

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 8311 of 2012 (L)

PETITIONER(S) :

**MELWIN ENTERPRISES,
ROOM NO.XI/567-A, P.B. NO 15, MARKET ROAD, OLUR- 680 306,
THRISSUR DISTRICT, REPRESENTED BY MANAGING PARTNER,
M.R.JOBY**

BY ADV. SRI.K.R.AVINASH (KUNNATH)

RESPONDENT(S) :

- 1. THE UNION OF INDIA,
REPRESENTED BY SECRETARY, MINISTRY OF RAILWAY,
CENTRAL SECRETARIAT, NEW DELHI- 110 001.**
- 2. THE DIVISIONAL RAILWAY MANAGER, SOUTHERN RAILWAY,
TRIVANDRUM DIVISION, TRIVANDRUM- 695 001.**
- 3. THE SENIOR DIVISIONAL OPERATIONS MANAGER,
TRIVANDRUM DIVISION, TRIVANDRUM- 695 001.**
- 4. THE STATION MASTER,
SOUTH RAILWAY RAILWAY GOOD SHED, OLLUR, TRICHUR- 680 306.**
- 5. THE STATION MASTER,
SOUTHERN RAILWAY, RAILWAY GOOD SHED, TRICHUR- 680 020.**

*** ADDITIONAL R6 IMPEADED**

- 6. THE SENIOR DIVISIONAL COMMERCIAL MANAGER,
SOUTHERN RAILWAY, TRIVANDRUM - 695 014.**

*** ADDL.R6 IS IMPEADED AS PER ORDER DATED 05.03.2015 IN I.A.NO.2359/15.**

BY ADV. SRI.JAMES KURIAN, SC, RAILWAYS

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 24-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

WP(C).No. 8311 of 2012 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT. P1: TRUE COPY OF THE RAILWAY RECEIPT FOR DISPATCH OF
THE CONSIGNMENT.**

**EXT. P2: TRUE COPY OF THE REQUEST MADE BY THE PETITIONER
BEFORE THE 3RD RESPONDENT DATED 29-03-2012.**

**EXT. P3: TRUE COPY OF THE REQUEST MADE BY THE PETITIONER
BEFORE THE 2ND RESPONDENT DATED 29-03-2012.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.8311 of 2012

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Dated this the 24th day of March, 2015

JUDGMENT

This writ petition is filed praying for a direction to the railway to place the rake at Ollur and unload the cement without insisting for demurrage charges for the period of arrival of the rake and commencement of unloading.

2. The petitioner alleges that he is a consignment agent of Penna Cement and a rake consisting of 42 wagons of cement has been placed with the railway for delivery at Ollur Goods Shed. The petitioner further alleges that the rake appears to have been arrived at Trichur Goods Shed on 27.3.2012.

3. The petitioner further alleges that the railway is insisting for unloading cement from Thrissur instead of Ollur. The petitioner points out that they have only go-down facilities at Ollur and if the petitioner is forced to unload from Thrissur, additional transportation costs would incur at ₹2.5 lakhs. Therefore, they requested to place the rake at Ollur.

4. However, the respondents have not placed the rake at Ollur. The grievance of the petitioner is that the respondents are proposing to claim huge demurrage charges for the period between arrival of rake and commencement of unloading and the petitioner is not liable to pay demurrage charges for the period of delay which is attributable to railway. It is with this background, the petitioner has approached this Court.

5. Today when the matter came up for hearing the learned counsel for the petitioner submitted that in the light of the counter affidavit filed by the respondents the demurrage has not been levied on the petitioner.

Recording the said submission, the writ petition is closed. It shall be open to the petitioner to approach the appropriate forum if he has any other subsisting grievance.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

krj