

RECOGNITION AND ENFORCEMENT OF JUDGMENTS

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.

Arrest of a vessel under admiralty law represents a powerful tool to secure maritime claims, including for the recognition and enforcement of judgments or orders issued by courts. The Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 ('Admiralty Act, 2017') governs the arrest of vessels in India, aligning Indian law with international admiralty practices. This legal mechanism, although rooted in procedural law, significantly influences the substantive rights of claimants. The ability to arrest a ship for the recognition and enforcement of judgments extends beyond mere detention; it ensures the court's authority is respected and its judgments are enforceable even in transnational maritime disputes.

II. Arrest as a Tool for Recognition and Enforcement of Judgments

Under Section 5 of the Admiralty Act, 2017, the High Court exercises jurisdiction to arrest a vessel to secure a maritime claim. The Act specifically empowers courts to arrest ships not only to secure maritime claims but also for the execution or satisfaction of judgments or orders. Arrest for the recognition and enforcement of a judgment can arise in two contexts:

Domestic Judgments: The arrest of a vessel may be sought to enforce a judgment issued by an Indian court in a maritime claim. If a judgment debtor

fails to satisfy the court's judgment, the claimant may proceed to arrest the debtor's vessel as a means of executing the judgment.

Foreign Judgments: Admiralty law also permits the arrest of a vessel to recognize and enforce foreign judgments or arbitral awards. Recognition of a foreign judgment refers to the acknowledgment of the foreign court's decision within the jurisdiction of an Indian court, while enforcement involves the practical steps taken to execute that judgment, often necessitating the arrest of a vessel. Foreign judgments can be recognized and enforced under Section 13 of the Code of Civil Procedure, 1908 (CPC), provided they meet certain criteria, including reciprocity and conformity with public policy.

In *MV Elisabeth and Ors v Harwan Investment and Trading Pvt. Ltd.* (1993), the Supreme Court of India laid down that an admiralty court in India has jurisdiction to arrest foreign ships within Indian territorial waters for enforcement of maritime claims and judgments, thereby establishing the Indian courts' broad jurisdiction over maritime matters, including the enforcement of foreign judgments.

III. Procedure for Arrest to Enforce Judgments

Once a judgment or an order is obtained, the claimant can apply to the High Court for the arrest of a vessel under the Admiralty Act, 2017. The process involves:

Filing an Application: The claimant must file an application for arrest supported by an affidavit, detailing the maritime claim, the judgment, and the necessity for arrest to enforce the judgment.

Issuance of Warrant of Arrest: Upon satisfaction of the court, an arrest warrant may be issued. The court assesses the merits of the judgment, its enforceability, and whether the arrest of the vessel is appropriate for its execution. Notably, under Rule 6 of the Admiralty Rules of the Bombay High

Court, the warrant of arrest should clearly state the purpose of arrest, i.e., to secure the enforcement of a judgment.

Notification to the Sheriff or Marshal: The court directs the Sheriff (in Mumbai) or the Marshal (in other jurisdictions) to execute the arrest. The Sheriff or Marshal ensures that the ship remains within the jurisdiction and is secured as a form of security for the claimant.

Release or Sale of the Vessel: Post-arrest, if the judgment debtor fails to provide adequate security or satisfy the judgment, the court may order the judicial sale of the vessel to fulfill the judgment amount.

IV. Case Law Analysis

Several case laws, both domestic and international, elucidate the principles governing the arrest of vessels for judgment enforcement:

MV Fortune Express v Unison Marine Ltd (2017): In this case, the Bombay High Court considered the enforcement of a foreign arbitral award through the arrest of the vessel. The court reinforced that arrest could be ordered as a means of enforcing foreign awards, provided they meet the enforceability standards under Indian law, as enshrined in the Arbitration and Conciliation Act, 1996.

The Bold Buccleugh (1851): In this seminal UK case, it was held that a maritime lien, once vested, travels with the ship irrespective of changes in ownership. This principle has been influential in Indian courts when dealing with the enforcement of maritime claims, including judgments.

The Indian Grace No. 2 (1993): This UK case highlighted that a judgment creditor is entitled to arrest the judgment debtor's ship in any jurisdiction where the ship can be found to enforce a judgment, reaffirming the global nature of ship arrest and judgment enforcement in admiralty law.

V. Distinction Between Arrest for Security and Arrest for Judgment Enforcement

It is important to distinguish between arresting a vessel to secure a maritime claim before judgment and arresting a vessel to enforce a judgment. The former is a preventive measure to ensure the availability of the ship as security for a maritime claim, while the latter is a post-judgment remedy aimed at satisfying the judgment.

The Supreme Court of India, in *Shipping Corporation of India Ltd. v Machado Brothers and Ors* (2004), reiterated this distinction by emphasizing that arrest after a judgment or an order is a form of execution rather than merely securing a claim.

Arrest of a vessel for the recognition and enforcement of judgments, under the Admiralty Act, 2017, remains a crucial remedy in maritime law. It ensures that judgment creditors have a powerful means of compelling compliance with court orders, both domestic and foreign. The Indian judiciary has consistently supported this remedy, aligning Indian practice with international maritime principles and ensuring that vessels within Indian territorial waters are not immune from judicial processes aimed at enforcing legitimate claims.

The judicial trend shows a robust enforcement regime, with courts being vigilant in balancing the rights of the claimants and the shipowners. The arrest of a vessel for judgment enforcement not only reflects the power of the courts but also serves as a deterrent against non-compliance with judicial orders, thereby promoting the rule of law in the maritime domain.