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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO. 76 OF 2017

IN

EXECUTION APPLICATION NO. 240 OF 2011

IN

FOREIGN AWARD DATED 17TH JANURY 2011

Asian Natural Resources (India) Ltd (Bhatia ...Petitioner
International Ltd) (Orig. Claimant)

Versus

Vitol SA ...Respondent

WITH

NOTICE OF MOTION NO. 371 OF 2017

IN

CHAMBER SUMMONS NO. 14 OF 2017

IN

EXECUTION APPLICATION NO. 240 OF 2011

IN

FOREIGN AWARD DATED 17TH JANURY 2011

WITH

JUDGE'S ORDER NO. 228 OF 2016

AND

JUDGE'S ORDER NO. 229 OF 2016

IN

EXECUTION APPLICATION NO. 240 OF 2011

IN
FOREIGN AWARD DATED 17TH JANURY 2011
WITH
CHAMBER SUMMONS NO. 14 OF 2017
IN
EXECUTION APPLICATION NO. 240 OF 2011
IN
FOREIGN AWARD DATED 17TH JANURY 2011
WITH
CHAMBER SUMMONS NO. 450 OF 2017
IN
CHAMBER SUMMONS NO. 14 OF 2017
IN
EXECUTION APPLICATION NO. 240 OF 2011
IN
FOREIGN AWARD DATED 17TH JANURY 2011

**Mr Prashant Pratap, Senior Advocate, with Aditya
Krishnamurthy, Ashwini Sinha, Pabitra Dutta & Sagun
Sudhir, i/b Bose & Mitra & Co., for the Award Holder-Vitol
S.A.**

**Mr Mustafa Doctor, with Minoka Tanna & Miloni Modi, i/b
Singhania Legal Sevices, for BCEL.**

Mr Kezer Kharawala, i/b Lex Juris, for BGTL.

**Mr Arnab Ghosh, i/b Deepti Shah, for the Applicant in
NMSL/454/2017.**

**Mr Kiran Gaikwad, i/b MV Kini & Co., for Respondent No. 2,
Mumbai Port Trust.**

CORAM: G.S. PATEL, J
DATED: 25th May 2017

PC:-

1. I have heard both sides at some length in Chamber Summons No. 76 of 2017. Mr Doctor for the 3rd Respondent seeks time to file an Affidavit.
2. The issue on which I have heard Mr Pratap for the Award Holder and Mr Doctor for Bhatia Coke & Energy Ltd (“BCEL”) is, whether, following certain previous orders, BCEL’s assets can be proceeded against by the Award Holder in execution of its decree.
3. The Affidavit that Mr Doctor proposes to file will show a statement of assets that BCEL holds before and outside the Business Transfer Agreement (“BTA”) in question which is of 28th November 2009. This is necessary because certain assets were transferred from the Judgment Debtor to BCEL under this BTA. One of the questions will, therefore, be whether the Award Holder is entitled to proceed only against the assets or properties covered by the BTA or also against all other assets held by BCEL. Mr Doctor clarifies that the proposed Affidavit will not be limited to a statement of BCEL’s assets prior to the BTA but will cover assets acquired outside the BTA as well.
4. Mr Pratap has addressed extensively on both aspects of the matter, namely, that the BTA itself is sham and that on the lifting corporate veil it will be found that BCEL is nothing but the

Judgment Debtor itself and, therefore, all its assets, without limitation, are available to the Judgment Creditor in execution.

5. Affidavit to be filed and served on or before 16th June 2017.
6. List the matter for orders on 19th June 2017 at 3.00 p.m.

(G. S. PATEL, J.)