

(1992) 02 DEL CK 0081

In the Delhi High Court

Case No : Civil Miscellaneous (Main) Appeal No. 102 of 1975

Jagan Nath

APPELLANT

Vs

Har Lal and Others

RESPONDENT

Date of Decision : 19-02-1992

Acts Referred:

Slum Areas (Improvement and Clearance) Act, 1956 — Section 19(1)

Citation : (1992) 46 DLT 644

Hon'ble Judges : Y.K. Sabharwal, J

Bench : Single Bench

Advocate : Anil Kumar, G.N Aggarwal and Girish Aggarwal, for the Appellant;

Judgement

Y.K. Sabharwal, J.

(1) This petition under Article 227 is directed against the order of the competent authority under Slum Areas (Improvement and Clearance) Act, 1956, made on 15th January, 1974 granting permission in favor of respondents 1 and 2 herein to institute eviction proceedings in respect of disputed premises No. 583, Kucha Pati Ram, Delhi. The respondents 1 and 2 had filed an application u/s 19 of the aforesaid Act seeking permission to institute eviction proceedings against the petitioner and respondents 3, 4 and 5 besides Sh. Shiv Prasad, father of the petitioner and respondents 3, 4 and 5. It seems that Sh. Shiv Prasad had died during the pendency of the proceedings before the competent authority. According to the averments made in this petition Sh. Shiv Prasad died on 6th November, 1971.

(2) In the impugned order, on consideration of evidence which was filed in the form of affidavits, the learned competent authority has come to the conclusion that the petitioner Jagan Nath had deserted the disputed premises and was not living therein. It would be useful to notice that admittedly, respondents 3, 4 and 5 who are brothers of the petitioner were not living in the premises in dispute since long before the filling of the application seeking permission to institute

eviction proceedings against them. The rent note dated 1st February, 1960 being one of the admitted documents also shows that the said three respondents were not living in the disputed premises. Clause 3 of the said rent note, inter alia, states that previously all the tenants, namely, petitioner and respondents 3 to 5 and Sh. Shiv Prasad were residing but at the time when the rent note was executed only petitioner Jagan Nath and Shiv Prasad was residing in the premises. The petitioner had filed before the competent authority an affidavit dt. 25th August, 1969 whereby he denied the assertion of the respondents 1 and 2 that the suit premises were lying vacant and closed for 2-3 years and further stated that he was living in the premises continuously since 1941. It appears from the impugned order that the petitioner was asked to furnish his ration card in order to establish his contention that he was actually residing in the disputed premises as specific allegation had been made by respondents 1 and 2 that petitioner was not residing in the disputed premises. At this stage, the petitioner filed his own affidavit as also the affidavit of one Radhey Lal both dated 30th November, 1970 giving particulars about the issue of duplicate ration card No. 595493. This ration card was prepared, as per the affidavit of Sh. Radhey Lal on 17th March 1969. The application seeking permission to institute the eviction proceedings was filed in April, 1968. The affidavits also gave the number of the original ration card which was alleged to have been lost. In none of these affidavits the details about the loss of the original ration card have been given. It has not been stated either by the petitioner or Radhey Lal as to when the original ration card was lost, when loss was reported and when application was made for issue of the duplicate ration card. The petitioner has also not placed on record before the competent authority any other material to show that although his other three brothers had shifted from the premises in dispute he had not he continued to reside in the premises in question. Learned Counsel for the petitioner contends that as the number of the old ration card had also been given in the affidavits afore- said, it was open to respondents 1 and 2 to seek permission of the competent authority to cross-examine the deponents which was not sought for and as such the rejection of the said affidavits by the competent authority is not liable to be sustained in law as also the finding that the petitioner had deserted the premises in question. I am afraid, it is not possible to accept this contention. On appreciation of the material on record the learned competent authority came to the conclusion about the petitioner having deserted the premises. It is not possible to accept the submission that there was no material to arrive at the said finding or that any extraneous matter was taken into consideration. The other contention of the learned Counsel for the petitioner that as 2 landlord himself had given the address of the petitioner as that of the disputed premises it should be presumed that the petitioner was residing in the disputed premises is also without merit. The landlord had in fact given the same address of the petitioner and respondents 3,4 and 5 and Shiv Prasad though admittedly respondents, 3, 4 and 5 were not living in the premises. The question is not what address was given by the landlord but is as considered by the competent authority, whether the petitioner was living in the

premises or not. If the petitioner was not living in the premises as found by the competent authority, there would be no question of his creating slum if evicted. The petition involves pure questions of facts.

(3) For reasons stated above the petition is dismissed leaving the parties to bear their own costs. Petition dismissed. Delhi High Court Present : Mr. D.P. Wadhwa and Mr. D.K. Jain. J J. R.K. Pariyar & ANR.-Petitioners Versus International Airport Authority Of India & ORS.-Respondents C.W.P. No. 1197 of 1989 and C.W.P.S. Nos. 1198, 1199 of 1989 and 1181 of 1990-Decided on 19-11-1991 Customs Act, 1962-Section 2(3)-Baggage-Goods detained under- Constitution of India--Art.226 -Writ petition against charges-Claimed for keeping goods in warehouse-Petitioner applied for waiver of godown charges because goods came in Delhi from Singapore for transshipment to Katmandu-Whether I.A.AI. is bound to waive the demurrage charges 7 (Yes) [Passengers baggage (Levy of Fees) Regulations, 1966-Regulation 3-Non levy of charges]. It held that Airport Authority, i.e., respondent No. I, was not entitled to charge demurrage on unaccompanied baggage in terms of the Regulations issued by it. Held further that we are, Therefore, of the opinion that the first respondent is not entitled to charge any demurrage in all these cases and the petitioners are entitled to have their goods transhipped to Nepal without payment of any ground rent/demurrage charges. Cases referred The Trustees of the Port of Madras Vs. Aminchand Pyarelal and Others, . Mr. R.K Saini and Mr. T. Ganesan with Ms. Urmil Narang, Advocates for the Petitioners. Mr. Aruneshwar Gupta, Mr. Madan Lokur and Mr. H.L. Tiku with Mr. B.L. Walt, Advocates for the Respondent. Important Point "Baggage" defined u/s 2(3) of Customs Act, 1962 includes unaccompanied baggage on which according to Regulation 3 no demurrage. Judgment D.P.Wadhwa. J, is a batch of four writ petitions. The petitioners have prayed that the International Airport Authority of India, the first respondent be directed to hand over their respective goods covered under their Airway Bills to the K.L.M. Royal Dutch Airlines, the third respondent for transshipment to Nepal without charging any godown rent/demurrage charges. The second respondent is the Collector of Customs, New Delhi. 2. The petitioners who are residents of Nepal sent their goods from Singapore to Kathmandu (Nepal) which arrived at Indira Gandhi International Airport, New Delhi, by K.L.M. Royal Dutch Airlines for transshipment to Kathmandu. In the case of some other persons similarly placed as petitioners, the consignments arrived at Indira Gandhi International Airport by Air India flight from Singapore for onward transshipment to Kathmandu. In fact, there were In all ten consignments-five coming by K.L.M Royal Dutch Airlines and the five by Air India. 3. To understand the issues involved in the present writ petitions it will be appropriate to refer to facts only in one of the petitions (C.W.1197/89). The petitioner here booked 26 packages direct from Singapore to Kathmandu. There were no direct flight from Singapore to Kathmandu and the goods had to first land at Delhi from Singapore and then transhipped to Kathmandu. Petitioner has said that these packages contained his personal effects as unaccompanied baggage. This consignment arrived at New Delhi by K.L.M. Royal Dutch Airlines

flight on 11 July, 1987. The customs authorities acting under the provisions of the Customs Act, 1962, effected seizure of the consignment on 14 July 1987 and prepared a panchnama on a belief that importation was improper and goods liable to confiscation u/s 117 of the Act. The goods were warehoused with the first respondent whose warehouse had been declared as customs warehouse. Adjudication proceedings then were Initiated under the Customs Act. A show cause notice was issued on 7 December, 1987 alleging violation of the provisions of the Act. The petitioner took the defense that his case was not covered under that Act and that the same was covered by the Treaty of Transit 1978 entered into by His Majesty's Government of Nepal and the Government of India. He said the goods being his baggage were in transit and were never imported into India for the Customs Act to be applicable, and, Therefore, there could not be any breach of the provisions of that Act. By order dated 23 September, 1988 the Deputy Collector of Customs (Adjudication) dropped the proceedings and permitted transshipment of all the seized goods under proper customs escort. He observed as under:- "I have gone through the material on record and the broad issues raised in the show-cause notices discussed above. The contention of the Department that the goods in transit were commercial cargo and not personal effects is not tenable on the grounds that firstly the goods are consolidated and belonged to more than one person in every consignment. Secondly, the goods are committed to be imported into Nepal and permissible by the Nepalese Baggage Rules wherein the import is governed by a value limit and not by the nature of the import. The rate at which the goods were transported from Singapore is not material so as to render the goods liable for confiscation under the Customs Act in India."

(4) The petitioner approached the Assistant Collector of Customs (Preventive) for issue of detention certificate. This was issued on 11 November 1988 and the period of detention mentioned therein was from 14 July, 1987 to 11 November, 1988. The third respondent then requested on 12 November, 1988 the first respondent to waive all the godown rent/demurrage charges and to hand over the goods to it for transshipment to Nepal at its earliest. Earlier to this, it appeared, that the Deputy General Manager (Cargo) of the first respondent sent a letter dated 27/31 October 1988 to the Assistant Collector of Customs (Preventive) requesting to advise the third respondent to apply for waiver of godown charges with complete details and documents. Since there was no response to the letter dated 12 November 1988 of the third respondent the petitioner again approached the first respondent explaining full facts and circumstances of the case and praying for waiver of demurrage charges and for handing over the goods to the airline. It is stated that in December, 1988 the first respondent handed over the consignments which had been brought over by Air India for transshipment to Nepal, but those which had come to New Delhi by the third respondent were not released. This led to the filing of the present writ petition.

(5) The petitioner has contended that action of the first respondent in not

releasing the goods and insisting on claiming of demurrage/storage charges is illegal as the goods were never handed over by it to the first respondent and it was the customs authorities which had done so and once the customs authorities having issued a detention certificate, the demurrage charges, if any, should have been waived completely and in any case the petitioner was not liable to pay any charges. The petitioner said that goods were his personal baggage and no demurrage charges could be levied and that the first respondent was bound by the Public Notice No. 29/86 issued by the second respondent in the exercise of his powers conferred by the Customs Act. The second respondent did not file any return. First respondent said that it was a body corporate constituted under the International Airport Authority Act, 1971, to manage international airports whereat international air transport services were operated. By virtue of Section 37 of that Act, the first respondent with the approval of the Central Government, had framed International Airport Authority (Storage and Processing of Goods) Regulations, 1980, which were published in the Official Gazette on 23 October 1980. Under Regulations 4 and 5, the first respondent could levy the charges and fix the scale at which charges were to be levied. Under Regulation 6(1), the Chairman had been empowered to waive demurrage charges and he could even delegate his powers to an extent as mentioned in Regulation 6 (2) of the Regulations. Reference has then been made to the directives and/or policy on remission/waiver of demurrage charges which were framed on 20 August, 1987. First respondent said that detention of goods by it was neither arbitrary nor illegal, nor contrary to the provisions of Treaty of Transit 1978 between Nepal and India, nor contrary to any principles of International Law or natural justice. It said that it had informed that waiver of demurrage charges would be considered by the 649 competent authority of the first respondent and would be granted as per waiver policy and that concerned airline should apply for waiver along with complete details and copies of the documents pertaining to the consignment. First respondent then said that it had been approved as custodian u/s 45 of the Customs Act, 1962 and by virtue of relevant Acts, Regulations and directives, was entitled and empowered to levy and waive demurrage charges and that customs authorities were not entitled to levy nor waive demurrage charges. It said that levy and waiver of demurrage charges were solely within the jurisdiction of the first respondent and a mere issue of detention certification did not ipso facto give any right to the petitioner to seek waiver of the demurrage charges. First respondent also said that when the third respondent had applied for waiver of demurrage charges it was advised to give an undertaking to the effect that if the waiver was not granted, the third respondent would pay the demurrage charges. The third respondent however, failed to give any such undertaking till date. During the course of arguments reliance was placed on another Public Notice No. 30/86 also issued by the Collector of Customs, the second respondent.

(6) Third respondent has also filed Its return, but in view of the issues involved in the present writ petition it is not necessary to refer to the same.

(7) The questions that arise for consideration are: How the first respondent has been declared as a customs warehouse and under what provision, and whether the first respondent is bound to waive demurrage charges on issue of detention certificate by the customs authorities for the period when the goods were detained by the first respondent at the instance of the customs authorities, and if in any case the first respondent is entitled to its charges, who is to pay the same ? Then if the first respondent could charge demurrage when the goods were baggage and which of the Public Notices No. 29/86 or 30/86 is applicable and to what extent ? It is not necessary to examine the provisions of the Treaty between Nepal and India as in our view in the present petition nothing turns on that as the adjudication proceedings under the Customs Act have already been dropped and goods allowed to be taken to Nepal under proper customs escort.

(8) In support of his submission Mr. Saini, learned Counsel for the petitioner, referred to two Bench decisions of this Court in *Trishul Impex v. Union of India* 1991 Ran L R 213 and in *Raghubir Singh v. Union of India* 1991 Raj LR 243. He said the first respondent could not charge any demurrage charges and neither the petitioner nor the third respondent the airline carrier, could be asked to pay the same. Mr. Aruneshwar Gupta, learned Counsel for the first respondent drew our attention to another Bench decision of this Court in *Ashok Dhawan Vs. Union of India and Others*, , which supports the case of the petitioners. Mr. Gupta, however, said that against this judgment SLP has since been granted by the Supreme Court. A public notice No. 29/86 was issued on 29 April, 1986 by the Collector of Customs, New Delhi, in exercise of his powers under various provisions of the Customs Act, 1972, whereby he approved the first respondent as the custodian of detained/mishandled baggage to be stored pending clearance/re-export/disposal under the provisions of the Act and stating that such package shall be stored in the warehouse of passenger terminal of the first respondent shown as "Customs Warehouse" and at "two mishandled godowns of the airlines" as specified. Then this storage or detention is subject to various conditions and subject to control of the customs. 650 Clause (vii) of the conditions provides that "in cases of goods detained/seized etc., by Customs turn purposes of enquiry, the warehousing/storage charges shall be calculated by M/s International Airports Authority of India for the period such charges are due minus the charges for the period of detention at the instance of Customs as certified by the Assistant Collector of Customs." First respondent however, says that this condition does not conflict with its demand to claim demurrage charges under its own regulations and the policy guidelines of remission/waiver of demurrage charges. It has worked up the charges due from the petitioner in Civil Writ No. 1197/89 and these amount to Rs. 6,94, 980/-. The calculations have been made on the basis of the regulations and policy of remission/waiver. Petitioner contends that no charges are livable in view of clause (vii) of the public notice reproduced above and that if in any case charges are leviable, these are not to be paid by him. We have to interpret clause (vii) and then see the right of the first respondent to claim demurrage charges from the petitioner or otherwise on the

basis of order of detention issued by the Customs Authorities under the Customs Act in the case of baggage. If it was commercial cargo then two decisions of the Supreme Court in (1) *The Trustees of the Port of Madras Vs. Aminchand Pyarelal and Others*, , and (2) *The Board of Trustees of the Port of Bombay v. Indian Goods Supplying Co.* 1977 S C 1622, and of the Bombay High Court in (3) *Gansons Ltd. Vs. Union of India*, , would certainly appear to support the case of the first respondent. These decisions were rendered under the Madras Port Trust Act. 1905 and Bombay Port Trust Act, 1879. In *Gaurtsons and Another v. International Airport Authority of India and Another* 1988 (34) E.L.T. 530, Bahri.J. took the view that the Airport Authority was bound to grant waiver of demurrage charges to the extent mentioned in the directives even though in that case goods were released by the customs authorities after holding adjudication proceedings under the Customs Act. 1962, and issuing a detention certificate for the period for which the goods were not cleared. The Court observed that the Airport Authority was independent statutory body constituted to manage the aerodromes and was not subject to any other statutory body like the customs authorities in any manner. We find the decision of this Court in *Raghubir Singh's* case is not quite applicable in the present case. In *Trishul Impex's* case the respondent was the Container Corporation of India and the judgment does not show under which provision of law this Corporation was constituted and what were its rules and regulations. This judgment, Therefore, also is not of any help to us, though in this case the Court did say that the importer was not liable to pay demurrage charges for the period the goods were retained if ultimately a show cause notice issued by the customs authorities was discharged. The Supreme Court decisions and which were also followed by the Bombay High Court, which have been mentioned above, clearly reject the view that demurrage being a charge for willful failure to remove the goods within the free period can be levied only if the failure to remove the goods is due to the fault or negligence of the importer or his agent. The Court also did not agree with the view that the authority given to the Board of Trustees of the Ports to frame the scale of rates can be exercised only for the purpose of levying charges where the importer was not prevented by any lawful authority from clearing the goods from the transit area and he had not defaulted or was negligent in clearing the goods. The Court said the Board of Trustees was free to exercise powers within the purview of the relevant Port Trusts Acts. It said it was because of taking into account the hardship caused to the importer because of delay by the customs authorities or otherwise, certain concessions in demurrage charges were permitted. In all the cases noted above it was the 651 commercial cargo which was involved and not the baggage as in the present case. Therefore, these decisions and other provisions of law relating to commercial cargo need not detain us.

(9) "BAGGAGE" has been defined under clause (j) of Section 2 of the Act and includes unaccompanied baggage but does not include motor vehicles. Under clause (11) of Section 2, "customs area" means (he area of a customs station and includes any area in which imported goods or exported goods are ordinarily

kept before clearance by Customs Authorities. Under clause (43) of this Section, "warehouse" means a public warehouse appointed u/s 57 or a private warehouse licensed u/s 58 of the Act. The term "customs warehouse" has been defined nowhere, "Cargo" has also not been defined, but under clause (b) of Regulation 2 of the International Airports Authority of India Regulations, cargo means any property carried on an aircraft other than mail, stores and baggages. For our purpose this definition of cargo is quite relevant. u/s 8 of the Act, the Collector of Customs is to specify of any customs area and may also approve proper places in any customs port or customs airport or coastal port for the unloading and loading of goods or for any class of goods. Chapter VII of the Act containing Sections 44 to 51 deals with clearance of imported goods and export goods. Section 44 says that the provisions of this Chapter shall not apply to baggage and the goods imported or to be exported by post. Section 45 which deals with the restrictions on custody and removal of imported goods will, Therefore, be not applicable in the case of baggage. Chapter VIII which deals with goods in transit and contains sections 52 to 56 again does not apply in the case of baggage. Chapter IX which contains provisions of warehousing is also not applicable as it applies to appointing of public warehouses and licensing of private warehouse. It is Chapter XI which is applicable which deals with special provisions regarding baggage, goods imported or exported by post and stores. u/s 81, the Central Board of Excise and Customs may make regulations (a) providing for the manner of declaring the contents of any baggage: (b) providing for the custody, examination, assessment to duty and clearance of baggage; and (e) providing for the transit or transshipment of baggage from one customs station to another or to a place outside India, The Board has also given general power to make regulations u/s 57(?) of the Act. Passengers Baggage (Levy of Fees) Regulations, 1966, contain provisions whereby baggage is detained or seized and subsequently released or returned. Regulation 3 which deals with levy of fees is as under :- 3. Levy of Fees -In respect of any such baggage or any package comprised therein a fee of such amount as the Collector of Customs may fix shall be levied and collected at the time of the baggage or package is released or returned, having regard to- (i) the nature of the articles contained in the baggage or package; (ii) the charges incurred in the transportation of the baggage or package from the landing place to the place of storage including the portage charges; and (iii) any other expenditure incurred for services rendered : Provided that no fee shall be levied in respect of any baggage or package detained by the customs authorities but released to the passenger on the ground that it has been in his bonafide use." 652

(10) We may also note that u/s 199 of the Sea Customs Act, 1878 the Chief Customs Officer was authorised from time to time to fix the period after the expiration of which goods left on any custom house wharf, or other authorised landing place or part of the customs house premises, shall be subject to payment of fees, and the amount of such fees. It has not been pointed out to us any similar provision in the present Customs Act.

(11) We now revert back to the Public Notices 29/86 and 30/86 and also the Regulations of the first respondent. These regulations do not contain any provision for payment of demurrage for storage of baggage. We are unable to agree with submission of Mr. Gupta that unaccompanied baggage will be cargo and further that in the case of accompanying baggage there will be a baggage tag but in the case of unaccompanied baggage there would be Airway Bill. He said with reference to the Annexure to the Public Notice 29/86 that it requires particulars of baggage tag and not of Airway Bill and, Therefore, this public notice would be applicable only in the case of accompanying baggage. This distinction does not appear to us to be of any substance. Baggage includes unaccompanied baggage. In this view of ours we find support from a Bench decision of this Court in Ashok Dhawan's case. The Court held that the Airport Authority, i.e., respondent No. 1 was not entitled to charge demurrage on unaccompanied baggage in terms of the Regulations issued by it.. There is a clear distinction between these two Public Notices 29/86 and 30/86. While Public Notice 29/86 applies in the case of detained mishandled baggage and its custody and clearance at the port. Public Notice 30/86 applies to the unloading and loading custody of imported/export cargo at the Airport. Public Notice 30/86 is certainly not applicable which had expressly been shown to have been issued under Sections 8/33/34/45 of the Act. Section 33 provides that imported goods shall not be than a unloaded, and no export goods shall be loaded, at any place other place approved under clause (a) of Section 8 of the Act for unloading or loading of such goods except, of course, with the permission of the proper officer. u/s 34, imported goods are not to be unloaded from, and export goods shall not be loaded on, any conveyance except under the supervision of the proper officer. Section 45 which is not applicable In the case of baggage provides for restrictions on custody and removal of imported goods. It provides that all imported goods unloaded in a customs area shall remain in the custody of such person as may be approved by the Collector of Customs until they are cleared and the person having custody of any imported goods in the customs area is required to keep record of such goods and no to permit such goods to be removed from the customs area or otherwise dealt with, except under and in accordance with the permission in writing of the proper officer. Public Notice 29/86 has been issued under various provisions of the Customs Act, 1962. by the Collector of Customs without these provisions having been specified in the public noticed. As noted above, the first respondent has been approved as the custodian of detained/mis-handled baggage to be stored, pending clearance/re export/disposal under the provisions of the Act. Such baggage has to be stored in the warehouse of Passenger Terminal of the first respondent shown as customs warehouse. We have seen above, customs warehouse has not been defined anywhere, and to us it means to be co-extensive with customs area. Perhaps that is why it provides that such baggage shall be under the control of the customs and provides for maintenance of record by the first respondent as custodian and inspection thereof by the officers of the customs. Clause (viii) of the public notice provides that first respondent shall be held responsible for loss,

pilferage and damage to the package kept in its custody. 653

(12) The argument of Mr. Gupta is that first respondent is an independent body is not bound by the aforesaid public notice and is entitled to charge demurrage as per its own regulations and policy guidelines. Mr. Gupta does not dispute that the first respondent is complying with various directions as per this public notice and performs functions enjoined upon it under this public notice. If the first respondent is bound by all these directives contained in the public notice, we fail to see how it is not so bound when public notice provided that charges for the period the goods are detained at the instance of the customs should not be recovered. It is not that public notice has not been issued under any authority. Since the goods in the present case are baggage and the regulations of the first respondent do provide for charge of any demurrage for storage of the baggage, this argument that first respondent is not bound by clause (vii) of the public notice also otherwise fails. If henceforth the first respondent amends its regulations to include baggage as well, there will be apparent conflict between the Public Notice 29/86 and the Regulations, but that is something which we are not at the moment called upon to decide.

(13) Detention certificate is to be issued by the customs authorities is nowhere mentioned in the Act. The clearance of the goods, however, cannot be made unless so authorised by the proper officer under the Act. At times proper officer does not authorise clearance of the goods pending completion of certain formalities including adjudication proceedings, if any, under the Act. For the purpose of waiver or remission of the warehouse charges customs authorities have to certify that goods were not cleared up to a certain period for them to make enquiries under the Act. This certification is the detention certificate. The Public Notice 29/86 and the Regulations and guidelines of the Airports Authority, the first respondent talk of detention certificate to be issued by the customs authorities. Reference may well be made to Section 63 of the Act falling under Chapter IX dealing with warehousing. Under sub-Section (1) of Section 63, the owner of any warehoused goods shall pay to the warehouse-keeper rent and warehouse charges at the rates fixed under any law for the time being in force or where no rates are so fixed, at such rates as may be fixed by the Collector of Customs. We have seen above, rates for warehousing baggage have not been fixed by the first respondent and Public Notice 27/86 in effect specifies under clause (vii) that charges for warehousing baggage for the period it is detained will not be charged by the Airports Authority, the first respondent.

(14) We are, therefore, of the opinion that the first respondent is not entitled to charge any demurrage in all these cases and the petitioners are entitled to have their goods transhipped to Nepal without payment of any ground rent/demurrage charges.

(15) Accordingly, these petitions are allowed and rule is made absolute. The respondents shall allow transshipment of the goods subject-matter of these writ petitions forthwith. There will be no order as to costs.