

Dankuni Steels Limited Vs. Ajit Kumar Bothra and ors

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Court : Kolkata

Decided On : Feb-21-2014

Judge : Banerjee

Appellant : Dankuni Steels Limited

Respondent : Ajit Kumar Bothra and ors

Judgement :

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ORDER

SHEET CC16of 2014 GA No.103 of 2014 CC49of 2013 GA No.2805 of 2013 IN THE HIGH COURT AT CALCUTTA Special Jurisdiction (Contempt) ORIGINAL SIDE DANKUNI STEELS LIMITED Versus AJIT KUMAR BOTHRA & ORS BEFORE: The Hon'ble JUSTICE BANERJEE The Hon'ble JUSTICE ASHOKE DASADHIKARI Date : 21st February, 2014.

Appearance: Mr.Ranjan Deb, Sr.Advocate with Ms.Noelle Banerjee, Mr.Dipak Dey Ld.

Advocates for the petitioner.

Mr.Ahin Chowdhury, Sr.Advocate with Mr.D.N.

Sharma and Mr.S.Pandey, Ld.

Advocates for the respondent.

Mr.Pramit Ray, Mr.Anik Banerjee and Mr.N.Sengupta, Id.

Advocates For alleged contemnors Nos.1 and 2.

The Court : GA103 of 2014 is an application made by LMJ International, inter-alia, praying for clarification of the order dated December 13, 2013 passed in CC49 of 2013 in which LMJ was initially made a party and thereafter their names were struck off at the instance of the petitioners. Mr. Ahin Chowdhury, learned senior Counsel appearing for the applicant LMJ would draw our attention to the order dated December 13, 2013.

He would object to the portion of the order that would grant liberty to Dankuni Steel Limited, the appellant, to pay the bill of the clearing agent so that the clearing agent could comply with the earlier forthwith direction beyond of 10,000 MT Court as effecting directed by the delivery earlier order.

Mr. Chowdhury would refer to the earlier order dated June 28, 2013 at page 123-126 wherein on the prayer of Mr. Deb, learned Senior Counsel appearing for Dankuni Steel be permitted the respective Advocates-on-record to visit the godown where the disputed goods were lying.

The Joint Special Officers came back and submitted report.

They did not find any goods at the subject godown.

Mr. Chowdhury would contend, the Joint Special Officers did not visit the correct godown.

There are other two godowns that missed the attention of the Joint Special Officers. He would also refer to the order dated March 19, 2013 where we observed as follows: We would clarify, the interim orders passed by His Lordship would continue save and except, the fetter would be restricted to 10,000 MT wherein rival claims then made by LMJ International.

Mr.Chowdhury would contend, LMJ International claimed ownership of any consignment beyond 10,000 MT.

In any event, the order dated March 19, 2013 did not give any mandate to hand over the goods.

Hence, the order subsequently passed in the contempt proceeding was beyond the scope, in any event, we should clarify, Mr.Chowdhurys 10,000 MT must not be disturbed.

We have considered the rival contentions.

If we take all the three orders together we would not find any impediment.

Mr.Chowdhury claimed onwership of 10,000 MT.

We observed, issue would be resolved by the learned Single Judge.

Mr.Deb prayed for release of the balance part that the handling agent objected as according to them, they had a lien over the goods for unpaid charges.

We clarified, they would raise the bills on Mr.Deb and once they would raise bill upon payment of the said charges, there would be no impediment for the handling agent to deliver the balance goods.

Hence, we used the words beyond 10,000 MT.

We hope that would clarify the position.

This would take care of GA103of 2014.

GA2805of 2013 is an application made by Dankuni Steel for appropriate order under section 340 of the Criminal Procedure Code as according to the applicant this Court passed the initial order being persuaded by the respondent that was based on mis-statement of facts.

While elaborating Mr.Deb would contend, LMJ made submissions before this Court, the goods were lying in the godown.

The Joint Special Officers did not find the same.

The above are the questions to be effectively gone into at the time of hearing of the application before the learned Single Judge.

We do not wish to make any comment at this stage.

If occasion so arises, the applicant would be free to renew from their prayer.

This would take care of GA2805of 2013.

CC16of 2014 is an application for contempt.

Affidavit-in-opposition be filed within 2 weeks from date, reply,if any, within one week thereafter.

We once again hope and expect, good sense will prevail upon contemnor and they would comply with the order in the meantime.

(BANERJEE, J.) (ASHOKE DASADHIKARI, J.) dg/

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