

Board of Trustees for Port of Calcutta

Vs

Guru Ispat Ltd. and others

Spl. Leave petns.(Civil) Nos. 14078 and 14079 of 1990 and 1468 of 1991 with Contempt petn, No 60 of 1991

(B.C. Ray, M.N. Venkatachaliah, S.C. Agrawal JJ)

19.03.1991

ORDER

1. After hearing learned counsel for the parties in extenso and also on a close scrutiny of the facts and the circumstances arising in this case, the whole controversy appears to us is with regard to the way in which the respondents will be permitted to have the goods i.e. the imported steel sheets, which it is stated, have been used already for manufacture of the articles for the purpose of export to foreign countries. It has been contended seriously by Mr. R. K. Jain, learned senior counsel appearing on behalf of the petitioner i.e. Board of Trustees for Port of Calcutta, that the Board of Trustees for the Port of Calcutta is entitled to get approximately a sum of Rs. 39 and odd lakhs as demurrage in respect of the goods which were released on the basis of the order of the Division Bench of the Calcutta High Court dated October 22, 1990 and he insisted us to order that Bank guarantee should be furnished for the value of the goods, of course, taking into account the sum of Rs. 6 lakhs which has already been paid under the order of the High Court in order to ensure security for the entire demurrage. The learned senior counsel on behalf of the respondents has stated before this Court by drawing our attention to the report submitted by the Customs. Authorities that the value of the goods will be near about Rs. 41 lakhs. The respondents have already paid under order of the Court a sum of Rs. 6 lakhs to the Port Trust Authority. Mr. Chatterjee submitted that it is not possible for his clients to furnish a Bank guarantee for the entire balance amount estimated to be the value of the goods.

2. Considering the submissions advanced by the parties, we think that the problem can be solved subject to the rights of the parties in the pending writ petitions before the High

Court of Calcutta in the following manner :

The respondents will be permitted to export those goods under the supervision of the Commissioner to be appointed by this Court and the entire proceeds of such export will be kept in a separate account in a Nationalised Bank in short term Fixed Deposits until further orders of this Court. We also make it clear that no part of this amount shall be withdrawn under any circumstances by the party without the permission of this Court. Mr. Vidut Mukherjee an advocate of the Calcutta High Court, be appointed as the Commissioner for this purpose on a consolidated remuneration of 200 G.M. to be paid by the respondents. The respondents will file an undertaking to this Court to the effect that they will not part with any portion of the articles that are manufactured except for the purpose of export in the manner stated hereinbefore. All parties will co-operate and mention before the High Court for early

hearing of the pending writ petitions. All parties will also cooperate for the implementation of the order. We do hope and expect when such mention is made by the parties the High Court will try and hear the matter as early as possible preferably within a period of four months.

3. We also mention in this connection that while releasing goods by interlocutory orders, the Court should consider the decisions of this Court in Board of Trustee of the Port of Bombay v. Indian Goods Supplying Co., (1977) 3 SCR 343 : (AIR 1977 SC 1622) and Board of Trustees of the Port of Bombay v. Jai Hind Oil Mills Company, (1 987) 1 SCR 932 : (AIR 1987 SC 622). This order will not operate to the detriment of the Port Trust Authority and this should not be taken as a precedent in future under any circumstances.

4. Special leave petitions and contempt petition are disposed of accordingly.

Order accordingly.

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