

SECTION 44A AND THE UNITED ARAB EMIRATES*Courts notified by India as superior Courts of a reciprocating territory*

A money decree of a court named in the notification below may be executed in India as if an Indian District Court had passed it. This note sets out the section, the notification of 17 January 2020 and, on the next page, short notes on both.

44A. Execution of decrees passed by Courts in reciprocating territory.—(1) Where a certified copy of a decree of any of the superior Courts of any reciprocating territory has been filed in a District Court, the decree may be executed in India as if it had been passed by the District Court.

(2) Together with the certified copy of the decree shall be filed a certificate from such superior Court stating the extent, if any, to which the decree has been satisfied or adjusted and such certificate shall, for the purposes of proceedings under this section, be conclusive proof of the extent of such satisfaction or adjustment.

(3) The provisions of section 47 shall as from the filing of the certified copy of the decree apply to the proceedings of a District Court executing a decree under this section, and the District Court shall refuse execution of any such decree, if it is shown to the satisfaction of the Court that the decree falls within any of the exceptions specified in clauses (a) to (f) of section 13.

Explanation 1.—“Reciprocating territory” means any country or territory outside India which the Central Government may, by notification in the Official Gazette, declare to be a reciprocating territory for the purposes of this section; and “superior Courts”, with reference to any such territory, means such Courts as may be specified in the said notification.

Explanation 2.—“Decree” with reference to a superior Court means any decree or judgment of such Court under which a sum of money is payable, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty, but shall in no case include an arbitration award, even if such an award is enforceable as a decree or judgment.

MINISTRY OF LAW AND JUSTICE

(Department of Legal Affairs)

NOTIFICATION

New Delhi, the 17th January, 2020

G.S.R. 38(E).—In exercise of the powers conferred by Explanation 1 to section 44A of the Code of Civil Procedure, 1908 (5 of 1908), the Central Government hereby declares, United Arab Emirates to be a reciprocating territory for the purposes of the said section and the following Courts in United Arab Emirates to be superior Courts of that territory, namely:-

(1) Federal Court-

- (a) Federal Supreme Court;
- (b) Federal, First Instance and Appeals Courts in the Emirates of Abu Dhabi, Sharjah, Ajman, Umm Al Quwain and Fujairah;

(2) Local Courts-

- (a) Abu Dhabi Judicial Department;
- (b) Dubai Courts;
- (c) Ras Al Khaimah Judicial Department;
- (d) Courts of Abu Dhabi Global Markets;
- (e) Courts of Dubai International Financial Center.

Gazette of India, Extraordinary, Part II, Section 3(i), No. 36, 17 January 2020.
egazette.gov.in/WriteReadData/2020/215535.pdf

NOTES

What the section does.—Section 44A gives a direct route. Where it applies, the decree of the foreign court is executed in India as if a District Court here had passed it. No fresh suit is needed.

The two expressions.—The decree must be of a “superior Court” of a “reciprocating territory”. Both expressions take their meaning from the notification. That is Explanation 1.

The United Arab Emirates.—The United Arab Emirates was notified on 17 January 2020 by G.S.R. 38(E). The courts named are set out on the first page. The DIFC Courts are item (2)(e). The names are as printed in the Gazette, which spells it “Center”.

Reading the list.—Only a court specified in the notification is a superior Court for the purposes of the section. The name of the court on the decree should be read against the list.

Date.—Guidance written before 17 January 2020 describes the earlier route of a fresh suit in India. The date of any guidance should be checked.

“Decree”.—Explanation 2 confines the section to a decree or judgment under which a sum of money is payable. Sums payable in respect of taxes or charges of a like nature, fines and penalties are outside it. So is an arbitration award, even one enforceable as a decree.

What is filed.—A certified copy of the decree is filed in a District Court. With it goes a certificate from the superior Court stating the extent, if any, to which the decree has been satisfied or adjusted. See sub-sections (1) and (2).

What the judgment-debtor may show.—Under sub-section (3) the District Court shall refuse execution if it is shown that the decree falls within any of the exceptions in clauses (a) to (f) of section 13.

An illustration (the writer’s, not part of the Code).—A holds a judgment of the DIFC Courts against B for USD 500,000. B’s property is in India. A files a certified copy of the decree, with the certificate under sub-section (2), in a District Court. The decree may be executed as if that Court had passed it. B may show that the decree falls within section 13(a) to (f).

Not dealt with here.—Which court in India is to be approached, limitation, the documents in detail and the modes of execution are separate matters.

Later notifications.—The list is given as notified on 17 January 2020 and was read from the Gazette’s own file on 11 October 2026. Any later notification should be checked before the list is relied upon.

Section 13, to which sub-section (3) refers

13. When foreign judgment not conclusive.—A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim litigating under the same title except—

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

General information on Indian law. Not legal advice; no advocate-client relationship arises. Nothing here is a statement of the law of the UAE or of the DIFC.