

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).1939/2010

(From the judgement and order dated 07/12/2009 in AA No. 5/2009
of The HIGH COURT OF GUWAHATI ,ASSAM)

AVANI PROJECTS & INFRASTRUCTURE LTD. Petitioner(s)

VERSUS

SATI OIL UDYOG LTD & ANR. Respondent(s)

(With appln. for permission to file additional documents and
prayer for interim relief)

Date: 01/02/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AFTAB ALAM
HON'BLE DR. JUSTICE B.S. CHAUHAN

For Petitioner(s) Mr. K. K. Venugopal, Sr. Adv.
Mr. Manish Goswami, Adv.
Mr. Suman Shyam, Adv.
Mr. Ankur Talwar, Adv.
M/S Map & Co.,Adv.

For Respondent(s) Mr. R. F. Nariman, Sr. Adv.
Mr. K. N. Choudhary, Sr. Adv.
Mr. B. K. Satiya,Adv.
Mr. Parthiv K. Goswami, Adv.

UPON hearing counsel the Court made the following
O R D E R

The Special Leave Petition is disposed of in terms of
the signed order.

(Neetu Sachdeva)
Sr. P.A.

(Mithlesh Gupta)
Court Master

(signed order is placed on the file)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. 1939 OF 2010

AVANI PROJECTS & INFRASTRUCTURE LTD. Petitioner(s)

VERSUS

SATI OIL UDYOG LTD & ANR. Respondent(s)

O R D E R

Mr. Venugopal, senior advocate appearing for the
petitioner submitted that even though dealing with the issue
of certain interim directions sought by the petitioner, the

High Court had disposed of the appeal in a manner as to leave nothing for the Arbitration proceeding. Mr. Nariman, senior advocate representing the respondents submitted in reply that the petitioner's grievance was unfounded in as much as the High Court had made clear, in paragraph 75 of the judgment that its findings were only prima facie in nature.

Mr. Nariman appears to be right. But, in order to dispel all doubts on the score, we make it clear that the Arbitrator shall not be influenced or prejudiced by any findings, comments or observations made in the order of the High Court coming under challenge in this SLP.

Mr. Venugopal next submitted that on the respondent's own admission the petitioner was in joint possession over the land in dispute. He referred to paragraph 13 of the memo

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of appeal filed by the respondent before the High Court that reads as under -

"That as per the terms of contract, the appellants handed over joint possession of the scheduled land in question to the respondent on 04.03.2008 and also acknowledged the same vide letter dated 04.03.2008."

Learned counsel submitted that this court should protect the petitioner's possession over the disputed land till they are able to agitate the issue before the arbitrator and an interim order is passed on the question of possession. In response, Mr. Nariman submitted that at the time of the filing of the appeal the petitioner was indeed in joint possession over the disputed land with the respondents but after the High Court order dated 7.12.2009 the respondents had entered into a Development Agreement with a third party on 9.12.2009 pursuant to which the possession of the disputed land was handed over to the third party. Mr. Venugopal disputed this position and stated that the petitioner continued to be in joint possession over the

disputed land.

There is no occasion for us to go into the disputed claim of possession over the land in question by the parties. Suffice to note that Mr. Nariman gives an undertaking to the Court that till an order under Section 17 of the Arbitration and Conciliation Act, 1996 is passed by the Arbitrator neither the respondents nor the third party

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with whom the respondents have entered into the Development Agreement dated 9.12.2009 will change the features of the land in any manner.

Let the undertaking given by Mr. Nariman be recorded.

It is expected that the two Arbitrators will nominate the Presiding Arbitrator within three weeks from today. As soon as the Presiding Arbitrator is nominated it will be open to the petitioner to seek appropriate directions in terms of Section 17 of the Act and the final order on the petition will be passed, after hearing the parties, within two months from the date of its filing.

The Special Leave Petition is disposed of with the above observations.

.....J.
(AFTAB ALAM)

NEW DELHI
FEBRUARY 1, 2010

.....J.
(DR.B.S.CHAUHAN)