

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

**CHAMBER SUMMONS NO.312 OF 2017
IN
EXECUTION APPLICATION NO.114 OF 2017**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Prothonotary's orders	Court's or Judge's orders
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Mr.T.J.Pandian for the applicant

Brenda N. Barner i/b Mr.U.S.Samudrala for the respondent

**CORAM : K. K. TATED, J.
DATE : NOVEMBER 28, 2017**

P.C.:

1. Heard the learned counsel for the parties.
2. This Chamber Summons is preferred by applicant (original respondent) for lifting the attachment done by claimant by order dated 13.11.2017 in their Bank Account No.003 with Reserve Bank of India, Fort, Mumbai for recovery in Execution Application No.114 of 2017.
3. The learned Counsel for the applicant submits that they preferred Special Leave Petition in Apex Court challenging the award dated 15.3.2003 passed in Arbitral Proceedings. He submits that their Special Leave Petition is pending

for hearing and final disposal on its own merits. He submits that he received instruction from his client to make a statement before this court that they are ready and willing to deposit sum of Rs.1,47,43,516/- in the Registry of this court within four weeks from today. He further submits that to that effect, they made a statement in their affidavit in support of Chamber Summons. He relies on paragraph 6 of the affidavit in support of Chamber Summons dated 18.11.2017 which reads thus:

“6. The Applicants further submit that they are, without prejudice to their right in the Appeal before the Hon'ble Supreme Court and subject to the outcome of the Appeal, ready to deposit with this Hon'ble Court an amount under the Warrant of Attachment, in order that in case, the Applicants do not succeed in the Appeal, the Respondent No.1's claim is safeguarded though, in any event, their claim under the award would be satisfied by the Applicants being Government Organization in the event their Appeal before the Supreme Court fails. At the same time, if the execution is allowed to continue and the amount is disbursed to the Respondent, then in the event the Applicant succeeds in the Appeal, it would be difficult to recover the amount of Public Exchequer from the Respondent No.1 being a private party. It is therefore, just and necessary that this Hon'ble Court be please to lift/raise the Execution levied on the account of Applicants.”

4. The learned Counsel for the applicant submits that in view of the above mentioned facts and as applicant is ready and willing to deposit

entire amount in the Registry of this court without prejudice to the rights and contentions attachment order dated 13.11.2017 be set aside.

5. The learned Counsel for the claimant submits that they have no objection if Chamber Summons is allowed in terms of prayer clause (a). He submits that claimant may be permitted to withdraw the said amount if deposited by the applicant.

6. It is to be noted Special Leave Petition preferred by Union of India challenging the award dated 15.3.2003 is pending for hearing and final disposal on its own merits. Union of India on its own made a statement in affidavit in support of Chamber Summons that they are ready and willing to deposit sum of Rs.1,47,43,516/- within four weeks from today. Whether the claimant can withdraw this amount or not, that will be decided in Execution Application and or any proceeding preferred by the claimant. In view of these facts, following order is passed:

A) Chamber Summons is made absolute in terms of prayer clause (a) on condition that they have to deposit entire amount of Rs.1,47,43,516/- in the Registry of this court within four weeks from today which reads thus:

“a) That the attachment of 1) Bank A/c No. 003 with Reserve Bank of India, Fort, Bombay,

standing in the name of Central Railway, Mumbai to the extent of Rs.1,47,43,516/-, levied under the Warrant of attachment dated 13-11-2017 issued in the Execution Application No.114 of 2017 be ordered to be lifted.”

- B) It is made clear that attachment will continue till the applicant deposits entire amount in the Registry of this court.
- C) Liberty granted to the claimant to prefer appropriate application for withdrawal of the said amount and that application be decided on its own merits.
- D) Applicant to inform the deposit of amount in the Registry of this court to the claimant in writing immediately.
- E) Chamber Summons stands disposed of accordingly.
- F) No order as to costs.

(K.K.TATED, J.)