

INTERNATIONAL JOURNAL OF LEGAL STUDIES AND SOCIAL SCIENCES [IJLSSS]

ISSN: 2584-1513 (Online)

Volume 2 | Issue 3 [2024] | Page 140- 144

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A JUDGMENT GRANTED BY AN AMERICAN COURT IS A FOREIGN JUDGMENT FOR INDIAN COURTS

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Objective: The objective behind this article is to respect the judgment of a competent foreign court, and a legal obligation arises to satisfy the claim.

FOREIGN JUDGMENT

Section 2(6) of the Code of Civil Procedure, 1908 (CPC) defines a foreign judgment as a foreign court's judgment.

Foreign court is defined by Section 2(5) of the CPC as a court situated outside India and not established or continued by the authority of the Central Government. CPC dictates the procedure for enforcing foreign judgments in India and requires the judgment or decree passed by the foreign court to be conclusive. A court of competent jurisdiction should have decided on the case's merits.

RES JUDICATA

Res judicata is essential to preserving the fairness and effectiveness of the legal system because it guarantees that once a case is decided, the same concerns cannot be raised again.

Section 13 of the CPC underlies the principle of res judicata, and any judgment passed by a foreign court can be enforced in India and will act as res judicata between the subject parties.

COLLATERAL ESTOPPEL

Issue preclusion, commonly referred to as collateral estoppel, is a vital component of the judicial economy and serves to avert recurrent litigation. This doctrine guarantees that, even in cases involving separate claims, an issue cannot be raised again once it has been conclusively addressed in one legal action.

FORUM SHOPPING

A party engaged in forum shopping will strategically select a court or jurisdiction in the hopes of obtaining a better result. This strategy can affect the court's perceived leniency the possibility of a favorable decision or more advantageous procedural procedures when determining the venue of a case. Although forum shopping is occasionally regarded as a proper use of one's legal rights, it also raises questions about judicial efficiency and impartiality

RECOGNITION OF FOREIGN JUDGMENT UNDER INTERNATIONAL LAW

In the modern world, cross-border disputes are increasingly common due to globalization. Legal collaboration between countries has become essential for maintaining social order. Recognizing and enforcing foreign judgments is critical for commerce and for upholding justice and harmony in international relationships. Additionally, to prevent forum shopping and to maintain judicial economy—ensuring that parties do not relitigate in their preferred jurisdictions—effective legal frameworks are necessary. Litigation can be very expensive and time-consuming, making these measures even more important. To maintain social harmony among merchants, countries, and individuals, it is wise for the parties to adhere to established rules, regulations, precedents, and both domestic and international laws.

PRIVATE INTERNATIONAL LAW

In Private International Law, civilized nations are expected to adhere to specific rules grounded in principles of justice, equity, and good conscience. This body of law governs disputes between two corporations, between private individuals, or between a corporation and a country.

PUBLIC INTERNATIONAL LAW

The Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (2019): This treaty provides a framework for the recognition and enforcement of judgments across member states, aiming for uniformity and predictability in cross-border legal matters.

The Hague Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958): While focused on arbitration, this convention impacts the recognition of judgments related to international arbitration and enforces arbitration agreements.

Regional Agreements: Various regional agreements, such as the European Union's Brussels I Regulation (Recast), address the recognition and enforcement of judgments among member states, promoting legal certainty and cooperation within specific regions.

BINDING NATURE OF FOREIGN JUDGEMENTS

Section 13 of the CPC clearly says that a foreign judgment shall be conclusive/ binding as to any matter directly adjudicated upon between the parties except under certain circumstances specified in this section.

Brijal Ramjidas v. Govindram Gordhandas Seksaria, the Supreme Court of India held that Section 13 speaks not only of judgment, but any matter thereby directly adjudicated upon.

D. Viswanathan v. Rukun ul Mulk Sayed Abdul, the Supreme Court of India held that while considering whether a foreign court's judgment is conclusive, the courts in India will not be required to go into the merits of the claim. It shall be conclusive as to any matter directly adjudicated between such parties subject to exceptions enumerated under Section 13, clause (a) to (f).

Foreign courts would have jurisdiction in the following circumstances:

- i. Where a person is the subject of the foreign country in which the judgment has been rendered.
- ii. Where he/she was a resident in the foreign country when the action was commenced, and the summons was served on him/her.
- iii. Where the person in the character of the plaintiff selects the foreign court as the forum for acting in which forum he issued later.
- iv. Where the party on summons **voluntarily** appeared, and
- v. Whereby an agreement/contract, a person has agreed to submit himself to the forum where the judgment is obtained.

CONCLUSIVENESS OF FOREIGN JUDGEMENT IS BINDING OR COMPETENT

A foreign court has jurisdiction to give judgment in rem provided the subject matter is within Movable or personal Immovable or real property of that country or jurisdiction if it is not, the court will not be considered competent.

In an action in personam, foreign courts have jurisdiction in the following cases:

1. If, at the time of commencement of the action, the defendant was resident or present in that country.
2. Where the defendant at the time of judgment is the subject or citizen of such country.
3. Where the parties objecting to jurisdiction by their conduct submit to such jurisdiction.

FOREIGN JUDGEMENT NOT ON MERITS

A judgment is on merits when the decision is given after taking evidence and applying mind to the truth or falsity of facts and the parties' contention. A decision passed on default of the defendant's part without trial on evidence was held not on merits.

In *Anubha v. Vikas Aggarwal*, AIR 2003 Del. 175,

The wife filed a petition for judicial separation and maintenance in Indian Court. During the same period, the husband obtained a divorce decree from the U.S.A. court.

Whether this decision rendered by the USA court is binding on the wife? Both the husband and wife are Hindus. The husband filed a divorce complaint in the United States courts the wife did not submit herself to the Jurisdiction of American courts. The wife did not submit herself to the Jurisdiction of an American court, therefore the court could not exercise personal jurisdiction on the dependent wife. In the event that the American court grants a divorce without merits is neither recognizable nor enforceable

Similarly, a decree passed by a Singapore Court in a summary proceeding after the defendant refused leave to defend short is not a judgment on merits. Hence, it cannot be considered conclusive as contemplated under Section 13 (b) of CPC, 1908.

CONCLUSION

Enforcement and recognition of foreign judgments is a complex area that involves various factors. It requires consideration of finality, adherence to principles of natural justice, procedural due process, and substantive due process. Additionally, it must comply with the procedural and substantive laws of the involved nations, as well as relevant public and private international law, civil procedure, evidence law, customs, and procedures.