

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATE: 31.07.2019

CORAM
THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.10649 of 2019

Mohammed Ashraf Kizhakkini Yakath

.. Petitioner

Vs.

1. The Commissioner of Customs (Sea Port)
The Custom House
No.33, Rajaji Salai
Chennai - 600 001
2. The Deputy Commissioner of Customs (Sea Port)
The Custom House
No.33, Rajaji Salai
Chennai - 600 001
3. Team Global Logistics Pvt.Ltd.,
Leelavathi Building 4th Floor
No.69, Armenian Street
Chennai - 1
- 4.Cargo Consol India Pvt. Ltd.,
New No.24, Old No.322
Unicorn House, 4th Floor
Thambu Chetty Street
Chennai-1

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the 1st and 2nd respondent to take suitable action as against the 3rd and 4th respondents from collecting huge amount in the name of delivery charges and clear the goods of the petitioner which was booked at L Mark Express in Receipt No.BSB 1959 on the basis of the representation given by the petitioner dated 11.02.2019.

For Petitioner : Ms.T.Sreelekha

For Respondent : Mr.K.S.Ramaswamy
Central Govt.Standing Counsel for R1 and R2

NA : R3

Mr.R.Karthik for R4

O R D E R

Ms.T.Sreelekha, learned counsel on record for writ petitioner is before this Court. Mr.K.S.Ramaswamy, learned Central Government Standing Counsel for Customs on behalf of official Respondents 1 and 2 and Mr.R.Karthik, learned counsel on record for fourth respondent are before this Court. To be noted, fourth respondent is a private respondent.

2. Be that as it may, third respondent, who is also a private respondent, has been duly served and the name of the third respondent together with full/complete address is shown in the cause list today, but there is no representation. This Court is informed that no counsel has entered appearance on behalf of the third respondent. Name of the third respondent called out aloud thrice in the Court and adjoining corridors. No response.

3. To be noted, there are four respondents in all in the instant writ petition. Respondents 1 and 2 are official respondents, who are represented by learned Standing Counsel. Fourth respondent is represented by a counsel, who is before this Court. With regard to third respondent, the obtaining position has been set out supra.

4. In the aforesaid backdrop, with consent of learned counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

5. Factual matrix in a nutshell is that writ petitioner was working at Brunei Darussalam since 1986, that writ petitioner in the month of December 2018 decided to shift with his family to India, that writ petitioner vacated his house at Brunei, that on 29.12.2018 writ petitioner entrusted his personal effects in 41 cartons valued at 80,000 INR (to be noted INR denotes Indian currency i.e., Indian Rupees) to one L.Mark Express (B) Sdn.Bhd, (Professional movers and forwarders in Brunei) for transportation, that the goods arrived in Chennai Port on 30.01.2019, that at the time of entrusting the consignment to the aforesaid professional movers and forwarders in Brunei, writ petitioner paid 1500 Brunei Dollars, which is said to be equal to about 75,000/- INR, that L.Mark Express authorities assured the writ petitioner that goods will be delivered at Chennai Port without demanding any further payment. However, on 30.01.2019, when the writ petitioner went over to collect the consignment/goods, a sum of Rs.4,130/- was demanded by the third respondent i.e., Team Global Logistics Pvt.Ltd., and a sum of Rs.1,11,946/- was demanded by the fourth respondent i.e., Cargo Consol India Pvt. Ltd and that according to the writ petitioner, he is not liable to pay these sums of

money to third and fourth respondents for clearing his goods.

6. To be noted, writ petitioner has sent a legal notice dated 19.02.2019 to third and fourth respondents arraying them as noticee Nos.1 and 2 respectively. To be noted, copies of this legal notice have been marked to Respondents 1 and 2.

7. More importantly, according to the writ petitioner, a communication complaining about the aforesaid demand by private respondents 3 and 4 was sent to the second respondent. This communication is undated, but signature therein bears a date which is 11.02.2019.

8. Learned Revenue counsel on behalf of official respondents 1 and 2, on instructions, submits that this communication was never received by the second respondent.

9. Besides this, it is also submitted by learned Revenue counsel that Respondents 1/2 and for that matter Customs Department, as such, has nothing to do with the private respondents 3 and 4.

10. Learned counsel for fourth respondent also submits that they have not been authorized in any manner by the Customs Department.

11. Be that as it may, while it may be appropriate for the writ petitioner to proceed against Respondents 3 and 4 pursuant to aforesaid legal notice, it may not also be out of place to direct the second respondent to send a reply to the aforesaid undated communication (signed on 11.02.2019), which is now available at Page 9 of the typed-set of papers.

12. This Court directs the Revenue Counsel appearing on behalf of Respondents 1 and 2 to forward a copy of the aforesaid undated communication (signed on 11.02.2019) to the second respondent forthwith with a further direction to the second respondent to send a suitable reply to the writ petitioner under due acknowledgement within 10 working days from today.

This writ petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Commissioner of Customs (Sea Port)
The Custom House
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3. Team Global Logistics Pvt.Ltd.,
Leelavathi Building 4th Floor
No.69, Armenian Street
Chennai - 1

+1cc to Mr.R.Karthik, Advocate, S.R.No.65736
+1cc to Mr.D.Rajagopal, Advocate, S.R.No.65856
+1cc to Mr.K.S.Ramasamy, Advocate, S.R.No.66064

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LN(CO)

RRS (28/08/2019)



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