

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.3120/2020  
(Arising out of SLP(C)No.8331 of 2020)

M/S TRANSWORLD TERMINALS PRIVATE LIMITED Appellant(s)

VERSUS

WATINUKSUNG JAMIR & ORS. Respondent(s)

O R D E R

Leave granted.

Respondent No.1 imported Bitumen of 519.77 metric tonnes which arrived at the Kolkata Port on 18.2.2020. On 20.2.2020, the consignment was shifted to the CFS facility of the appellant. Respondent No.1 had already cleared part of the consignment (288.507 MTs) of Bitumen out of the total consignment of 519.77 metric tonnes on various dates till 25.3.2020. Invoices were raised by the Appellant for clearing the remaining consignment as per the agreed rates.

The Ministry of Home Affairs, Government of India notified COVID-19 as a disaster. The order dated 24.3.2020 was issued in exercise of powers under the Disaster Management Act, 2005. As per the said order dated 24.3.2020, guidelines were issued to all the Ministries/Departments of Government of India, States/Union Territories for its strict implementation.

Thereafter, guidelines were issued by the Ministry of Home Affairs and Ministry of Shipping on 31.3.2020, by which the major ports were directed not to impose penalty, demurrage, charges, fee, rentals are levied by the Major Ports on any port user (traders, shipping lines, concessionaires, licensees etc.) for any delay in berthing, loading/unloading operations or evacuation/arrival of cargo caused by the reasons attributable to lockdown measures from 22.3.2020 to 14.4.2020.

Aggrieved by the calculation of the ground rent charges for the consignment which had to be cleared, the Appellant filed a Writ Petition in the High Court seeking the benefit of the guidelines issued by the Ministry of Shipping. No interim order was passed by the learned Single Judge in the writ petition. The Respondent in the Writ Petition (the Appellant herein) was directed to file an affidavit within 10 days. The Respondent filed an appeal. While considering the appeal, the Division Bench disposed of the Writ Application by consent and issued the following directions: -

*"This case for remission shall be considered by a panel consisting of representatives of the Port Trust and the container Freight Station (CFS). This panel is to be constituted by the Chairman of the Kolkata Port Trust wherein he shall be Chairperson, within three*

*weeks of communication of this order. The decision of the panel shall be taken and communicated by 30<sup>th</sup> September, 2020.*

*In respect of the demand before coming into effect of the lockdown, the appellant shall have to pay the whole amount by cash. In respect of the lockdown period demand, he shall pay 50% of the same in cash and secure the rest of the amount by a bank guarantee of a nationalised bank in favour of the container freight station. The container freight station shall not encash the bank guarantee till a period of four weeks after the decision to be taken by the panel referred to above, to enable any party to challenge it.*

*Upon making of this payment and furnishing of the bank guarantee as stated above, all steps will be taken by the respondents to release the subject good in favour of the appellant within three days of compliance of the above formalities. In terms of the decision the respondent No.3 will be entitled to encash the bank guarantee. If any amount is in excess, the same shall forthwith be refunded by the said respondent to the appellant."*

The dispute that arises in this case relates to the applicability of the order dated 21.4.2020, issued by the Ministry of Shipping to container freight stations. The said issue is pending consideration before the Delhi High Court. We are informed that the

matters are listed on 25.9.2020.

After hearing the learned counsel for the parties and perusing the material on record, we are of the opinion that the Respondent should approach the Delhi High Court by filing a Writ Petition for the reliefs that are sought by him in the writ petition filed before the Calcutta High Court. Without adjudicating the points relating to the applicability of the order dated 21.4.2020 to container freight stations, the High Court ought not to have issued a direction constituting a Committee to consider remission.

Therefore, we set the order of the learned Single Judge and give liberty to Respondent No.1 to approach the Delhi High Court. We make it clear that we have not expressed any opinion on the merits of the points that are raised in the Writ Petition.

The appeal is disposed of accordingly. Pending application(s) if any, stand disposed of.

.....J.  
(L.NAGESWARA RAO)

.....J.  
(HEMANT GUPTA)

.....J.  
(S.RAVINDRA BHAT)

NEW DELHI;  
9<sup>th</sup> September, 2020.

ITEM NO.4 Court 5 (Video Conferencing) SECTION XVI

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

Civil Appeal No.3120/2020 arising out of SLP(C)No.8331 of 2020

M/S TRANSWORLD TERMINALS PRIVATE LIMITED Appellant(s)

VERSUS

WATINUKSUNG JAMIR & ORS. Respondent(s)  
(With applns for exemption from filing c/c of impugned judgment,  
ex-parte stay, exemption from paying court fee)

Date : 09-09-2020 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO  
HON'BLE MR. JUSTICE HEMANT GUPTA  
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

For Appellant(s) Mr. Vikram S. Nankani, Sr. Adv.  
Mr. Naresh Thacker, Adv.  
Mr. Jitendra Motwani, Adv.  
Mr. Kumar Visalaksh, Adv.  
Mr. Mahfooz A. Nazki, AOR  
Mr. Udit Jain, Adv.  
Ms. Rinkey Jassuja, Adv.  
Mr. Mahfooz Ahsan Nazki, AOR

For Respondent(s) Mr. Srijib Chakraborty, Adv.  
Mr. Debashis Mukherjee, Adv  
Mr. Pankaj Agarwal, Adv  
Mr. Parma Nand, Adv  
Mr. Anand Shankar, AOR  
  
Mr. Joy Saha, Sr. Adv.  
Mr. Buddy A Ranganadhan Adv.  
Ms. Stuti Krishn Adv.  
Mr. A.V.Rangam A.O.R

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

Leave granted.

The appeal is disposed of in terms of the  
signed order. Pending application(s), if any, shall  
stand disposed of.

(B.Parvathi)  
Court Master

(Anand Prakash)  
Court Master

(Signed order is placed on the file)