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Executing Transnational Justice - Beyond the Reciprocity Paradox

-Sanket Chavan

Abstract

The growing expansion of globalization and cross-border commerce has made enforcement of foreign decrees increasingly important. This paper examines the legal framework under the Code of Civil Procedure, 1908, particularly Sections 13, 14, and 44A governing recognition and execution of foreign judgments in India. It analyses the reciprocity-based enforcement model and highlights key loopholes, including ambiguity in jurisdictional standards, uncertainty surrounding judgments “on merits,” broad natural justice and fraud exceptions, limitation concerns, and the restricted scope of Section 44A to money decrees.¹ The study further assesses the impact of these limitations on costs, delays, investor confidence, and India’s global credibility, and proposes legislative and structural reforms to modernize and align the enforcement regime with international standards, thereby strengthening commercial certainty and judicial reliability.

Introduction

The rapid growth of globalization has transformed civil and commercial litigation, leading to a significant rise in cross-border disputes involving parties located in different jurisdictions. With expanding international trade, foreign investment, digital commerce, and multinational operations, it has become increasingly common for judgments rendered in one country to require enforcement in another. In this global legal environment, the effectiveness of a judicial decision depends not merely on its pronouncement but on its enforceability across territorial boundaries. Consequently, the execution of foreign decrees and judgments assumes central importance in private international law and international judicial cooperation. For India, as an emerging global economic power, an efficient and predictable enforcement regime is essential to ensure commercial certainty, investor confidence, and credibility in transnational dispute resolution.

The legal framework governing recognition and execution of foreign judgments in India is contained in the Code of Civil Procedure, 1908. Sections 13 and 14 establish the principles of conclusiveness and the presumption of jurisdiction of foreign courts, while Section 44A provides a mechanism for direct execution of money decrees from notified reciprocating

¹ Raghuvanshi, R. S., & Vaidya, N. (n.d.). Legality of foreign judgments. SSRN. <https://ssrn.com/abstract=1583821>

territories.² These provisions incorporate principles of international comity, permitting recognition of foreign judgments subject to safeguards such as jurisdictional competence, decision on merits, absence of fraud, compliance with natural justice, and conformity with Indian law.

Despite this structured framework, significant doctrinal ambiguities and procedural limitations persist. The absence of a clear statutory definition of “competent jurisdiction,” uncertainty surrounding the requirement of a judgment being “on merits,” and broad exceptions relating to fraud and natural justice often result in prolonged litigation and inconsistent enforcement. Moreover, the restricted scope of Section 44A limited primarily to money decrees from specified reciprocating territories creates a dual enforcement system that necessitates fresh suits for non-reciprocating jurisdictions, leading to delay and multiplicity of proceedings.³

This research paper critically examines the execution of foreign decrees and judgments in India under the Code of Civil Procedure, 1908, with particular emphasis on the structural and interpretative loopholes embedded within Sections 13, 14, and 44-A. The study seeks to:

- (1) examine the statutory framework governing recognition and execution of foreign judgments;
- (2) analyse the judicial precedents that have shaped and interpreted these provisions;
- (3) identify doctrinal ambiguities, procedural inefficiencies, and structural defects within the existing regime; and
- (4) suggest structural and legislative reforms aimed at modernizing and strengthening the enforcement mechanism.

By addressing these lacunae, the paper aims to contribute toward the development of a more efficient, coherent, and globally responsive enforcement regime under Indian civil procedure law. Strengthening the execution framework is not merely a procedural necessity but a strategic imperative for enhancing India’s credibility, ensuring legal certainty, and reinforcing its position within the evolving architecture of international dispute resolution.

2 Ramakrishnan, P. (2022). Execution of foreign decrees: An analysis on “reciprocating territories” under Section 44-A, Code of Civil Procedure, 1908. SSRN. <https://ssrn.com/abstract=4593663>

3 Raghuvanshi, R. S., & Vaidya, N. (n.d.). Legality of foreign judgments. SSRN. <https://ssrn.com/abstract=1583821>

Research Methodology

This research adopts a **doctrinal and analytical methodology** to examine the legal framework governing the execution of foreign decrees and judgments in India under the Code of Civil Procedure, 1908, with particular focus on Sections 13, 14, and 44A, as discussed in the paper. The study primarily relies on statutory analysis and judicial precedents to interpret principles such as competent jurisdiction, decision on merits, fraud, natural justice, and reciprocity. A comparative approach is also employed by examining enforcement models in select foreign jurisdictions to evaluate the adequacy of India's reciprocity-based system. The research further incorporates a critical and reform-oriented perspective to identify structural ambiguities, procedural inefficiencies, and legislative gaps, and to propose modernization measures aimed at strengthening commercial certainty and judicial efficiency in cross-border enforcement.

Statement of the Problem

With the expansion of globalization and cross-border commerce, enforcement of foreign decrees has become crucial to international civil litigation. Although the Code of Civil Procedure, 1908 provides a framework under Sections 13, 14, and 44A for recognition and execution of foreign judgments in India, the regime suffers from significant ambiguities and structural limitations. The lack of a clear test for competent jurisdiction, uncertainty regarding judgments "on merits," broad fraud and natural justice exceptions, limitation confusion, and the restricted reciprocity-based model limited mainly to money decrees create delay, duplication, and unpredictability.⁴ The dual system of direct execution for reciprocating territories and fresh suits for others further increases costs and inconsistency. These gaps raise concerns about commercial certainty, investor confidence, and whether the current CPC framework adequately addresses modern transnational realities or requires comprehensive reform

Literature Review

The enforcement of foreign judgments in India has been examined in academic writings on Private International Law and civil procedure, particularly with reference to Sections 13, 14,

⁴ Batra, M. (2014). Indian procedure to enforce foreign judgements in suits for the recovery of money. SSRN. <https://ssrn.com/abstract=2409735>

and 44A of the CPC, focusing on jurisdiction, conclusiveness, fraud, natural justice, and reciprocity.⁵ Judicial precedents such as *Gurdayal Singh v. Raja of Faridkot*,⁶ *R. Viswanathan v. Rukn-ul-Mulk Syed Abdul Wajid*, *International Woollen Mills v. Standard Wool (UK) Ltd.*, and *Alcon Electronics Pvt. Ltd. v. Celem S.A.*⁷ have significantly shaped enforcement jurisprudence. Comparative scholarship notes that jurisdictions like the United Kingdom and the United States follow broader, less reciprocity-driven models,⁸ supported by international instruments such as the New York Convention and the Hague Judgments Convention. However, limited scholarly focus has been placed on critically evaluating structural weaknesses in India's reciprocity-based framework, particularly in the context of modern digital and multinational disputes an area this research seeks to address.

Research Objectives

The present study aims to accomplish the following objectives:

- a) To examine the statutory framework governing recognition and execution of foreign judgments under Sections 13, 14, and 44A of the Code of Civil Procedure, 1908.⁹
- b) To analyse judicial precedents that have interpreted and shaped the enforcement regime in India.
- c) To identify doctrinal ambiguities and structural limitations within the existing reciprocity-based system.
- d) To assess the practical impact of these limitations on commercial certainty, litigation costs, judicial efficiency, and investor confidence.
- e) To compare India's enforcement framework with select foreign jurisdictions and international standards.
- f) To propose legislative, structural, and institutional reforms aimed at modernizing and strengthening the enforcement mechanism.

⁵ Batra, M. (2014). Indian procedure to enforce foreign judgements in suits for the recovery of money. SSRN. <https://ssrn.com/abstract=2409735>

⁶ Anand, U. (2022, June 27). Enforcement of foreign judgments in India. Lawctopus. <https://www.lawctopus.com/academike/enforcement-of-foreign-judgements-in-india/>

⁷ Handa, H. (n.d.). Enforcement of domestic and foreign arbitral awards in India. *International Journal for Research in Law*, 4(2), 202–204.

⁸ Ramakrishnan, P. (2022). Execution of foreign decrees: An analysis on “reciprocating territories” under Section 44-A, Code of Civil Procedure, 1908. SSRN. <https://ssrn.com/abstract=4593663>

⁹ Raghuvanshi, R. S., & Vaidya, N. (n.d.). Legality of foreign judgments. SSRN. <https://ssrn.com/abstract=1583821>

Research Questions

research is guided by the following key questions:

- a) Whether the current framework under Sections 13, 14, and 44A of the CPC provides a clear and predictable mechanism for execution of foreign decrees in India?
- b) Whether the statutory exceptions particularly relating to jurisdiction, merits, fraud, and natural justice are applied in a manner that ensures fairness without encouraging re-litigation?
- c) Whether the reciprocity-based model under Section 44A is adequate in the context of modern global commerce and expanding international trade relations?
- d) Whether the dual system of enforcement for reciprocating and non-reciprocating territories creates structural inequality and procedural inefficiency?
- e) Whether India requires a comprehensive and modern legislative framework on private international law to ensure harmonization with international enforcement standards?

Conceptual Framework

1) Foreign Court - Section 2(5) of the Code of Civil Procedure, 1908

Section 2(5) of the Code of Civil Procedure, 1908 defines a Foreign Court as a court situated outside India and not established by the authority of the Central Government.¹⁰ The definition is territorial and sovereign in nature, focusing on the location and source of authority of the court rather than the nationality of the parties.¹¹ Courts functioning under foreign legal systems are treated as foreign courts for the purposes of applying Sections 13, 14, and 44A relating to recognition and execution of foreign judgments in India.

2) Foreign Judgment - Section 2(6) of the Code of Civil Procedure, 1908

Section 2(6) of the Code of Civil Procedure, 1908 defines a Foreign Judgment as the judgment of a foreign court. It refers to a final and conclusive decision determining the rights and liabilities of parties in a civil matter.¹² Only judgments that finally adjudicate the issues qualify for recognition, while interim or procedural orders generally do not. Such a

¹⁰ Jagota, R., & Chanana, P. (n.d.). Executability and enforceability of foreign judgments and decrees in India: An analysis of judicial trends.

¹¹ India. (1908). The Code of Civil Procedure, 1908 (Act No. 5 of 1908). Government of India.

¹² India. (1908). The Code of Civil Procedure, 1908 (Act No. 5 of 1908). Government of India.

judgment becomes enforceable in India only upon recognition under Section 13 CPC, subject to statutory safeguards.¹³

3) **Recognition vs Execution - Meaning and Conceptual Distinction**

The distinction between recognition and execution is fundamental in understanding the legal treatment of foreign judgments under the Code of Civil Procedure, 1908. Although closely related, the two concepts operate at different stages of enforcement and serve distinct legal purposes.

- a) **Recognition** refers to the acceptance by an Indian court that a foreign judgment is valid, binding, and conclusive between the parties. It involves judicial acknowledgment of the legal effect of the foreign adjudication without re-examining the merits of the original dispute. Recognition gives the foreign judgment the status of *res judicata*, meaning that the issues directly adjudicated upon cannot be re-litigated between the same parties in India. Recognition is primarily governed by Sections 13 and 14 of the CPC, which deal with the conclusiveness of foreign judgments and the presumption as to their jurisdiction.
- b) **Execution**, on the other hand, refers to the enforcement of a recognized foreign decree through the coercive machinery of Indian courts. Execution involves procedural steps such as filing an execution petition, attachment and sale of property, or other measures under Order XXI of the CPC. In the case of decrees from reciprocating territories, execution is provided for under Section 44A of the CPC, whereby such decrees may be executed in India as if they had been passed by District Court in India.

Theoretical Foundations

The execution and enforcement of foreign decrees in India under the CPC, 1908 are rooted in established doctrines of Private International Law. These principles aim to balance state sovereignty with the need for international judicial cooperation in a globalized legal order. Recognition of foreign judgments is therefore not a matter of mere discretion, but is based on

¹³ Anand, U. (2022, June 27). Enforcement of foreign judgments in India. Lawctopus. <https://www.lawctopus.com/academike/enforcement-of-foreign-judgements-in-india/>

structured doctrines as given below. Together, these foundations provide the philosophical basis and practical framework for the operation of Sections 13, 14, and 44A of the CPC.

- a) **Comity of Nations-** The doctrine of comity of nations supports recognition of foreign judgments based on mutual respect between sovereign states. It allows courts to acknowledge foreign decisions not as a legal obligation, but to promote fairness, stability, and international cooperation, provided enforcement does not violate domestic sovereignty, public policy, or fundamental legal principles.¹⁴
- b) **Reciprocity Theory-** Reciprocity makes enforcement conditional upon mutual recognition between countries. Under this principle, India directly executes decrees only from notified reciprocating territories whose courts similarly enforce Indian judgments. This structured approach promotes commercial certainty while preserving sovereign control over enforcement.¹⁵
- c) **Obligation Theory-** The obligation theory views a foreign judgment as creating a legal duty on the losing party to comply with the decision. Enforcement in India recognizes this pre-existing obligation, provided the judgment was delivered by a competent court, on merits, and in accordance with fairness and natural justice.¹⁶
- d) **Private International Law Principles-** Enforcement of foreign judgments in India is guided by private international law, which determines when foreign decisions will be recognized. A judgment must be final, rendered by a competent court, and consistent with natural justice, public policy, and Indian law, ensuring a balance between international cooperation and domestic sovereignty.¹⁷

Relevant Provisions

The Code of Civil Procedure, 1908 establishes a structured yet conditional framework for the recognition and execution of foreign judgments in India through Sections 13, 14, and 44A. While it acknowledges the general conclusiveness of foreign adjudications, enforcement is not automatic and remains subject to defined statutory safeguards. These provisions reflect a

14 iPleaders. (2017, October 25). Enforcement of foreign judgments and decrees in India. <https://blog.iplayers.in/decrees-judgments-enforcement/>

15 Batra, M. (2014). Indian procedure to enforce foreign judgements in suits for the recovery of money. SSRN. <https://ssrn.com/abstract=2409735>

16 iPleaders. (2017, October 25). Enforcement of foreign judgments and decrees in India. <https://blog.iplayers.in/decrees-judgments-enforcement/>

17 Anand, U. (2022, June 27). Enforcement of foreign judgments in India. Lawctopus. <https://www.lawctopus.com/academike/enforcement-of-foreign-judgements-in-india/>

careful balance between respect for international comity and protection of Indian sovereignty and public policy, ensuring that foreign judgments are enforceable only when they satisfy jurisdictional, procedural, and substantive requirements under the Code.

1) **Section 13 - Conclusiveness of Foreign Judgments**

Section 13 of the Code of Civil Procedure, 1908 embodies the principle of res judicata in relation to foreign judgments by declaring that a foreign judgment is conclusive between the same parties on matters directly adjudicated, subject to six statutory exceptions. Indian courts will refuse recognition where the foreign court lacked competent jurisdiction in the international sense, where the judgment was not given on merits, where it reflects an incorrect application of international law or refusal to apply Indian law when applicable, where proceedings were opposed to principles of natural justice, where the judgment was obtained by fraud, or where It is based on a claim that Indian law has been violated.¹⁸ These exceptions ensure that while foreign adjudications are generally respected in the spirit of international comity, enforcement remains conditional upon jurisdictional competence, procedural fairness, and conformity with fundamental legal principles of India.

2) **Section 14 - Presumption as to Competent Jurisdiction**

Section 14 of the Code of Civil Procedure, 1908 complements Section 13 by creating a rebuttable presumption that a foreign judgment, once produced in certified form, was delivered by a court of competent jurisdiction.¹⁹ This provision grants prima facie validity to the foreign decree and facilitates smoother recognition by avoiding unnecessary inquiry into jurisdiction at the initial stage. However, the presumption is not absolute; it may be displaced if the party resisting enforcement establishes that the foreign court lacked jurisdiction or that any of the exceptions under Section 13 applies. The burden of proof therefore lies on the judgment-debtor to rebut the presumption, ensuring procedural efficiency while preserving substantive safeguards against improper enforcement.

¹⁸ India. (1908). The Code of Civil Procedure, 1908 (Act No. 5 of 1908). Government of India.

¹⁹ India. (1908). The Code of Civil Procedure, 1908 (Act No. 5 of 1908). Government of India.

3) **Section 44-A- Execution in Reciprocating Territories**

Section 44-A provides a special mechanism for direct execution of decrees passed by superior courts of reciprocating territories.²⁰ It creates a statutory shortcut, avoiding the need to file a fresh suit in India.

a) **Legislative History (1937 Amendment)**

Before 1937, foreign judgments could be enforced in India only through a fresh suit. Colonial statutes such as the Administration of Justice Act, 1920 and the Foreign Judgments (Reciprocal Enforcement) Act, 1933 provided limited reciprocity within the British Empire.²¹ To overcome these limitations, Section 44A was introduced in 1937, incorporating the principle of reciprocity and allowing decrees of notified superior courts of reciprocating territories to be directly executed in India without re-litigation.²²

b) **Direct Execution Mechanism**

Under Section 44-A, where a certified copy of a decree of a superior court of a reciprocating territory is filed in a District Court in India, the decree may be executed as if it had been passed by that District Court. This provision eliminates the need for a fresh suit on the judgment. However, execution remains subject to the exceptions under Section 13. The concept of reciprocity is bilateral. It rests upon mutual agreement between sovereign states to enforce each other's judgments.²³ Only decrees relating to payment of money are covered. Decrees for taxes, penalties, or arbitration awards are excluded. The decree-holder files an execution petition along with the certified copy of the decree and a certificate stating the extent of satisfaction or adjustment.

c) **Procedural Requirements**

The procedural requirements under Section 44-A include filing:

- a) A certified copy of the foreign decree;
- b) A certificate from the foreign superior court stating the extent to which the decree has been satisfied;

20 India. (1908). The Code of Civil Procedure, 1908 (Act No. 5 of 1908). Government of India.

21 Ramakrishnan, P. (2022). Execution of foreign decrees: An analysis on "reciprocating territories" under Section 44-A, Code of Civil Procedure, 1908. SSRN. <https://ssrn.com/abstract=4593663>

22 Ramakrishnan, P. (2022). Execution of foreign decrees: An analysis on "reciprocating territories" under Section 44-A, Code of Civil Procedure, 1908. SSRN. <https://ssrn.com/abstract=4593663>

23 iPleaders. (2017, October 25). Enforcement of foreign judgments and decrees in India. <https://blog.iplayers.in/decrees-judgments-enforcement/>

c) An execution petition before the appropriate District Court.

Upon filing, the decree is treated as if it were an Indian decree. Proceedings thereafter are governed by Order XXI of the CPC.²⁴ The judgment-debtor may raise objections limited to Section 13 grounds.²⁵ If the decree falls within any exception, the court shall refuse execution.

The section does not override Section 13; rather, it operates subject to it. Therefore, even decrees from reciprocating territories are not immune from scrutiny. The mechanism is facilitative but not absolute.

Reciprocating Territories under Section 44-A of CPC

The concept of “reciprocating territories” under Section 44-A of the Code of Civil Procedure, 1908 is a key mechanism for enforcing foreign money decrees in India. Introduced in 1937, this provision was designed to simplify enforcement by allowing certain foreign judgments to be executed directly in India, instead of requiring a fresh suit. The objective was to reduce duplication of litigation, avoid delays, and promote judicial cooperation in cross-border matters. A *reciprocating territory* is a foreign country officially notified by the Central Government for this purpose.²⁶ The provision is based on the principle of reciprocity, meaning that India enforces judgments of those countries which, in turn, enforce Indian judgments. Once a certified copy of a decree from a superior court of such a territory is filed before an Indian District Court, it can be executed as if it were a domestic decree.²⁷ However, execution remains subject to the safeguards under Section 13, such as jurisdiction, fraud, and natural justice. Importantly, Section 44-A applies only to civil money decrees and excludes taxes, fines, penalties, and arbitration awards.²⁸ The provision reflects India’s effort to facilitate international trade, strengthen investor confidence, and create a more efficient enforcement framework grounded in mutual legal cooperation.

24 India. (1908). The Code of Civil Procedure, 1908 (Act No. 5 of 1908). Government of India.

25 Handa, H. (n.d.). Enforcement of domestic and foreign arbitral awards in India. *International Journal for Research in Law*, 4(2), 202–204.

26 Ramakrishnan, P. (2022). Execution of foreign decrees: An analysis on “reciprocating territories” under Section 44-A, Code of Civil Procedure, 1908. SSRN. <https://ssrn.com/abstract=4593663>

27 Anand, U. (2022, June 27). Enforcement of foreign judgments in India. Lawtopus. <https://www.lawtopus.com/academike/enforcement-of-foreign-judgements-in-india/>

28 India. (1908). The Code of Civil Procedure, 1908 (Act No. 5 of 1908). Government of India.

A. Meaning and Legal Basis

- a) A country becomes a reciprocating territory under Section 44A only through an official **notification issued by the Central Government in the Official Gazette**. No state qualifies automatically; reciprocity depends on mutual recognition of judgments. The notification specifies the countries and their superior courts whose decrees are directly executable in India. While this system promotes certainty and controlled judicial cooperation, its limited territorial coverage means that decrees from non-notified countries still require a fresh suit, resulting in procedural complexity.
- b) Explanation 1 to Section 44A mandates that the notification must also identify the **“superior courts”** of the reciprocating territory whose decrees are enforceable in India.²⁹ Only judgments from these designated higher courts qualify for direct execution, ensuring reliability and judicial credibility. A certified copy of the decree along with a satisfaction certificate must be filed before an Indian District Court, and execution proceeds subject to objections under Sections 13 and 47 CPC.
- c) **Broader Significance in the Context of Execution of Foreign Decrees-** Section 44A balances international judicial cooperation with protection of Indian sovereignty by permitting direct execution of foreign money decrees from notified reciprocating territories, thereby reducing the need for fresh litigation. However, enforcement remains subject to safeguards under Section 13, and the provision is limited to money decrees from a restricted list of notified countries.³⁰ Non-monetary judgments are excluded, and objections under Sections 13 and 47 CPC may still delay execution. Despite these limitations, Section 44A represents a significant step toward facilitating cross-border enforcement in a globalized legal environment.

B. List of Reciprocating Territories under Section 44A CPC

Section 44A embodies the principle of reciprocity by allowing money decrees of superior courts from notified reciprocating territories to be executed in India as if they were passed by an Indian District Court. However, execution is subject to the conclusiveness requirements under Section 13 CPC and excludes taxes, fines, penalties, and arbitration awards.

²⁹ Colony of Aden, Papua New Guinea, Colony of Fiji, New Zealand and Cook Islands, Trust Territory of Western Samoa and Canada have their Supreme Courts declared as “superior courts”.

³⁰ Handa, H. (n.d.). Enforcement of domestic and foreign arbitral awards in India. *International Journal for Research in Law*, 4(2), 202–204.

- a) **United Kingdom-** The United Kingdom is one of the earliest reciprocating territories. Decrees of its superior courts, including appellate courts, are directly executable in India.³¹ Given strong commercial ties, this arrangement facilitates enforcement of trade and contractual money decrees, subject to Section 13 safeguards.³²
- b) **Singapore-** Singapore, a major commercial hub, is a notified reciprocating territory. Its superior court money decrees can be directly executed in India, strengthening cross-border commercial certainty, while remaining subject to jurisdictional and fairness review under Section 13 CPC.³³
- c) **Bangladesh-** Bangladesh is recognized due to regional and historical ties. Decrees of its notified superior courts are executable in India, reducing duplicative litigation in cross-border trade and property disputes, subject to compliance with jurisdiction and natural justice requirements.³⁴
- d) **Malaysia-** Malaysia's superior courts are recognized under Section 44A. This facilitates enforcement of commercial money decrees arising from historical and trade relations. However, penalties and non-money decrees remain excluded.
- e) **Hong Kong-** Hong Kong is a notified reciprocating territory. Its superior court money decrees are enforceable in India, promoting financial and commercial enforceability, provided they satisfy the merits and due process requirements.³⁵
- f) **United Arab Emirates (UAE)-** The UAE's inclusion reflects growing economic ties and a large Indian diaspora. Money decrees of its superior courts are directly executable in India, reducing re-litigation in banking and commercial disputes, subject to statutory exceptions.
- g) **Fiji-** Fiji is included based on Commonwealth connections. Though litigation volume is limited, the arrangement ensures mutual judicial cooperation and uniform enforcement of money decrees.³⁶

31 Batra, M. (2014). Indian procedure to enforce foreign judgements in suits for the recovery of money. SSRN. <https://ssrn.com/abstract=2409735>

32 Batra, M. (2014). Indian procedure to enforce foreign judgements in suits for the recovery of money. SSRN. <https://ssrn.com/abstract=2409735>

33 Batra, M. (2014). Indian procedure to enforce foreign judgements in suits for the recovery of money. SSRN. <https://ssrn.com/abstract=2409735>

34 Gazette of India dated 06.03.1976, Part II, S. 3, page 613

35 Official Gazette of India dated 23.11.1968, Part II, S.3 at page 611;

36 Central Government Notification No. S.R.O. 959, dated the 22nd March, 1954 published in the Gazette of India of 27th March 1954.

- h) **Trinidad & Tobago-** As a Commonwealth jurisdiction, its superior court money decrees are executable in India. Enforcement remains conditional upon compliance with Section 13 CPC.³⁷
- i) **Papua New Guinea-** Papua New Guinea's Supreme Court is recognized for enforcement purposes. Its inclusion maintains reciprocity within Commonwealth legal systems.³⁸
- j) **New Zealand-** New Zealand's superior courts are notified under Section 44A. The arrangement supports enforcement of commercial money decrees arising from trade and business relations.³⁹

C. Scope and Restrictions under Section 44A CPC

- a) **Applicable Mainly to Money Decrees-**Section 44A applies only to money decrees passed by superior courts of notified reciprocating territories. Non-monetary judgments such as injunctions, specific performance, matrimonial orders, or property disputes cannot be directly executed and require a fresh suit in India.⁴⁰ This reflects the original commercial focus of the provision but makes it limited and outdated in the context of modern cross-border disputes involving diverse civil remedies.
- b) **Exclusion of Taxes, Fines, and Penalties-**The provision expressly excludes decrees relating to taxes, revenue claims, fines, and penalties. This is based on the traditional principle that courts do not enforce foreign penal or revenue laws, as such matters relate to sovereign authority.⁴¹ While this protects national sovereignty, it creates enforcement gaps, especially in cases involving regulatory penalties or financial sanctions in commercial disputes.
- c) **Restricted to Notified Superior Courts-**Section 44A applies only to decrees passed by specifically notified "superior courts" of reciprocating territories. Even if a foreign court is competent in its own country, its decree cannot be executed in India unless it is officially recognized. This ensures quality control and judicial reliability but introduces

³⁷ Gazette of India dated 23.11.1968, Part II, S.3, page 464B

³⁸ Batra, M. (2014). Indian procedure to enforce foreign judgements in suits for the recovery of money. SSRN. <https://ssrn.com/abstract=2409735>

³⁹ Gazette of India dated 15.10.1937, Part II, S.3, page 2505

⁴⁰ iPleaders. (2017, October 25). Enforcement of foreign judgments and decrees in India. <https://blog.iplayers.in/decrees-judgments-enforcement/>

⁴¹ iPleaders. (2017, October 25). Enforcement of foreign judgments and decrees in India. <https://blog.iplayers.in/decrees-judgments-enforcement/>

rigidity and limits flexibility, particularly as the list of notified territories remains relatively narrow compared to India's growing global trade relations.

D. Structural Limitations in the Enforcement Framework

- a) The number of notified reciprocating territories under Section 44A remains limited despite India's growing global trade ties. Judgments from non-notified countries require a fresh suit, increasing costs, delaying enforcement, and reducing investor confidence in India's enforcement framework.⁴²
- b) Even for reciprocating territories, execution is not automatic and involves procedural requirements such as certified copies, satisfaction certificates, and scrutiny under Section 13. This dual layer of review enables technical objections and often prolongs enforcement proceedings.
- c) The dual system of direct execution for reciprocating territories and fresh suits for others results in unequal treatment of similar foreign judgments. Such distinctions based on country-of-origin lead to duplication, delay, and inefficiency in cross-border dispute resolution.

Judicial Precedents

A. Landmark Case laws

a) Gurdayal Singh v. Raja of Faridkot (1894, Privy Council)

The Privy Council held that a foreign judgment is enforceable only if the foreign court had jurisdiction in the "international sense." Since the defendant neither resided nor submitted to the Faridkot Court's jurisdiction, the decree was held unenforceable.⁴³ This case established the foundation of the "competent jurisdiction" requirement under Section 13(a) CPC. It remains the leading authority on jurisdictional validity in foreign judgment enforcement.⁴⁴

42 Ramakrishnan, P. (2022). Execution of foreign decrees: An analysis on "reciprocating territories" under Section 44-A, Code of Civil Procedure, 1908. SSRN. <https://ssrn.com/abstract=4593663>

43 Jagota, R. (n.d.). Executability & enforceability of foreign judgments and decrees in India: An analysis of judicial trends.

44 Raghuvanshi, R. S., & Vaidya, N. (n.d.). Legality of foreign judgments. SSRN. <https://ssrn.com/abstract=1583821>

b) Lakhpat Rai Sharma v. Atma Singh (1971) 1 SCC 409

In this case, the Court clarified the scope of Section 44A of the Code of Civil Procedure, 1908, which governs the execution of decrees from reciprocating territories in India. The Court held that once a certified copy of a foreign decree is filed before a competent District Court under Section 44A (1), it is treated as if it were a decree passed by that Indian court itself for the purpose of execution. Therefore, the limitation period applicable to Indian decrees (12 years under the Limitation Act) also applies to such foreign decrees. The judgment reinforces that foreign money decrees from reciprocating territories can be executed directly in India without filing a fresh suit, subject only to the limited exceptions under Section 13 CPC.⁴⁵

c) Moloji Nar Singh Rao v. Shankar Saran (1962, SC)

The Court held that a foreign judgment is conclusive only on matters directly adjudicated between the parties. Indian courts cannot re-examine the merits unless an exception under Section 13 applies.⁴⁶ The doctrine of res judicata applies to foreign judgments subject to statutory safeguards. This ruling reinforces finality while limiting re-litigation during execution.⁴⁷

d) International Woollen Mills v. Standard Wool (UK) Ltd. (2001, Supreme Court)

The Supreme Court clarified that an ex parte decree may still be considered “on merits” if evidence was examined. A judgment passed purely by default without substantive consideration would not qualify. The decision narrowed misuse of the “not on merits” objection under Section 13(b). It strengthened enforceability while preserving fairness in execution proceedings.

e) Satya v. Teja Singh (1975, Supreme Court)

The Court refused recognition of a foreign divorce decree obtained by misrepresenting domicile. It held that fraud, particularly jurisdictional fraud, renders a judgment inconclusive under Section 13(e).⁴⁸ The decision reaffirmed that fraud vitiates all

⁴⁵ Deb, A. (2021, September 8). Can a foreign decree be executed in India. iPleaders. <https://blog.ipleaders.in/can-a-foreign-decree-be-executed-in-india/>

⁴⁶ Jagota, R. (n.d.). Executability & enforceability of foreign judgments and decrees in India: An analysis of judicial trends.

⁴⁷ AIR 1962 SC 1737.

⁴⁸ AIR 1975 SC 105.

judicial acts, domestic or foreign. It remains a leading precedent on the fraud exception in foreign judgment enforcement.⁴⁹

f) Alcon Electronics Pvt. Ltd. v. Celem S.A. (2017, Supreme Court)

In this significant judgment, the Supreme Court held that a decree from a notified reciprocating territory can be directly executed in India under Section 44A CPC without filing a fresh suit. Once filed before the District Court, it is treated as a domestic decree, and the executing court cannot go behind its merits except on limited statutory grounds.⁵⁰ The ruling strengthened efficiency in enforcing foreign money decrees, though it also highlighted that Section 44A applies only to reciprocating territories and primarily to money decrees.

B. Judicial Trends

Expanding Enforcement vs Restrictive Approach

Judicial trends in India show a gradual shift toward a more pro-enforcement approach, especially in commercial matters. Earlier decisions were cautious and sovereignty-focused, but with growing globalization, courts have recognized the need to support cross-border trade and investment.⁵¹ Section 44A has been interpreted to facilitate smoother execution of foreign money decrees from reciprocating territories. At the same time, courts continue to apply Section 13 safeguards to prevent injustice. Thus, while commercial enforcement has become more liberal, sensitive areas like matrimonial or personal law disputes still receive stricter scrutiny.

Balance Between Sovereignty and Global Cooperation

Indian courts acknowledge that enforcement of foreign judgments involves balancing sovereignty with international cooperation. Recognition is not automatic, but grounded in principles of justice and comity. Courts emphasize that respecting foreign judgments does not compromise sovereignty, provided jurisdiction and procedural fairness are satisfied.

49 Raghuvanshi, R. S., & Vaidya, N. (n.d.). Legality of foreign judgments. SSRN. <https://ssrn.com/abstract=1583821>

50 Jagota, R. (n.d.). Executability & enforceability of foreign judgments and decrees in India: An analysis of judicial trends.

51 iPleaders. (2017, October 25). Enforcement of foreign judgments and decrees in India. <https://blog.iplayers.in/decrees-judgments-enforcement/>

This balanced approach reflects India's effort to participate in the global legal order while safeguarding domestic legal principles.

Courts Filling Legislative Gaps

Due to the absence of a comprehensive private international law statute, Indian courts have played an active role in interpreting and developing enforcement principles. They have clarified issues such as limitation, ex parte decrees, summary judgments, and jurisdictional standards where the CPC is silent or ambiguous.⁵² While this judicial development has made the framework adaptable to modern realities, reliance on case law has also led to occasional inconsistencies, highlighting the need for legislative reform.

Critical Analysis: Loopholes Identified through Statute

A. Jurisdictional Ambiguity

- a) **No Clear Statutory Test of International Jurisdiction-** A major structural weakness in the CPC framework is the absence of a codified test for determining "competent jurisdiction" in the international sense. While Section 13 requires jurisdictional competence, it does not define its scope, leaving courts to rely on judicial precedents and private international law principles such as residence, submission, or contractual consent.⁵³ This lack of statutory clarity creates uncertainty and unpredictability in cross-border enforcement, particularly in commercial disputes involving jurisdiction clauses.
- b) **Judicial Inconsistency-** In the absence of legislative guidance, courts have developed jurisdictional principles through case law, but their application is not always uniform. Some decisions adopt strict scrutiny, while others apply a more liberal approach based on fairness or comity. This inconsistency results in fragmented jurisprudence, reducing predictability for foreign investors and encouraging jurisdictional challenges and forum shopping in enforcement proceedings.

⁵² iPleaders. (2017, October 25). Enforcement of foreign judgments and decrees in India. <https://blog.iplayers.in/decrees-judgments-enforcement/>

⁵³ Jagota, R. (n.d.). Executability & enforceability of foreign judgments and decrees in India: An analysis of judicial trends.

B. “On Merits” Uncertainty

- a) **Re-Litigation Concerns-** The statutory requirement that a foreign judgment must be “given on the merits” creates another grey area. The Code does not define what qualifies as a decision on merits. Courts have at times refused enforcement of ex parte judgments on the ground that they were not decided on merits, even where evidence was considered by the foreign court. This opens the door to re-litigation in Indian courts. Instead of limiting inquiry to procedural fairness and jurisdiction, courts may indirectly reassess substantive issues, thereby undermining finality of litigation.⁵⁴ Such re-examination contradicts the principle of res judicata and delays enforcement significantly.
- b) **Subjective Evaluation-** The interpretation of “on merits” often becomes subjective. Some courts consider whether evidence was recorded; others examine whether the defendant actively participated in proceedings. This variability results in uncertainty. The absence of a precise legislative explanation allows the executing court to effectively sit in appeal over the foreign decision under the guise of examining merits.⁵⁵ This weakens the enforceability framework and diminishes respect for foreign judicial determinations.

C. Broad Natural Justice Exception

The exception relating to violation of natural justice is framed broadly and lacks statutory precision. While protection of procedural fairness is essential, the vague wording allows expansive interpretation. Courts may examine adequacy of notice, opportunity to present evidence, or even fairness of the foreign legal system itself. Because natural justice is a flexible and evolving concept, its application varies from case to case.⁵⁶ This unpredictability increases litigation risk and encourages judgment debtors to challenge enforcement on procedural grounds. In effect, what is meant to safeguard fairness may sometimes function as a barrier to timely execution.

⁵⁴ Raghuvanshi, R. S., & Vaidya, N. (n.d.). Legality of foreign judgments. SSRN. <https://ssrn.com/abstract=1583821>

⁵⁵ Deb, A. (2021, September 8). Can a foreign decree be executed in India. iPleaders. <https://blog.ipleaders.in/can-a-foreign-decree-be-executed-in-india/>

⁵⁶ Deb, A. (2021, September 8). Can a foreign decree be executed in India. iPleaders. <https://blog.ipleaders.in/can-a-foreign-decree-be-executed-in-india/>

D. Fraud Exception

- a) The fraud exception permits a foreign judgment to be challenged if it has been obtained by fraud. However, fraud allegations are frequently raised as a defensive strategy. Since fraud vitiates all judicial acts, courts treat such claims seriously and permit detailed inquiry. This enables collateral attacks even after final adjudication abroad.⁵⁷ The broad scope of this exception can transform execution proceedings into full-fledged trials, contrary to the intended summary nature of enforcement.
- b) Allegations of fraud significantly delay execution. The burden of proof, evidentiary hearings, and procedural objections extend the timeline of enforcement. In commercial matters where time is crucial, such delays reduce the practical value of foreign decrees. The statutory silence on limiting the scope of fraud inquiries contributes to prolonged litigation and inefficiency.

E. Limitation Confusion

- a) Prior to judicial clarification, there was considerable uncertainty regarding the applicable limitation period for filing execution petitions of foreign decrees. Different High Courts adopted divergent interpretations, creating confusion. Some treated foreign decrees as domestic decrees for limitation purposes, while others applied different limitation provisions.⁵⁸ This lack of uniformity caused unpredictability and unnecessary procedural disputes.
- b) The Code does not expressly provide a distinct limitation framework for foreign decrees. The absence of statutory clarity meant that litigants had to rely on judicial interpretation. Even after clarification, the fact that resolution required litigation demonstrates the inadequacy of the statutory framework. A modernized provision explicitly addressing limitation would reduce ambiguity and prevent technical dismissals.

⁵⁷ iPleaders. (2017, October 25). Enforcement of foreign judgments and decrees in India. <https://blog.iplayers.in/decrees-judgments-enforcement/>

⁵⁸ Batra, M. (2014). Indian procedure to enforce foreign judgements in suits for the recovery of money. SSRN. <https://ssrn.com/abstract=2409735>

F. Reciprocity-Based Structural Defects

- a) **Limited Reciprocating Territories-** Section 44A permits direct execution only for decrees from notified reciprocating territories. However, the number of such territories is limited. Many countries with substantial trade relations with India are not included. This restricts the utility of the reciprocity mechanism and forces parties to institute fresh suits in India, leading to duplication of proceedings.⁵⁹
- b) **Exclusion of Major Commercial Nations-** The selective nature of reciprocity excludes several important global commercial jurisdictions. In an era of globalization and international commerce, restricting direct enforcement to a limited list undermines India's position as an investment-friendly jurisdiction.⁶⁰ Businesses prefer jurisdictions where foreign judgments are easily enforceable.
- c) **Exclusion of Non-Money Decrees-** Section 44A applies only to money decrees. It excludes decrees relating to injunctions, specific performance, matrimonial reliefs, or other civil remedies. This narrow scope is inconsistent with modern cross-border disputes, which frequently involve non-monetary remedies. As a result, enforcement of such judgments requires fresh suits, increasing costs and delays.

G. Absence of Modern Legislative Framework

The Code of Civil Procedure was enacted in 1908 during the colonial period. Its framework reflects the legal realities of that era, where cross-border litigation was limited and commercial globalization was minimal. Although amendments have been introduced, the foundational structure remains outdated. The statute does not comprehensively address modern international commercial realities.

Inadequate for Digital and Multinational Disputes-

Contemporary disputes involve digital contracts, multinational corporations, online transactions, and complex jurisdiction clauses. The CPC does not contain provisions addressing electronic service of process in foreign proceedings, digital evidence recognition, or cross-border data disputes. Moreover, India does not have a comprehensive codified Private

⁵⁹ Batra, M. (2014). Indian procedure to enforce foreign judgements in suits for the recovery of money. SSRN. <https://ssrn.com/abstract=2409735>

⁶⁰ iPleaders. (2017, October 25). Enforcement of foreign judgments and decrees in India. <https://blog.ipleaders.in/decrees-judgments-enforcement/>

International Law statute. The reliance on judicial interpretation creates uncertainty. In contrast, several developed jurisdictions have enacted modern legislation specifically governing recognition and enforcement of foreign judgments. The absence of such reform in India exposes structural deficiencies in the execution mechanism.⁶¹

Comparative Perspective

- 1) **United Kingdom Enforcement Regime-**The United Kingdom follows a structured statutory framework for enforcing foreign judgments, allowing registration rather than a fresh suit if the judgment is final, conclusive, and issued by a competent court. Refusal grounds are limited to jurisdictional defects, fraud, or breach of natural justice. Compared to India's narrower reciprocity model under Section 44A CPC, the UK system is broader, more streamlined, and commercially oriented.
- 2) **United States Recognition Principles-** The United States adopts a flexible, state-based approach under the Uniform Foreign Money Judgments Recognition Act.⁶² Recognition depends on fairness, due process, and jurisdictional competence rather than strict reciprocity. Foreign judgments are generally enforceable unless affected by fraud, lack of jurisdiction, or public policy violations, making the US model more adaptable than India's framework.
- 3) **International Enforcement Conventions-** Globally, enforcement has increasingly been governed by multilateral conventions such as the New York Convention, 1958 and the Hague Judgments Convention, 2019, which promote uniform standards and limited refusal grounds. These treaty-based regimes enhance predictability and reduce duplication, whereas India's CPC system remains primarily reciprocity-based and reliant on judicial interpretation.⁶³
- 4) **Lessons for India-** Comparative analysis suggests that India should expand reciprocity arrangements, consider a more comity-based recognition model, align with international enforcement conventions, and improve procedural efficiency through digitalization and

61 iPleaders. (2017, October 25). Enforcement of foreign judgments and decrees in India. <https://blog.ipleaders.in/decrees-judgments-enforcement/>

62 Batra, M. (2014). Indian procedure to enforce foreign judgements in suits for the recovery of money. SSRN. <https://ssrn.com/abstract=2409735>

63 iPleaders. (2017, October 25). Enforcement of foreign judgments and decrees in India. <https://blog.ipleaders.in/decrees-judgments-enforcement/>

specialized benches.⁶⁴ Such reforms would reduce re-litigation, enhance investor confidence, and modernize the enforcement framework.

Impact of Loopholes

The requirement of filing a fresh suit for decrees from non-reciprocating territories and frequent objections under Section 13 significantly increase litigation costs and make enforcement economically burdensome.

- a) Fresh suits and extensive scrutiny during execution proceedings often convert enforcement into a quasi-trial, causing delay and undermining the finality of foreign judgments.
- b) The limited scope of Section 44A and broad discretionary exceptions create unpredictability, reducing foreign investor confidence in India's enforcement framework.⁶⁵
- c) Detailed judicial examination of foreign decrees adds to the workload of already overburdened courts, contributing to systemic delays.
- d) Procedural rigidity and limited reciprocity may affect India's international credibility as a reliable enforcement and commercial dispute resolution jurisdiction.
- e) The absence of a comprehensive private international law framework and reliance on outdated reciprocity principles highlight the need for modernization to improve efficiency and consistency.

Recommendations

A. Legislative Reforms

- a) The absence of a codified test for international jurisdiction creates uncertainty, as courts rely on precedents to determine competence of foreign courts. Clearly defining jurisdictional bases such as residence, domicile, submission, or contractual forum selection would reduce disputes and enhance predictability in enforcement proceedings.

⁶⁴ Jagota, R. (n.d.). Executability & enforceability of foreign judgments and decrees in India: An analysis of judicial trends.

⁶⁵ Handa, H. (n.d.). Enforcement of domestic and foreign arbitral awards in India. *International Journal for Research in Law*, 4(2), 202–204.

- b) Ambiguity regarding limitation periods for foreign decrees has resulted in inconsistent interpretations and procedural disputes. Introducing a distinct statutory limitation framework tailored to foreign judgments would ensure clarity, fairness, and commercial certainty.
- c) Section 44A currently restricts direct execution to money decrees, excluding non-monetary remedies such as injunctions and declaratory reliefs. Expanding its scope to cover certain non-money commercial decrees would better reflect modern cross-border disputes and strengthen the enforcement regime.
- d) The limited number of notified reciprocating territories compels decree-holders from many countries to institute fresh suits in India. Expanding reciprocity arrangements, especially with major trading partners, would reduce duplication, improve efficiency, and align India's framework with global standards.

B. Structural Reform

- a) The existing CPC framework is fragmented and based on colonial-era provisions, lacking a comprehensive statute dedicated to foreign judgment enforcement. Enacting a separate legislation would consolidate rules on jurisdiction, limitation, public policy, and execution into a unified and modern framework. This would enhance clarity, reduce reliance on judicial interpretation, and ensure consistency in cross-border enforcement.
- b) The current dual system direct execution for reciprocating territories and fresh suits for others creates procedural complexity and inconsistency.⁶⁶ Introducing a uniform registration-based mechanism for all foreign judgments, subject to limited review, would streamline enforcement. Such reform would eliminate duplication while preserving safeguards against injustice.
- c) The public policy exception under Section 13 is often applied broadly, resulting in delays and indirect re-litigation. Clearly defining and narrowing this ground to fundamental constitutional and core justice principles would strengthen finality and reduce discretionary misuse. This would reinforce international comity while protecting essential domestic values.

⁶⁶ Jagota, R. (n.d.). Executability & enforceability of foreign judgments and decrees in India: An analysis of judicial trends.

C. Institutional Reform

- a) Enforcement of foreign judgments requires expertise in private international law and commercial practice. Creating specialized commercial benches within High Courts would promote uniform interpretation, develop consistent jurisprudence, and ensure quicker resolution of cross-border enforcement matters.
- b) Execution proceedings are often delayed due to procedural formalities and prolonged objections. Introducing digital filing systems, electronic verification, and strict timelines for raising Section 13 objections would streamline the process and reduce misuse. Such reforms would enhance efficiency and strengthen India's image as an enforcement-friendly jurisdiction.

D. International Harmonization

- a) Expanding **bilateral treaties** for reciprocal enforcement of judgments would strengthen India's framework for international judicial cooperation. Such agreements can standardize procedures, clarify jurisdiction and limitation rules, and ensure mutual recognition of decisions. This would enhance predictability, investor confidence, and cross-border trade.
- b) In the long term, India should align with **multilateral conventions** on recognition and enforcement of foreign judgments. Participation in global frameworks would harmonize standards, reduce fragmentation, and modernize the existing reciprocity-based model. This would integrate India more effectively into the international dispute resolution system.

Proposed Model Enforcement Framework

- 1) **Single Streamlined Recognition Mechanism-** The current framework separates recognition and execution, often leading to duplication and delay. A reformed model should introduce a single, streamlined mechanism where every foreign judgment undergoes a uniform threshold review. Once it satisfies clear standards—finality, jurisdiction, procedural fairness, and absence of fraud—it should automatically attain the status of a domestic decree. This would eliminate multiplicity of proceedings and bring coherence to enforcement law.

2) Reduced Distinction Between Reciprocating and Non-Reciprocating Territories-

The existing system privileges reciprocating territories while requiring fresh suits for others, creating unequal treatment and re-litigation. A modern framework should adopt a presumptive enforceability model for all foreign civil judgments, subject to limited refusal grounds. Reciprocity may remain a diplomatic principle, but procedural rights should not depend solely on executive notifications.

3) Clear and Codified Jurisdiction Test- Uncertainty surrounding “competent jurisdiction” leads to inconsistent decisions. Legislative codification of accepted jurisdictional bases such as voluntary submission, forum selection agreements, residence, domicile, or place of business would reduce preliminary disputes and discourage technical objections aimed at delaying enforcement.

4) Time-Bound Enforcement and Limitation Clarity- Delays often arise from limitation ambiguities and procedural objections. Reform should prescribe clear limitation rules and introduce strict timelines for raising objections and disposing of enforcement petitions.⁶⁷ Specialized commercial benches could further ensure expeditious resolution.

5) Minimal Judicial Re-Examination and Narrow Public Policy Review- Judicial scrutiny should remain limited to procedural fairness and fundamental public policy violations. Courts should not reassess factual findings or legal reasoning unless they directly violate core principles of justice. Narrowing public policy review would reinforce finality and strengthen international comity.

6) Comprehensive Codification of Private International Law- India lacks a consolidated private international law statute. A comprehensive code integrating jurisdictional rules, refusal grounds, procedural mechanisms, limitation provisions, and interaction with arbitration law would enhance uniformity, predictability, and consistency in enforcement practice.

7) Rationalisation of Documentary and Procedural Requirements- Technical *requirements* such as certified copies and satisfaction certificates often cause delays. Reform should simplify documentation, allow digital authentication, and empower courts to cure minor defects to prevent procedural formalism from obstructing substantive justice.

⁶⁷ Jagota, R., & Chanana, P. (n.d.). Executability and enforceability of foreign judgments and decrees in India: An analysis of judicial trends.

- 8) Harmonisation with International Standards-** To strengthen its global commercial position, India should align its enforcement regime with emerging international standards. Harmonizing enforcement of foreign court judgments with modern treaty-based models and arbitration frameworks would enhance investor confidence and promote India as a reliable dispute resolution jurisdiction.

Conclusion

The execution of foreign decrees under the Code of Civil Procedure, 1908 reflects a structured effort to balance international comity with domestic sovereignty through Sections 13, 14, and 44A, which regulate recognition and enforcement subject to safeguards such as competent jurisdiction, decision on merits, natural justice, fraud, and reciprocity. Judicial interpretation has significantly shaped this framework and gradually moved toward a pro-enforcement approach in commercial matters, promoting finality and facilitating cross-border trade while retaining protective safeguards. However, serious structural limitations persist, including the absence of codified standards for international jurisdiction, ambiguity in the “on merits” requirement, broad invocation of fraud and natural justice exceptions, and the restricted reciprocity-based model under Section 44A limited mainly to money decrees from notified territories. These gaps create uncertainty, delay, duplication of proceedings, and increased costs, making the framework increasingly inadequate for modern global commerce and underscoring the need for comprehensive reform to enhance predictability, efficiency, and alignment with international enforcement standards.

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