

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO.905 OF 2020
IN
ARBITRATION PETITION NO. 270 OF 2018**

Dalwinder S/o Sewa Singh Sohal

....Petitioner/Applicant

V/s.

Jayant Dinesh Gilatar & Anr

....Respondents

**WITH
NOTICE OF MOTION NO.2160 OF 2018
WITH
INTERIM APPLICATION NO.1528 OF 2020**

Mr. Anand Mishra i/b Ashok M. Saraogi for Petitioner;
Mr. Arun Rajput i/b Subodh Pathak for Respondent No. 1.

**CORAM : K.R.SHRIRAM, J.
DATED : 8th FEBRUARY 2021**

PC. :

1 These applications are taken out for restraining respondents from creating third party rights with respect to their assets. These applications have been taken out in a petition under Section 34 of the Arbitration and Conciliation Act 1996 (the said Act) and not under Section 9 of the said Act. Petitioner is impugning the entire award published by the Arbitrator. In the award, the Arbitrator has granted only Rs.24,00,000/- against a claim of Rs.68,20,000/-. The Arbitrator has also said that the award of even

Rs.24,00,000/- will be null and void and will not be enforceable until petitioner withdraws the complaint under Section 138 of the Negotiable Instruments Act filed by petitioner against respondents. If Petitioner is challenging the entire award, the question of petitioner being granted any security, also would not arise.

2 In the circumstances, interim applications and notice of motion are dismissed.

3 At the same time, I have to note the dishonest conduct of respondents. Petitioner in the interim applications was seeking relief relating to two properties belonging to respondents being A-202, at Malad (E) and the other being office No.308, at Kanchpada, Malad (W). Respondents have filed an affidavit in reply, in which, they have not denied the allegations of petitioner that respondents are disposing all the assets to defeat petitioner's claim. Therefore, when the matter was called out in the morning session, the court granted time to the advocates to take instructions as to whether they would try to amicably resolve the matter. In the post lunch session, respondents counsel Mr. Rajput stated that the property being office No.308 at Kanchpada, Malad (W) was sold by respondents way back in 2014. In my view, respondents ought to have disclosed this in the affidavit in reply and this has been so stated by counsel Mr. Rajput in the post lunch session only because in the morning session he probably felt the heat that in the affidavit in reply they have not denied the allegations of disposing the assets to defeat rights of petitioner. This conduct of respondents, I have to note,

smacks of not being truthful to the court. Since I have dismissed the Interim applications and the notice of motion, I am letting off respondents with a warning not to repeat this conduct with the court.

4 Petition be listed for admission on 8th March 2021.

(K.R.SHRIRAM, J)