Supreme Court requests Law Commission to review law of Enforcement of Arbitral Awards

" The efficacy of an arbitral regime cannot be measured merely by the expedition with which an award is rendered or the circumscribed grounds upon which it may be challenged. It must equally be assessed by the ability of the successful party to realise the fruits of theaward within a reasonable time. The promise of arbitration remains unfulfilled if a party, having traversed the arbitral process, is compelled to embark upon another protracted course of litigation to secure the benefit of the award."

Hon'ble Supreme Court
October 28, 2026

Dear Reader,

The Supreme Court of India, in the judgment dated October 28, 2026, in *M/s Royal Construction Company Pvt. Ltd. v. M/s National Projects Construction Corporation, 2026 INSC 1167*, has requested the Law Commission of India to undertake a focused study of the framework for enforcement and execution of arbitral awards and to make legislative or procedural recommendations. The Court has asked the Law Commission to examine the practical impediments to timely recovery, the experience of other jurisdictions, and whether domestic and foreign awards need distinct enforcement procedures or a common framework with safeguards.

Facts:

The request arose in an appeal against a Delhi High Court interim order in proceedings to enforce an international arbitral award dated 10.08.2002. The Court disposed of the appeal on the limited ground that it could not be asked to clarify matters beyond its earlier judgment and then recorded its wider concern in an epilogue.

The Court noted that the arbitration was invoked under the Arbitration Act, 1940 and nearly three decades after the enactment of the Arbitration and Conciliation Act, 1996 ("**Arbitration Act**") in furtherance of the UNCITRAL Model Law for expeditious resolution with minimal judicial intervention, the parties were still litigating over enforcement more than 24 years after the award.

Observations:

Continuing litigation over enforcement 24 years after the award strikes at the rationale of arbitration as an alternative to civil litigation. The efficacy of the regime must be measured not only by how quickly an award is made and how narrow the grounds of challenge are, but by whether the successful party can realise the fruits of the award within a reasonable time. The Court observed as follows:

1. The statute has addressed delay in arbitral proceedings, challenges to awards and stays on enforcement. Execution deserves equally serious attention. Section 36 of the Arbitration Act enforces

an award as a decree under the Code of Civil Procedure, 1908. A closer examination is required to see whether the said framework serves the objectives of arbitration.

2. A focused scrutiny is required to devise a mechanism for identification and disclosure of the award-debtor's assets; coordination of different modes of execution; and disposal of repetitive or dilatory objections. Other legal systems may offer insights into more effective and coordinated enforcement mechanisms, while the legitimate procedural safeguards of judgment-debtors are preserved.

3. A focused study of the statutory and procedural framework for enforcement of arbitral awards to (a) identify practical impediments to timely recovery; (b) examine the experience of other jurisdictions; and (c) consider whether domestic and foreign awards warrant distinct enforcement procedures or a common framework with appropriate safeguards, is necessary.

Conclusion:

The judgment places the execution of arbitral awards on the reform agenda. The Law Commission's views on asset disclosure, coordination of execution, dilatory objections, timelines, and whether domestic and foreign awards need separate procedures may lead to changes to the Arbitration Act in the near future.