

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).26745- 26746 / 2008

(From the judgment and order dated 07/10 / 2008 in MCA No.2109- 2110 of 2008
in SCA No. 31094 / 2007 of The H I G H C O U R T O F G U J A R A T A T A H M E D A B A D)

A A R I F A B E N Y U N U S B H A I P A T E L

Petitioner(s)

V E R S U S

M U K U L T H A K O R E B H A I A M I N & O R S.

Respondent(s)

(With appln(s) for exemption from filing O.T. and prayer for interim relief and
office report)

Date: 23/03 / 2 009 These Petitions were called on for hearing today.

C O R A M :

H O N ' B L E M R. J U S T I C E S. H. K A P A D I A

H O N ' B L E M R. J U S T I C E A F T A B A L A M

For Petitioner(s) Mr. R.F. Nariman, Sr.Adv.

Ms. Shobha, Adv.

Mr. Mohinder Singh Thakur, Adv.

Mr. Said Mohsin, Adv.

For Respondent(s)

Mr. Shyam Diwan, Sr.Adv.

Mr. Mu kul Rohtagi, Sr.Adv.

Mr. Nikhil Goel, Adv.

Mr. Sharvil Majumdar, Adv.

Mr. Sayid Marzook, Adv.

Ms. Sheela Goel, Adv.

UPON hearing counsel the Court made the following

O R D E R

Mr. R.F. Nariman, learned senior counsel, on instructions states that
respondents Nos. 8 and 9 be deleted from the array of parties. As far as other
respondents are concerned, we are informed that the Bank has been served.

For the rest of the respondents, Ms. Sheela Goel undertakes to file
vakalatnama.

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In these cases, what is sought to be argued on behalf of the petitioner is
that the Execution Petition in which there is an allegation of fraud, in the
holding of the auction sale, was time barred. This question needs to be decided
by Executing Court. But even if it comes to the conclusion that the application
for execution was time barred, we direct the Executing Court to give its findings

as to whether there was a fraud in conducting the sale. While deciding the question of limitation the Executing Court will also decide the scope and applicability of Section 5 and Section 14 of the Limitation Act.

The Special Leave Petitions are disposed of accordingly.

(S. Thapar)
PS to Registrar

(Madhu Saxena)
Court Master