

You can enforce UAE court verdict in India to get loaned money back



LEGAL VIEW
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Q: One of my acquaintances took money from me on loan. When he did not return it, I filed a complaint at a court in Al Ain. The judgment was pronounced in my favour. However, the borrower fled to India. Are there any legal options open to me to get the money from him in India?

A: We assume that the judgment pronounced by Al Ain court is a civil judgment. It should be noted that in India, recognition and enforcement of foreign judgments and decrees are governed by Section 44-A, and Section 13 of the Code of Civil Procedure 1908 (Civil Code of India).

Section 13 of the Civil Code of India provides the criteria for recognition of a foreign judgment and is a pre-condition to any enforcement proceedings under Section 44A of the code. It states that the basic criteria required to be followed while enforcing a foreign judgment or decree in India is to ensure that the verdict or decree is pronounced by a court of competent/superior jurisdiction and is based on merits. Besides, it should be final and conclusive without leaving any scope for pending appeal in the rendering state, while having the effect of res judicata which means a matter that has been adjudicated by a competent court and therefore, may not be pursued further by the same parties.

As such, foreign judgment which is conclusive under Section 13 of the Civil Code of India can be enforced by instituting execution proceedings under Section 44-A of the Civil Code of India.

Section 44(A) of Civil Code of India imposes restrictive proposal requiring

reciprocity in enforcing foreign judgments in the case of 'reciprocating territories'. Further, it defines 'reciprocating territory' to mean a country which the central government has notified as such in the Official Gazette. The Government of India and Government of UAE signed a bilateral treaty in 1999 on juridical and judicial co-operation in civil and commercial matters for the service of summons, judicial documents, judicial commissions, execution of judgments and arbitral awards. The said treaty was ratified by both countries in their Official Gazette in May 2000. Considering this law, it is to be noted that foreign judgments and decrees from reciprocating territories can be executed in India as decrees passed by the Indian courts - a district court and or high court having civil jurisdiction.

You will have to file the required documentation as specified below before a district court or a high court, for execution and enforcement of foreign judgments and decrees from reciprocating territories under Section 44-A of the Civil Code:

> A certified copy of the decree or judgment passed by a superior court of the reciprocating territory;

> A certificate from the foreign court stating the extent to which the decree

has already been satisfied or adjusted (if any satisfaction has been achieved at all) must be filed.

Also, under international law, as India and the UAE are parties to the bilateral treaty of 1999, there is an obligation on both nations to recognise and enforce foreign judgments in line with the commitments in the pact.

However, it is recommended to consult an Indian legal counsel regarding the enforcement of UAE judgments in the courts of India.

Dealing with foul-mouthed boss

Q: I work in a mainland company in Dubai. One of our managers uses foul language and expletives while directing or checking our work progress. Is there a law against this kind of behaviour? Where do we complain?

A: Pursuant to your queries, you and other employees, who have objection to foul language being used by your manager, may write a letter to him to refrain from using such abusive language and copy this letter to the Ministry of Human Resources and Emiratisation. This is in accordance with Article 155 of the Federal Law No. 8 of 1980 regulating employment relations in the UAE (the 'Employment Law'), which states: "Where a dispute occurs between one or more employers and all or certain of their employees and the parties fail to settle it amicably, they shall observe the following procedures:

1. The employees shall submit their complaint or claim in writing to the employer and at the same time send a

Know the law



If a dispute occurs, the employees should submit their complaint or claim in writing to the employer and at the same time send a copy of it to the employment department

copy of it to the employment department;

2. The employer shall reply in writing to the employee's complaint or claim within seven working days from the date of receipt of the complaint. He shall at the same time send the ministry a copy of his reply;

3. Where the employer fails to reply within the prescribed time limit or where his reply does not lead to a settlement of the dispute, the competent ministry shall, either of its own motion or at the request of one of the parties to the dispute, mediate with a view to reaching an amicable settlement;

4. Where the complainant is the employer, he shall submit his complaint directly to the ministry, which shall mediate between the parties to settle the dispute amicably."

You may also explore the possibility to initiate a criminal complaint against the manager who used abusive language against you and other employees.

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