of section 13 of CPC. Hence the satisfaction of the execution court depends on the evidences put forward by the defendant, who bear the burden of proof.

IV Conclusion

Since the inception of section 44A in CPC in 1937, the only option for execution of foreign decree was to file a fresh suit based on the foreign decree obtained or the original cause of action, or both. Regarding the execution of foreign decrees between India and UAE, this was the possibility until the notification made by Indian Government in January, 2020. Now, decree holder of these countries can approach the other country to get it executed. This change made a new milestone in the alliance of India and Arab Countries.

While considering the a foreign decree passed by three judge bench of Federal Court of UAE, Sharjah in 2016, the High Court of Kerala observed that it cannot be traced our any notification issued declaring UAE Courts as Superior Court under Section 44A CPC.⁴¹ In another case, the High Court of Bombay expressly held that it is not clear whether UAE has been notified as a reciprocating state so far for the purpose of section 44A CPC.⁴² The recent notification can rectify these lacunas and provide remedies for the aggrieved parties.

It was time consuming and expensive for a judgement debtor to initiate a fresh suit and follow all the procedures of an original suit in two countries one after the other.

39 *Supra* note 19, O. XXI, R.22

40 AIR 2001 SC 2134.

41 *Super General Company v. Suresh Thonikkadavu Veedu* [2017] CRP NO.506/2016 (D)Ker HC

42 *Michael Joseph Meenaghan v. Naveen Seth* [2018] NO.1216 of 2016 Bom HC

The uncertainty of such an action to be brought up subject to the law of forum country was intolerable. These hurdles left room for many fugitives to evade from committed obligations and result in injustice. The new change reduces the delay in executing the decrees and cut down the unnecessary expenses of prolonged procedures of the court. It is true to say that this is a move to establish justice. It emphasizes the spirit of the principle of 'justice delayed is justice denied.' The countries should come forward having bilateral dialogues and overcome this lacuna in international laws.

India upholds the principle of mutual respect and admissibility of international treaties as its basic structure. Article 51 of the Indian Constitution directs the state to maintain just and honorable relations between nations. It advises the state to foster respect for international law and treaty obligations in the dealings of organized people with one another. India's policies towards maintenance of international relationship gives learning lessons for many countries who are agitating for dominance in the contemporary international politics. Being two countries of diversified culture and heritage, when India and UAE deciding to mutually respect their legal systems, it will open doors for many countries to start dialogues and emphasis the necessity of honoring counterparts.

Regardless of the legal system of different countries, the disputes between parties are settled upon the issuance of a decree. It establishes as *res judicata* between the litigating parties in that matter of dispute. In this era of advanced communication technology, the mutual agreement between India and UAE must undergo many changes. New communication facilitates communication between the two ends of the countries in fraction of seconds. The agreement got enforced now bear communicational concepts of decades back. This must be changed to accommodate latest concept of communication such as emails, video conference and other internet-based mediums. It will enhance the service of summons, taking of evidence, execution proceedings or judicial procedures effectively to public.

Indians being the second largest populated country in the world eventually one of the largest expatriate communities in many foreign countries. Still the large part of the country is in poverty and economic instability. No one can forget the quotation of Jus. V.R. Krishnaiyer⁴³ "to be poor, in this land of daridra Narayana, is no crime and to 'recover' debts by the procedure of putting one in prison is too flagrantly violative of Art.21." The economic India has not materially changed from the that past which was denoted in the words of V.R Krishnaiyer. It is important to honor the decision of foreign court but must examine that the judgement debtor was given of just, fair and reasonable opportunities of representation.

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43 *Jolly George Verghese v. The Bank of Cochin* 1980 AIR 470.

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