

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE/ORIGINAL JURISDICTION

CIVIL APPEAL NO(S).2542-2546 OF 2020
(Arising out of SLP(C)Nos.6688-6692/2020)

THE BOARD OF TRUSTEES FOR THE
PORT OF KOLKATA & ORS.

APPELLANT(S)

VERSUS

TORRENT MINERALS PRIVATE
LIMITED & ORS.

RESPONDENT(S)

WITH

TRANSFER PETITION(S)(CRIMINAL) NO(S). 177-178/2020

O R D E R

Civil Appeal @ SLP(C)Nos.6688-6692/2020

1. Leave granted.
2. Heard learned counsel for the parties.
3. These appeals take exception to the interim order passed by the High Court initially by the Single Judge in writ petition and confirmed by the Division Bench. The interim order passed by the learned Single Judge of the High Court reads thus :

XXX

XXX

XXX

“In that view of the matter, I pass the following order:

- (a) The Chairman of the Board of Trustees of Kolkata Port Trust shall waive

port charges payable by the parties during this lockdown period.

- (b) the petitioner will be allowed to clear the goods from the Port premises upon payment of the Port dues and other charges payable by them. If there is a dispute with regard to the amount, the admitted amount shall be paid by cash and the disputed amount secured by a bank guarantee to the satisfaction of the port authorities.
- (c) At the time of clearance of the goods the police shall be informed by the authorities so that they may take appropriate action, if thought fit with regard to the allegation of theft.
- (d) The goods shall be cleared from and transported out of the port to their destination, strictly, in accordance with the norms during the lockdown period.

This application being CAN No.3001 of 2020 is disposed of.

Let affidavits be exchanged in the main writ in the following manner.

Affidavit-in-opposition be filed by 8th June, Affidavit-in-reply be filed by 22nd June.

The writ application may be mentioned before the appropriate court for early hearing.

All parties are to act on a server copy of this order on the usual undertakings."

xxx

xxx

xxx

4. Considering the complex factual assertions by both sides, as an interim arrangement during the pending of the Writ Petition(s) before the High Court, we deem it appropriate to dispose of these appeals without expressing any final opinion on the merits of the controversy. The order and directions we propose to pass are as follows :

(i) The respondent-writ petitioner(s) are allowed to take away the subject coal lying in the Port Trust premises to the extent of 34,928 (in words, thirty four thousand nine hundred twenty eight) MT only, on the following conditions:

(a) The respondent-writ petitioner(s) will cause to take away the subject coal in the presence of representative(s) of local police station and also of the Port Trust, after giving atleast twenty four hours advance notice to the concerned authority.

(b) The appellant-Port Trust will have liberty to take samples truck-wise or at

random, as may be advised, from the stated coal being removed by the respondent-writ petitioner(s) from the site of the Port Trust.

(c) The sampling be done in the presence of the representatives of Port Trust, Writ Petitioner(s) and the local Police official(s).

(d) The appellant-Port Trust will be free to send the sample(s) for chemical examination and grading to ascertain whether the same matches with the quality of coal as disclosed by the respondent-writ petitioner(s) in the import documents while importing the same.

(e) The sample(s) will be preserved, sealed and signed by all the representative(s).

(ii) The writ petitioner(s) shall pay 75% of the aggregate of outstanding Port Trust charges on the given day and in respect of remaining 25%, offer bank guarantee of commensurate amount. This is a pre-condition to be complied by the writ petitioner(s)/respondents before the process of removal of coal, as aforesaid,

commences. The bank guarantee so offered shall be kept alive by the writ petitioners during the pendency of writ petition before the High Court and abide by such directions as may be finally passed by the High Court.

(iii) In the event the sample(s) result(s) are found to be mismatch with the disclosed quality of the imported coal, it will be open to the parties to seek appropriate directions from the High Court, as may be advised.

5. The interim order passed by the High Court stands modified in the above terms.

6. We make it clear that we have not expressed any opinion either way on the merits of the controversy. In other words, all contentions and remedies available to all the parties are left open.

7. Similarly, the issue pending before the Criminal Court or likely to arise in the criminal process initiated on the basis of F.I.Rs. already registered or to be registered hereinafter, will proceed on its own merits and in accordance with law.

8. This order shall not be treated as a

precedent.

9. The appeals and pending applications are disposed of with the aforementioned directions. No orders as to costs.

T.P.(CRL) NO(S). 177-178/2020

1. As the appeals are disposed of, we need not entertain these transfer petitions. The transfer petitions and pending applications are disposed of.

2. The parties are free to pursue their remedies before the High Court, which be proceeded in accordance with law.

3. All contentions available to the parties are left open.

....., J.
(A.M. KHANWILKAR)

....., J.
(DINESH MAHESHWARI)

....., J.
(SANJIV KHANNA)

NEW DELHI
JUNE 09, 2020.

ITEM NO.8+23

Virtual Court 2

SECTION XVI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 6688-6692/2020

(Arising out of impugned final judgment and order dated 23-04-2020 in MAT No. 439/2020, MAT No. 440/2020, CAN No. 3023/2020, CAN No. 3024/2020, CAN No. 3008/2020 passed by the High Court At Calcutta)

THE BOARD OF TRUSTEES FOR
THE PORT OF KOLKATA & ORS.

Petitioner(s)

VERSUS

TORRENT MINERALS PRIVATE LIMITED & ORS.

Respondent(s)

(IA No. 48819/2020 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 48818/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT IA No. 49148/2020 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES & IA No. 49296/2020 - VACATING STAY)

WITH

Transfer Petition(s)(Criminal) No(s). 177-178/2020

Date : 09-06-2020 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE DINESH MAHESHWARI
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.
Mr. Buddy A. Ranganadhan, Adv
Mr. M. Thangathurai, Adv.
Ms. Stuti Krishn, Adv.
Mr. A. V. Rangam, AOR

For Respondent(s) Mr. Kapil Sibal, Sr. Adv.
Mr. Ankur Chawla, Adv.
Mr. Kunal Vajani, Adv.
Mr. Rabin Majumdar, Adv.
Mr. Moyukh Mukherjee, Adv.
Mr. Rajdeep Mazumder, Adv.
Mr. Jayant Mohan, AOR

Mr. Suhaan Mukerji, Adv.
Mr. Amit Verma, Adv
For M/S. Plr Chambers And Co., AOR

UPON hearing the counsel the Court made the following
O R D E R

SLP (C) Nos.6688-6692/2020

Leave granted.

The appeals and pending applications are disposed of in terms of the signed order.

T.P.(Cr1) Nos.177-178/2020

Transfer petitions and pending applications are disposed of in terms of the signed order.

(NEETU KHAJURIA)
COURT MASTER

(VIDYA NEGI)
COURT MASTER

(Signed order is placed on the file.)