



## Obstacles and Tricks of the Trial in the Voluntary Execution of Financial Sentences: An Emphasis on the Theory of Abuse of Rights and Judicial Procedure

Zahra Akrami<sup>1</sup>| Ali Asghar Hatami<sup>2\*</sup>| Hassan Pashazadeh<sup>3</sup>

1. Ph.D. Candidate in Private Law, Islamic Azad University, Tabriz branch, Iran
2. Associate Professor, Shiraz University, Iran
3. Assistant Professor, Islamic Azad University, Tabriz branch, Iran

\* Corresponding Author Email: [ahatami@shirazu.ac.ir](mailto:ahatami@shirazu.ac.ir)

### Abstract

The credibility of the judicial system and public trust in it depends on the existence of a fair trial and free of tricks. Effective implementation of the verdict is another manifestation of fair trial and it is even more important and decisive than the proceedings. The effective implementation of the vote means the implementation of the vote with easy methods in the shortest time and with the least cost for the creditor. In such a way that both the creditor gets his lost rights and the dignity of the convicted defendant is preserved and the executive operation continues continuously without delay or obstacle until the goal is achieved.

Today, two key factors in the enforcement of judgement are speed and expense and adjudication basis is winning party. There are some effective obstacles that face enforcement of judgement to stop or delay directly. These obstacles can be caused by the insufficiency of article of legal or the absence of law or Unlawful incentive. Along with fraud by contenders. Because of to complete domination of laws, the profiteer and talented people have exploited the ambiguities and legal gaps and are trying to attract their interests and will prevent a speedy execution of sentence. Easy escape from the obligation by the debtor with proof of indigence and debt installment, available proofs of claim for the financial convicts in order to guilefully proof of indigence, excellence default proceeding over contradictory proceeding and frivolous actions (jactitation) like tierce opposition to executive operations or distress only with trigger to delay in the executive operations are problems of the judiciary in execution of judgments.

In the execution phase of the sentence, the creditor is always trying to execute the sentence faster and less expensively, and the defendant is trying to create an obstacle to the execution of the sentence and this conflict of interest goes to the point that sometimes during the execution of the verdict, another trial arises between them. In the midst of this conflict of interest, the defendant is trying to create illegal and unethical obstacles in order to delay the payment of the debt and thus he resorts to tricks that we



will discuss some examples of in this article, Including fictitious litigations such as falling and third party objection to executive operations, delaying and trying to avoid judgement in contumacy and as a result protestation outside the due, abuse of violations and loopholes in the law.

Tricks of the trial depend on the wit and intelligence of the litigants and it appears in different forms and instances. Although the main duty of the judge is to deal with the claims and disputes brought before him but another duty of the judge is to control bad behavior and lack of goodwill. One of the best and most immediate guarantee of the abuse of the right is to be deprived of the right. Therefore, canceling the fraudulent lawsuit and not hearing it, not accepting the depreciated property introduced with the motive of delaying the execution of the judgment, rejecting the false claim and applying the guarantee for the execution of the false claims and so on it is a task.

There are many criteria in the detection of right abuse and as the legislator in article 132 of civil code speak about satisfy the need and disposal losses the judge is exempt from the exploration of the true intent of the owner. But on the other hand according to statute quo the judge can recognize whether the judgment debtor' act is conventional or in order to delay the execution of the sentence.

Although detection of trickery in procedure and control of guilefully behaviors based on private motives by the judge is fraught with danger but its benefits are non – repudiation including the urgency of applying the legal sanctions. Struggle with abuse of the right of justice and judicial management is the most important way to solve the prorogation problem in the implementation of financial orders and this management is available to judge to execute the verdict.

In the execution phase the judge can according to record, the count of debt, introduction of single same property in multiple cases, introduction of non-saleable property, re-introduction of the property after the end of the auction, introduction of a property trustee with a history of trespassing on seized property and etc verify the motive of the convicted person in escaping from the payment of debt and delaying the execution and deal with it. the legislator can also block the condition of misuse and pave the way for a fast and low - cost execution route by introducing useful laws.

In this research, the author intends to investigate the problems of the judicial sentence enforcement unit in the field of financial convictions and the obstacles that exist in the quick, easy and low-cost execution of sentences, which are mainly attributed to the defendant and his behaviors mixed with fraud, trickery and collusion. to identify and based on the judicial procedure, provide a solution to guarantee the integrity of the proceedings. Given that there is no independent and comprehensive source in this regard, this issue is discussed with an emphasis on judicial procedure and advisory theories of the legal department of the judiciary, which is one of the ways to create judicial procedure in the courts.



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