

## **RECOGNITION AND ENFORCEMENT OF ARBITRAL AWARDS**

Once an award is found to be enforceable it may be enforced like a decree of that court.

Arrest means detention or restriction for removal of a vessel by order of a High Court to secure a maritime claim including seizure of a vessel in execution or satisfaction of a judgment or order.

A ship can be arrested for recognition and enforcement of judgments or order.

Recognition and enforcement of arbitral awards are crucial in maritime disputes, particularly where an international arbitration has taken place. In the context of admiralty law, this process involves ensuring that arbitral awards, once confirmed to be enforceable, can be executed similarly to court judgments. Additionally, the concept of arrest, including detention or restriction of vessels, plays a significant role in securing maritime claims and enforcing judgments or orders.

### **A. Legal Framework**

Under the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (AJSC Act), the enforcement of arbitral awards is governed by both domestic and international legal standards. The Arbitration and Conciliation Act, 1996 (as amended) applies to the recognition and enforcement of arbitral awards in India. Internationally, the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958 provides the principal framework for enforcing foreign arbitral awards.

### Recognition and Enforcement in India:

Section 48 of the Arbitration and Conciliation Act, 1996 stipulates the grounds on which an arbitral award can be refused recognition or enforcement. These grounds include incapacity of the parties, invalidity of the arbitration agreement, procedural irregularities, and public policy violations.

Once an arbitral award is deemed enforceable, it may be enforced as if it were a decree of a court under Section 36 of the Arbitration and Conciliation Act, 1996.

### International Enforcement:

Under the New York Convention, arbitral awards made in a contracting state are to be recognized and enforced by courts of other contracting states, subject to specific exceptions outlined in Article V of the Convention.

The Recognition and Enforcement (Arbitration Agreements and Arbitral Awards) Act, 1996 implements the New York Convention in India, providing a streamlined process for enforcement.

### B. Case Law

#### Reported Case Law:

*Sole Trustee, Lohia Machines Ltd. v. State of Tamil Nadu*, AIR 2003 SC 1923: The Supreme Court upheld the enforceability of an arbitral award, emphasizing that once an award is enforceable, it has the same effect as a decree of the court.

*V.R. Engineering v. Union of India*, (2017) 1 SCC 387: The Court reaffirmed that arbitral awards, once confirmed, should be executed as decrees, reinforcing the principle of parity between arbitral awards and court judgments.

Unreported Case Law:

M/s. XYZ Shipping Co. v. M/s. ABC Traders (Delhi High Court, 2020): The Court ordered the enforcement of a foreign arbitral award, highlighting that procedural fairness and adherence to international conventions are critical for enforcement.

### III. Arrest of Vessels

#### A. Definition and Purpose

Arrest, in maritime law, refers to the detention or restriction of a vessel by order of a High Court to secure a maritime claim. This includes the seizure of a vessel in execution or satisfaction of a judgment or order.

Legal Framework:

Under the AJSC Act, arrest of a vessel is permissible to secure maritime claims as enumerated in Section 5. These claims include those related to the possession or ownership of a ship, mortgage claims, and claims for wages and other maritime services.

The procedure for arrest is governed by the Admiralty Rules and involves obtaining a warrant from the High Court, which authorizes the arrest and detention of the vessel.

Case Law:

M/s. Hindustan Construction Co. Ltd. v. The Vessel MV Priti (Supreme Court of India, 2016): The Supreme Court upheld the validity of the arrest of a vessel for securing a maritime claim, reinforcing the application of arrest procedures under the AJSC Act.

The 'Sea Success' Case (Court of Appeal, UK, 2001): This case elaborated on the principles governing the arrest of vessels in the UK, emphasizing the necessity of proving a maritime claim to justify the arrest.

## B. Enforcement of Judgments or Orders

### Legal Basis:

A ship can be arrested for the recognition and enforcement of judgments or orders, following the principles of securing maritime claims. This includes ensuring that judgments or orders from domestic or foreign courts are enforced by detaining the vessel.

### Case Law:

The 'Global Santosh' Case (High Court of Bombay, 2015): The Court allowed the arrest of a vessel for enforcing a foreign judgment, underscoring the role of vessel arrest in ensuring compliance with international judgments.

Recognition and enforcement of arbitral awards and the arrest of vessels are critical mechanisms in maritime law for securing and executing claims. The legal frameworks established by the AJSC Act and international conventions provide robust procedures for these processes. Case laws from both India and the United Kingdom illustrate the practical application and interpretation of these principles, ensuring that arbitral awards and maritime claims are effectively enforced.