

PART S. —RECIPROCAL EXECUTION OF DECREES BY
COURTS IN INDIA AND FOREIGN COUNTRIES

1. The Law on the subject of execution of decrees of Courts in India by foreign Courts and vice versa is contained in Section 44-A of the Code of Civil Procedure.

5.44-A. C. P. C.

2. Section 44-A which was originally inserted in the Code of Civil Procedure 1908 by Act No. 8 of 1937 has been amended by Act LXXI of 1952. It now provides that a decree passed by 'a superior Court' in any 'reciprocating territory' can be executed in India by filing a certified copy of the decree in a District Court, which will treat the decree as if it has been passed by itself. 'Reciprocating territory' means any country or territory outside India which the Central Government may by notification declare to be a reciprocating territory for the purposes of Section 44-A. A 'superior court' with reference to any such territory would mean such courts as are specified in the said notification. This arrangement is confined only to decrees for payment of money not being sums payable as taxes, fines or penalties etc. Further the decree should not be based on an arbitration award.

Reciprocal
arrangement

The definition of 'India' in clause (7B) of Section 2 of the Code does not govern Section 44-A (Please see Section 4 and Third Schedule of Act No. 42 of 1953).

United
Kingdom.

3.(a) The Central Government has in exercise of the powers conferred by Explanation I to section 44-A C.P.C. declared the United Kingdom of Great Britain and Northern Ireland to be reciprocating territory for the purposes of the said section, and the High Court in England, the Court of Sessions in Scotland, the High Court in Northern Ireland, the Court of Chancery of the Country Palatine of Lancaster and the Court of Chancery of the Country Palatine of Dar ham to be the Superior Courts of that territory, *vide* Central Government Notifications Nos. 47 to 51, dated the 25th February, 1953, and 1st March, 1953, respectively, published in the Gazette of India.

Similarly, the Government of Great Britain have extended Part I of the Foreign judgments (Reciprocal Enforcement) Act, 1933 to the territories of the Union of India and the following Courts shall be deemed to be superior courts of the said territories for the purposes of Part I of the said Act :

- (a) All High Courts and Judicial Commissioners' Courts.

(b) All District Courts.

(c) All other courts whose civil jurisdiction is subject to no pecuniary limit provided that the judgment sought to be registered under the said Act is sealed with a seal showing that the jurisdiction of the courts is subject to no pecuniary limits — *vide* the Reciprocal Enforcement of judgments (India) Order, 1953".

(b) Reciprocity has been established between India and Burma in the matter of execution, *vide* Government of India Notification No.2 86-36- Judicial, dated the 27th March 1939, and Government of Burma Notification No. 141, dated the 7th March, 1939.

According to these notifications the following courts have been declared to be superior Courts for the purposes of section 44-A:

Burma.

Burma: —

(1) High Court at Rangoon.

(2) All District Courts in Burma.

4. Reciprocity has also been established between the colony of Aden and India and the Supreme Court of the said 'reciprocating territory' has been specified by the Central Government as a 'superior court' under Explanation I of section 44-A of the Code. (Government of India, Ministry of Law, Notification No. S.R.O. 183, dated the 18th January, 1956).

Aden.

5. Reciprocity has also been established between the colony of Fiji and India, — *vide* Central Government Notification No. S.R.O. 959, dated the 22nd March, 1954 published in the Gazette of India of 27th March, 1954.

Fiji
Colony.

6. Reciprocity has also been established between the colony of Singapur and India and the Supreme Court of the said 'reciprocating territory' has been specified by the Central Government as a 'superior Court' under Explanation I of section 44-A of the Code. (Government of India, Ministry of Law, Notification No. S.R.O. 1867, dated the 1st September, 1955.)

Colony of
Singapore.

7. Reciprocity has also been established between the Federation of Malaya and India and the High Court and the Courts of Appeal of the said 'reciprocating territory' have been specified by the Central Government as 'superior courts' under Explanation I of Section 44-A of the Code. (Government of India, Ministry of Law, Notification No. S.R.O. 4, dated the 3rd January, 1956.)

Federation
of Malaya.