



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P. (MD) No.10650 of 2017  
and  
W.M.P. (MD) No.8132 of 2017

S.Muhammed Shafi

...Petitioner

Vs.

1.The Assistant Commissioner Customs,  
Tuticorin Customs House,  
Harbour Estate, Tuticorin.

2.MSC Agency(india) Pvt ltd  
Tuticorin port Discharge Agent,  
146, Palayamkottai Road,  
Tuticorin.

3.Karuppasamy

...Respondents

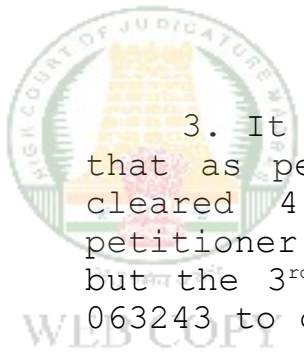
PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a writ of mandamus, directing the first respondent to conduct a proper enquiry in respect of Raw Cashew in B.L.No.MSCUMP 063243 based on the petitioner's representation, dated 05.06.2017 and direct the customs authority not to deliver the cargo of raw cashew nuts to the 3<sup>rd</sup> respondent or his endorsees other than the petitioner and his endorsees.

For Petitioner : Mr.S.Muthalraj  
For Respondents : Mr.R.Nandagopal,  
Standing Counsel for R1  
No appearance for R2.  
Mr.K.A.Raamakrishnan for R3

#### O R D E R

This petition is filed for issuance of a Writ of Mandamus, directing the first respondent to conduct a proper enquiry.

2. Mr.R.Nandagopal, learned standing counsel takes notice for the first respondent and Mr.K.A.Raamakrishnan, learned counsel appeared for the third respondent. No representation for the second respondent. By consent, the writ petition itself is taken



3. It is represented by the learned counsel for the petitioner that as per the agreement, dated 04.04.2017, the petitioner had cleared 4 lots of consignment. In respect of 5<sup>th</sup> lot, the petitioner had remitted Rs.43,90,000/- through RTGS on 02.06.2017, but the 3<sup>rd</sup> respondent has not furnished Bill of lading No.MSCUMP 063243 to clear the consignment, hence the present writ petition.

4.The learned counsel for the third respondent would submit that the agreement, dated 04.04.2017 contains Arbitration Clause and if there is any dispute, the petitioner has to go before the Arbitrator and the writ petition itself is not maintainable.

5. It is further submitted that as per the agreement, the petitioner has to make payment within two days from the date of receipt of consignment. Since, the petitioner has remitted the payment on 02.06.2017 beyond the period of agreement, the entire amount of Rs.43,90,000/- was rewired to the petitioner, which factum has been suppressed by the petitioner in this writ petition and as on date the 3<sup>rd</sup> respondent is not holding any amount of the petitioner.

6.Considering the above undisputed facts, I do not find any merits in this writ petition. In the result, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar.

To

The Assistant Commissioner Customs,  
Tuticorin Customs House,  
Harbour Estate,  
Tuticorin.

+1CC to M/S.R.Nandakumar, Advocate, SR.No. 60392  
+1CC to M/S.S.Muthalraj, Advocate, SR.No. 60281  
+1CC to M/S.Ka.Ramakrishnan, Advocate, SR.No.60323

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