

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO.8295 OF 2009

(Arising out of Special Leave Petition (C) No.13638 OF 2007)

BABU BHAI THIBA

....APPELLANT(S)

VERSUS

**ASHOK RAVI SHANKAR
NARVAL & ORS.**

....RESPONDENT(S)

ORDER

SURINDER SINGH NIJJAR, J.

1. Leave granted. Heard the learned counsel.
2. Since this appeal by special leave is directed against an order granting interim relief the same may be disposed of by briefly stating the relevant facts.
3. The appellant claims to have lent certain sums of money to respondent No.2, namely, Rafique Sarang. Subsequently, the disputes arose between the parties, which were referred to a named Arbitrator on 29.5.2001.

The Arbitrator passed an award declaring the respondent No.2 liable to pay a sum of Rs.78,96,300/- to the appellant i.e. Babu Bhai Thiba. The appellant sought execution of the Award in the Bombay High Court. It appears that an order was passed by the Bombay High Court in the execution application on 1.8.2003 directing attachment of several properties including the premises No.108 Palm Spring CGHS Limited, First Floor, Swamy Samarth Nagar, Andheri (W), Mumbai. At this stage, respondent No.1, Ashok Ravi Shankar Naval, filed Chamber Summons No.1277/2003 seeking an order for raising attachment of the aforesaid premises, on the ground that he is the owner, thereof. In support of his plea he relied upon two agreements dated 1.10.1999 executed by respondent No.2, Rafiq Sarang, his wife Mrs. Shahnaz Rafiq Sarang, with respondent No.1 and his wife. He claimed that under one agreement he had paid a sum of Rs.9,53,000/- in cash as a loan transaction. The second agreement was for sale of the aforesaid premises in case of failure to repay the loan amount. Since Rafique

Sarang failed to repay the loan, the premises were duly transferred in the name of respondent No.1 by the Society.

4. Upon consideration of the entire matter, the learned Single Judge observed that both the agreements are bogus documents and cannot be accepted. Therefore, the Chambers Summons came to be dismissed by the learned Single Judge by order dated 9.3.2005. Respondent No.1 carried the matter in appeal before the Division Bench. By order dated 4.6.2007 the Division Bench restrained the appellant from taking further steps to dispose of the properties in execution of the award dated May 29, 2001. This order is challenged in this appeal by special leave by the appellant who is seeking to execute the Award.

5. Initially at the time when the notice was issued on 17.8.2007 this Court directed that until further orders, no third party rights shall be created in the subject of dispute. Upon consideration of the entire matter, we are of the opinion that the interim relief granted earlier by

this Court needs to be continued during the pendency of the proceedings in the High Court. However, we direct that the aforesaid order of injunction will be subject to the appellant depositing a sum of Rs.15 lakhs with the Prothonotary and Senior Master of the Bombay High Court. The amount deposited in the High Court shall be invested in Fixed Deposit with a Nationalised Bank initially for a period of one year; to be renewed periodically for like term till the disposal of the matter by the High Court. In case the appeal filed by Respondent No.1 is dismissed, the amount deposited, together with accrued interest shall be refunded to the appellant. The appeal is disposed of accordingly.

.....J
(TARUN CHATTERJEE)

.....J
(SURINDER SINGH NIJJAR)

NEW DELHI
DECEMBER 15 , 2009.