

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.1719/2015

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. M. M. Vashi, Senior Advocate with Sunil Kadam for the Petitioner

CORAM : K. K. TATED, J.

DATE : FEBRUARY 10, 2016

P.C.:

1. Heard the learned counsel for the Petitioner. None for the Respondents though duly served. The learned counsel for the Petitioner filed Affidavit of service dated 21/12/2015. Same is taken on record.

2. By this petition u/s. 9 of the Arbitration and Conciliation Act, 1996, the Petitioner is seeking several reliefs including a direction to the Respondent to deposit sum of Rs.105,12,93,853.86, an order of injunction restraining the Respondents from creating any third party right, title and interest in respect of the property as described in Exhibit- E and for appointment of Court Receiver.

3. It is the case of the Petitioner that as per agreement for sale of goods dated 19/09/2014, the Respondent was supposed to deliver ornaments weighing 500 kg. He submits that as the Respondents failed and neglected to do so, they filed the present petition. He submits that as on today, as per the terms and conditions agreed between the parties, the Petitioner has to recover sum of Rs.105,12,93,853.86 from the Respondents. He submits that during pendency of the matter before arbitral tribunal, this Hon'ble Court be pleased to appoint Court Receiver in respect of the property as described in Exhibit- E. He submits that if the property described in Exhibit- E is disposed of by the Respondents, nothing will survive in the petition and it would be very difficult for them to recover the amount. Hence, the petition be made absolute in terms of prayer clause (d).

4. Considering the submissions made by the learned counsel for the Petitioner, the averments made in the arbitration petition and as on today the Petitioner has to recover more than Rs.105 crores from the Respondents, I am satisfied that the Petitioner has made out a case for allowing the

present petition in terms of prayer clause (d) i.e. injunction restraining the Respondents from creating any third party right, title and interest in respect of the property described in Exhibit- E with liberty to apply before the arbitral tribunal for remaining reliefs.

5. Hence, the following order:

a) The arbitration petition is allowed in terms of prayer clause (d) which read thus:

“(d) That, pending the admission, hearing and final disposal of the petition, the Respondent Nos.1 and 2, its Directors, Officers, servants and agents be restrained by an order and injunction of this Hon'ble Court from and in any manner whatsoever disposing of, alienating, transferring, encumbering, parting with possession or creating any third party rights or any other rights whatsoever in respect of the properties more particularly described in the schedule of properties annexed hereto as Exhibit-E.”

b) Liberty granted to the Petitioner, if they so desire, to apply before the arbitral tribunal for remaining reliefs.

c) Arbitration petition stands disposed of accordingly.

JUDGE