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

*Reserved on: 01.09.2026*
*Date of Decision: 18.09.2026*
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# **CNR No. DLHC010348592026**

\+ CM(M) 1689/2026 &CM APPL. 50213/2026

SYED FARHAN ALI .....Petitioner
Through: Mr. Asim Naeem, Advocate

versus

M/S ABB INDIA LIMITED .....Respondent
Through: Mr. Nikhilesh Krishnan, Mr. Siddharth Singh, Mrs. Ritika Priya and Mr. Karna Mehra, Advocates

**CORAM:**
**HON'BLE MR. JUSTICE AJAY DIGPAUL**

**J U D G M E N T**

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**1.** Through the present petition, the petitioner, who is the Authorized Representative of the judgment debtor company, seeks to challenge the order dated 23.07.2026 passed by the learned executing court in Ex. 576/2019 titled '*M/s ABB India Limited vs. M/s Techno Aircon Industries Pvt Ltd',* whereby the learned executing court issued fresh warrants of arrest against the petitioner under Order XXI Rule 41(3) of the Code of Civil Procedure, 1908.

**2.** The brief facts of the present case are as follows –

**3.** The respondent instituted the underlying arbitration proceedings against the judgment debtor company, M/s Techno Aircon Industries Pvt. Ltd, seeking to adjudicate disputes stemming from a purchase order dated 11.09.2008. The purchase order was based on an agreement between the parties, according to which, the JD company was to manufacture goods using raw materials supplied by the respondent and deliver the finished products to the JD company's vendors.

**4.** The learned sole arbitrator *vide* order dated 28.02.2019 allowed the claims of the respondent and held that they were entitled to recover from the JD company Rs. 92,29,230/- with interest of 9% from 01.11.2021 till payment and further cost of Rs. 3,75,000/-.

**5.** The respondent filed the underlying execution petition on 30.05.2019 seeking to execute the arbitral award dated 28.02.2019. It is stated that the JD company entered appearance in 2021 where they filed their objection to the execution petition. The learned executing court on 25.03.2021 dismissed the JD company's objections and directed them to file the affidavit of income and assets in terms of this Court's judgment in ***M/s Bhandari Engineers & Builders Pvt. Ltd. v M/s. Maharia Raj Joint Venture & Ors.***

**6.** Meanwhile, on 08.09.2021 the JD company filed a petition under Section 34 of the Arbitration and Conciliation Act, 1996, seeking to challenge the arbitral award dated 28.02.2019.

**7.** The JD company on 20.11.2021 filed fresh objections under Section 47 of the CPC contending *inter-alia* that the award is inexecutable as the disputes between the parties were subject to the territorial jurisdiction of the courts in Bangalore.

**8.** The objections dated 20.11.2021 came to be dismissed *vide* order dated 12.05.2023 whereby the learned trial court noted that the objections *qua* jurisdiction had been raised before the learned sole arbitrator and had been challenged under Section 34 of the Arbitration Act. The order dated 12.05.2023 was challenged before this Court in CRP 274/2023, and *vide* order dated 16.10.2023 was dismissed as withdrawn.

**9.** The JD company's petition under Section 34 challenging the arbitral award came to be dismissed by this Court *vide* order dated 20.12.2023 whereby this Court did not find any reason to substitute their view for the arbitrator's considering it to be reasonable and not unconscionable.

**10.** In view of the dismissal of the petition under Section 34 by the JD Company, the learned executing court on 12.01.2024 directed the JD Company to file an affidavit of assets of the JD. The present petitioner, who is the AR of the JD company filed the affidavit of assets on 01.02.2024.

**11.** The said affidavit stated that the income of the JD company as per their balance sheet was Rs. 24,97,000/-, and that they had assets worth Rs. 29,28,67,000/-. The affidavit further stated that the JD company had one bank account with HDFC Bank with its branch in Greater Noida.

**12.** Meanwhile, the JD Company filed a petition under Section 37 of the Arbitration Act seeking to challenge the dismissal of their petition under Section 34 of the Arbitration Act *vide* order dated 20.12.2023. The matter was taken up on 14.02.2024 whereby a Division Bench of this Court issued notice on the petition.

**13.** The petitioner/AR of the JD company on 17.12.2024 filed the second affidavit of assets dated 13.12.2024 stating that the value of the assets of the JD Company was Rs. 29,13,84,537/-, that the JD Company had only bank account being the HDFC bank account in the Greater Noida branch and that the stated bank account had a balance of Rs. 13,87,71,817/-.

**14.** On the same date *viz.* 17.12.2024, upon a query of the court, the petitioner/AR of the JD company reiterated that the JD company did not have any bank accounts in Delhi, and the one in Greater Noida had a balance of Rs. 13,87,71,817/-. The learned executing court directed the JD company to file the income tax returns of the last 3 years along with bank statements of the JD Company account along with the documents of the property stated to be mortgaged in the affidavit.

**15.** On 03.02.2025, the JD Company, pursuant to the directions of the learned executing court filed its 3-year bank statement, ITR and the details of the mortgaged property. The 3-year bank statement of the JD company showed that the company had another account with ICICI bank in its Udyog Vihar branch, Noida.

**16.** The respondent on 08.04.2025 filed an application under Order XXI Rule 30 read with Rule 41(3) CPC seeking civil imprisonment of the petitioner/AR for a period of 3 months. The respondent contended *inter-alia* that the petitioner/AR has, in connivance with the JD company, sought to frustrate the execution of the arbitral award by deliberately concealing material details such as the number of owned properties and the bank account in ICICI bank, which was also used for withdrawals up till 2023.

**17.** As against the same, the petitioner filed his reply dated 28.04.2025 seeking dismissal of the application under Order XXI Rule 30 read with Rule 41(3) CPC. The petitioner disputed the ownership of another property by the JD Company and further stated that the account in the ICICI Bank account was closed in 2023.

**18.** Meanwhile, the JD Company's petition under Section 37 of the Arbitration Act was dismissed by a Division Bench of this Court *vide* order dated 18.08.2025. The dismissal order was further challenged before the Hon'ble Supreme Court, and the same was dismissed *vide* order dated 19.12.2025.

**19.** The learned executing court on 10.10.2025 while issuing warrants of attachment against the property bearing no. 249-A, Ground Floor, Block-D, Abul Fazal Enclave, Part-I, Jamia Nagar, Okhla, also directed the Bank Manager, ICICI Bank New Friends Colony to file a report regarding the status of the JD Company's account, which was stated to be closed.

**20.** In compliance with the order dated 10.10.2025, the Deputy Manager filed the account details of the JD Company's bank account with ICICI bank from 2023-July 2025. Upon a perusal of the account details, the learned executing court on 26.11.2025 noted that the account details showed that the bank account had been closed on 23.07.2025 with nil balance and that there were13 withdrawal entries on 17.07.2025 amounting to Rs. 12,51,719/-. The court further noted that the warrants of attachment issued against the JD were unserved as the JD was not found at the given address.

**21.** The learned executing court *vide* order dated 11.05.2026 allowed the respondent's application under Order XXI Rule 30 read with Rule 41(3) CPC, and issued warrants of arrest against the petitioner/AR. The court noted that a perusal of the documents showed that the AR had supplied the documents in a piece-meal manner despite having prior knowledge of the same, and had consistently withheld material information from the court.

**22.** The arrest warrants issued against the petitioner came back unserved thereby prompting the learned executing court to issue fresh warrants of arrest on 23.07.2026 under Order XXI Rule 30 read with

Rule 41(3) CPC. Aggrieved, the petitioner has challenged the order dated 23.07.2026 before this Court.

**23.** Learned counsel for the petitioner submits that the petitioner is merely the Authorised Representative of the Judgment Debtor Company and was admittedly neither a party to the arbitral proceedings nor to the execution proceedings. It is, therefore, submitted that the learned Executing Court has erred in issuing warrants of arrest against the petitioner in his individual capacity, despite there being no adjudication of any personal liability against him and he not having been impleaded or otherwise made a party to either the arbitral or the execution proceedings.

**24.** He further submits that the learned Executing Court, without undertaking any exercise to lift the corporate veil of the Judgment Debtor Company, has erroneously sought to fasten personal liability upon the petitioner, thereby disregarding the settled principle that a company possesses a distinct legal personality separate from that of its members, directors or representatives. It is further submitted that the petitioner was appearing before the learned executing court only in his capacity as the Authorised Representative of the Judgment Debtor Company and with a view to facilitate compliance with the orders of the Court. Such appearance, by itself, neither renders him personally liable nor confers jurisdiction upon the Court to initiate coercive proceedings against him, particularly when he is neither a party to the proceedings nor has any personal liability been adjudicated against him.

**25.** He has further submitted that learned executing court has erred in issuing arrest warrants in a civil case and that the same is disproportionate and bad in law. He has submitted that the scope of

Order XXI Rule 41(3) confers discretionary power on the executing court to order detention if a party has not complied with the directions in terms of Rule 41(2). In the present case, the petitioner has admittedly filed the required affidavit of assets, and has also complied with all directions, and thus, the learned executing court has wrongly exercised his discretion.

**26.** Lastly, He has submitted that the learned Trial Court has failed to appreciate the closure statement of November 2023, which clearly records that the ICICI Bank account had been closed. Despite the said closure statement having been placed on record, the learned Trial Court proceeded on the premise that the account continued to be operational and, consequently, attributed deliberate concealment of the said fact to the petitioner.

**27.** *Per contra*, the learned counsel appearing for the respondent has vehemently opposed the contentions of the petitioner and has submitted that the petitioner has sought to frustrate the execution of the award, and in doing so, has made it so that the respondent has been unable to recover a single paisa in a 7-year long execution proceeding. He has submitted that since the beginning, the intention of the JD Company, and now the petitioner, has been to file frivolous petitions and applications with the sole intent of delaying the execution, and that the same is contrary to intent of execution proceedings.

**28.** He has disputed the petitioner's contention that, during the execution proceedings, he was merely acting as the AR of the JD Company and had appeared before the learned executing court only to ensure compliance, submitting that the said contention is factually incorrect. He has pointed out that the petitioner was the erstwhile Director of the JD Company and, even after demitting such office, continued to maintain close working relations with the existing directors, who are his family members. It is, therefore, submitted that, given the petitioner's close association with the management of the JD Company and his consequent involvement in its decision-making, he was fully conversant with the affairs of the company and had deliberately withheld material information in the affidavit of assets furnished before the learned executing court.

**29.** He has submitted that the mischievous conduct of the petitioner and the JD Company is writ large from the fact that the execution proceedings were filed in 2019, however, the JD Company entered appearance 2 years later in 2021. After that the JD Company filed objections twice and both the objections were dismissed on 25.03.2021 and 12.03.2023, after which the JD Company then challenged their dismissal before this Court. Once the JD Company realized that the execution proceedings could not be vitiated, they, through the petitioner, who is the AR of the JD Company, sought to delay it to the point of frustration.

**30.** In 2024, the petitioner/AR pursuant to court orders filed two affidavits dated 01.02.2024 and 17.12.2024, both of which deliberately did not contain all information. It was only after the inquisitorial approach of the learned executing court directing the filing of the bank returns of the JD company, and the subsequent report of the Deputy Manager of ICICI Bank that the falsity and concealment in the petitioner's conduct was shown. This deliberate concealment along with knowledge of the company's affairs makes it evident that there was an active intention of the petitioner to withhold material information so as to frustrate the execution proceedings. He has further submitted that even a bare perusal of the orders dated

11.05.2026 and 23.07.2026 would show that the petitioner, in order to further delay the proceedings has been evading the arrest warrants.

**31.** Lastly, he has submitted that the learned executing court has correctly appreciated the scope of Order XXI Rule 41(2) and (3) and has appropriately exercised their discretion. He has submitted that since the petitioner has not appropriately filed the affidavit with all the material particulars, he cannot be stated to have complied with directions of the learned executing court under Rule 41(2) and is thus liable for civil imprisonment under Rule 41(3).

**32.** Heard. Perused the records.

**33.** In the opinion of this Court, the learned counsel for the petitioner has, in substance, raised three issues for consideration: (a) whether the petitioner, who was admittedly the AR of the JD Company and was not impleaded in the arbitral or execution proceedings, could have been subjected to coercive consequences in his individual capacity without first lifting the corporate veil; (b) whether the learned executing court erred in the exercise of its discretion under Order XXI Rule 41(3) CPC, and (c) whether the learned executing court failed to properly appreciate the closure statement recording closure of the ICICI Bank account;

**34.** The first issue, as framed, proceeds on a premise which does not accurately capture the nature of the proceedings before the learned Executing Court. The petitioner is not sought to be proceeded against as the judgment-debtor under the arbitral award, nor is the decree being sought to be satisfied from his personal assets. The award is against the JD Company. The proceedings under Order XXI Rule 41(3), however, operate on a different footing. Rule 41(2) specifically contemplates that where the judgment-debtor is a corporation, an officer thereof may be directed to furnish an affidavit disclosing the particulars of the assets of the judgment-debtor; Rule 41(3), in turn, provides a consequence for disobedience of such an order. At the outset, it is relevant to note that the petitioner, being an officer of the JD Company, is being proceeded against under Rule 41(3) due to non-compliance of the directions under Rule 41(2).

**35.** Thus, the distinction between the two situations is material. The first would involve fastening upon the petitioner the liability of the JD Company under the decree, notwithstanding that he was not a party to the arbitral proceedings or the execution proceedings. That is not what the learned Executing Court has done. The consequence under Rule 41(3) arises from the petitioner's own conduct in furnishing the affidavits of assets on behalf of the JD Company without disclosing all material particulars which ought to have been within his knowledge and which under the Rule 41(2) are required to be disclosed.

**36.** It is also not the case of the petitioner that the information which was placed before the learned executing court was inadequately or inappropriately provided to him by the JD Company. Thus, he cannot be absolved of his non-compliance of a direction under Rule 41(3) stemming from supplying incomplete and false information. The separate legal personality of the JD Company cannot, therefore, be invoked to defeat an obligation personally undertaken by its officer pursuant to a judicial direction.

**37.** The objection based upon the petitioner's non-joinder in the arbitral or execution proceedings consequently does not advance his case. What falls for consideration is his compliance with the direction issued under Rule 41(2), which he was required to comply with fully and completely, in letter and spirit, in his capacity as the AR of the JD Company. The first issue is, accordingly, answered against the petitioner.

**38.** The second issue concerns the exercise of jurisdiction and discretion by the learned Executing Court under Order XXI Rule 41(3). At the outset, it is pertinent to note that while exercising supervisory jurisdiction under Article 227, the High Court does not sit as a Court of appeal to correct every purported error in the exercise of jurisdiction or discretion by the subordinate court. Interference is warranted where the exercise is vitiated by perversity, patent illegality or a manifest jurisdictional error. In other words, exercise of supervisory jurisdiction is to be in cases where there is patent lack of jurisdiction, and not in cases of improper exercise of jurisdiction.

**39.** The true import of Rule 41(2) is to secure a complete and meaningful disclosure of all material particulars of the assets of the judgment-debtor, so that the decree-holder and the executing court are placed in a position to effectively pursue satisfaction of the decree. The filing of an affidavit cannot, therefore, be treated as a mere formality. An affidavit filed by an officer of a company, which withholds material particulars, particularly information within the knowledge of the officer furnishing it, cannot constitute compliance in substance with a direction under Rule 41(2), and would therefore be punishable under Rule 41(3).

**40.** In the present case, the petitioner, as AR of the JD Company, filed affidavits of assets on 01.02.2024 and 17.12.2024, disclosing only the HDFC Bank account at Greater Noida. Significantly, when the second affidavit was filed, the learned executing court specifically enquired whether the JD Company maintained any bank account in

Delhi, to which the petitioner answered in negative. Pursuant to the directions of the Court, the bank statements subsequently filed on 03.02.2025 disclosed an ICICI Bank account which had not been mentioned in either affidavit and which reflected a balance of ₹65,27,798.37 as on 01.02.2025**.**

**41.** This omission becomes important because the account was not merely an account which had ceased to exist by the time the affidavits were furnished but also the subsequent verification obtained from the bank pursuant to the order dated 10.10.2025 showed that the account was closed only on 23.07.2025. The bank account details further disclosed 13 withdrawal entries on 17.07.2025, aggregating ₹12,51,719/-**.** Thus, it becomes clear that when the two affidavits were filed *viz.* 01.02.2024 and 17.12.2024, the account continued to be operational and money was withdrawn.

**42.** The chronology which stems from the record is therefore significant. A material bank account, which was within the knowledge of the petitioner and the JD Company, was not disclosed in either affidavit; its existence was not disclosed even upon a specific query by the learned Executing Court; and it came to light only upon the production of the bank records pursuant to the Court's direction. The subsequent bank verification further established that the account continued to operate and witnessed substantial withdrawals shortly before its closure. The disclosure, viewed in this context, cannot be regarded as complete compliance with the mandate of Rule 41(2).

**43.** The fact that the account was subsequently operated is also relevant to the manner in which the learned Executing Court assessed the conduct of the petitioner. The 13 withdrawals, totalling ₹12,51,719/-demonstrate continued utilisation of an account which had not been disclosed to the executing court. In the circumstances of the present execution proceedings, the learned executing court could reasonably construe such conduct as indicative of an attempt to frustrate or impede the execution of the decree.

**44.** In these circumstances, the invocation of Rule 41(3) cannot be said to be an erroneous exercise of discretion. The consequence followed from the petitioner's own non-compliance with the disclosure direction issued under Rule 41(2), and not from any attempt to treat him as the judgment-debtor under the decree. The second issue is, accordingly, answered against the petitioner.

**45.** The third issue is whether the learned Executing Court's appreciation of the material relating to the ICICI Bank account warrants interference by this Court. Since this Court is exercising supervisory, and not appellate jurisdiction under Article 227, it would not ordinarily reappraise the evidence merely to arrive at a different factual conclusion.

**46.** Upon a perusal of records, no infirmity is evident. The petitioner's reliance on the closure letter of 2023 cannot, in the face of the bank's own subsequent records, render the finding of the learned Executing Court perverse. Those records establish that the account was closed only on 23.07.2025 and that 13 withdrawals totalling ₹12,51,719/- were made on 17.07.2025. The learned Executing Court was therefore entitled to rely upon the bank's records in determining the actual status of the account.

**47.** The petitioner's challenge thus essentially seeks a reappreciation of material already considered by the learned Executing Court, which is beyond the permissible scope of Article 227 jurisdiction. The third issue is accordingly answered against the petitioner.

**48.** Thus, this Court is of the firm opinion that the petitioner is rightly being proceeded under Rule 41(3) for failing to substantially comply with the directions under Rule 41(2), and that the learned executing court has, in view of the material concealments, appropriately exercised their discretion under Rule 41(3).

**49.** Accordingly, the present petition, along with pending applications, if any, are dismissed.

**50.** The judgment be uploaded on the website forthwith.

**AJAY DIGPAUL, J.**

**SEPTEMBER 18, 2026/**ar/sg