

ITEM NO.14 Court 6 (Video Conferencing) SECTION XI-A

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.2959/2021

(Arising out of impugned final judgment and order dated 08-05-2020 in WA No.640/2020 passed by the High Court of Kerala at Ernakulam)

GATEWAY DISTRI PARKS (KERALA) LIMITED Petitioner(s)

VERSUS

DOLPHIN SHIPPING LINE (UK) LTD. & ORS. Respondent(s)

(With appln.(s) for I.R. and IA No.23895/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.23894/2021-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 22-02-2021 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE M.R. SHAH

For Petitioner(s) Mr. Joseph Kodianthara, Sr. Adv.
Mr. Rony Jose, Adv.
Mr. A. Karthik, AOR
Mr. Arsh Khan, Adv.

For Respondent(s)

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

- 1 Mr Joseph Kodianthara, learned senior counsel appearing on behalf of the petitioner submits that:
 - (i) The consignment of cement arrived at Cochin Port on 18 February 2019;

- (ii) By a letter dated 17 May 2019, the consignee abandoned the cargo and extinguished all rights and claims (in view of the enhancement of import duty on goods originating in Pakistan);
- (iii) The goods were lying in the premises of Cochin Port between 18 February 2019 and 2 August 2019;
- (iv) On 30 July 2019, the first respondent requested that the cargo be transferred to the Container Freight Station (CFS) which is operated by the petitioner from the Port premises; and
- (v) There was no privity between the petitioner and the first respondent and it is only at the request of the first respondent, that the petitioner stored the cargo at the premises of its CFS for which charges have to be paid to it.

2 Learned senior counsel submits that in the above circumstances, the judgment of this Court in ***The Chairman, Board of Trustees, Cochin Port Trust vs M/s Arebee Star Maritime Agencies Pvt Ltd*** [Civil Appeal No 2525/2018 decided on 5 August 2020] would not cover the present facts since the petitioner who conducts a CFS had agreed to store the goods on the specific request of the first respondent. It has also been submitted that the Single Judge only directed the petitioner to de-stuff the goods in accordance with law and in the appeal which was filed by the petitioner against the judgment of the Single Judge, the Division Bench was not justified in entering a finding that the first respondent was not liable to pay any other charges incurred by the consignee. It has been stated that the goods have been de-stuffed and the containers have been handed over to the first respondent, but the observations contained in paragraph 6 of the judgment of the Division Bench will preclude the petitioner from filing a suit for the recovery of its charges as against the first respondent. Hence, a clarification has been sought to the above extent.

- 3 Issue notice confined to the above issue, returnable in twelve weeks. The counter affidavit shall be filed within four weeks of service.
- 4 Dasti, in addition, is permitted.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
Court Master