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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CONT.CAS(C) 334/2017 & CM APPL. 16504/2017

M/S MUSCLES FUSION FZE

..... Petitioner

Through: Ms. Anjali J. Manish, Advocate with
Mr. Priyadarshi Manish, Advocate.

versus

RAMESH MAMIDALA & ANR

..... Respondents

Through: Mr. Sarul Jain, Advocate for respondent
No.1.

Mr. Milanka Chaudhury, Advocate with
Mr. Sarojanand Jha and Ms. Satakshi
Sood, Advocate for respondent No.3-
DIAL.

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Date of Decision: 01st May, 2017

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present contempt petition has been filed alleging wilful disobedience of the order dated 27th March, 2017 passed in W.P.(C) 2773/2017 whereby it was directed that respondents No.3 and 4 shall take necessary consequential action giving due effect to re-export order dated 25th March, 2017 having regard to the detention certificate expeditiously.

2. Learned counsel for petitioner states that despite the aforesaid order, respondents have not waived the demurrage/ground rent and consequently, petitioner's goods have not been released for re-export. In support of her submission, she relies upon Regulation 6(1)(1) of the Handling of Cargo in Customs Areas Regulations, 2009 as well as the Division Bench judgments of this Court in ***Delhi International Airport Pct. Ltd. Vs. Union of India, 2017 (346) E.L.T. 65 (Del.)*** and ***Trip Communication Pvt. Ltd. Vs. Union of India, 2014 (302) E.L.T. 321 (Del.)***.

3. Learned counsel for respondents, who appear on advance notice, state that the petitioner has suppressed material facts inasmuch as it has not disclosed either in contempt petition or in arguments that it has already filed a writ petition being W.P.(C) 3589/2017 wherein a specific prayer is that the petitioner be allowed to re-export the goods import without charging any demurrage/ground rent. They state that notices have already been issued in the petitioner's writ petition being W.P.(C) 3589/2017, returnable on 04th May, 2017.

4. Having heard learned counsel for parties, this Court is of the view that petitioner owed a duty to disclose in the present contempt petition as well as during the course of arguments that it had filed a writ petition seeking relief for waiver of demurrage/ground rent.

5. In any event, this Court is of the opinion that since there is no discussion leave alone an adjudication on the issue of waiver of demurrage/ground rent, the present petition is not maintainable.

6. The Supreme Court in ***All India Anna Dravida Munnetra Kazhagam Vs. L.K. Tripathi and Ors., (2009) 5 SCC 417*** has held that contempt of Court is a quasi criminal act and as such the standard of proof required is

that of a criminal proceeding and the breach or wilful disobedience has to be established beyond all reasonable doubt. Consequently, in the absence of any specific direction to waive of the demurrage/ground rent, this Court is of the view that the present contempt petition is not maintainable.

7. Accordingly, present contempt petition and application are dismissed. However, this Court clarifies that the present order shall have no bearing on the writ petition being W.P.(C) 3589/2017, which shall be decided on its own merits.

Order dasti under the signature of Court Master.

MANMOHAN, J

MAY 01, 2017

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