

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

WRIT PETITION (CIVIL) NO(s). 389 OF 2010

RAJINDER ARORA AND ORS

Petitioner(s)

VERSUS

UOI AND ORS

Respondent(s)

(With appln(s) for ex-Parte stay and office report )

Date: 07/12/2010 This Petition was called on for hearing today.

CORAM :  
HON'BLE MR. JUSTICE ALTAMAS KABIR  
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s) Mr. Harish N. Salve, Sr.Adv.  
Mr. Mahabir Singh, Sr.Adv.  
Mr. U.U.Lalit, Sr.Adv.  
Mr. Vikram Chaudhri, Adv.  
Mr. Nikhil Jain,Adv.

For Respondent(s) Mr. GopalSubramanium, AG  
Mr. P.K. Dey, Adv.  
Mr. S.W.A.Wasim Qadri, Adv.  
Mr. B.K. Prasad, Adv.

UPON hearing counsel the Court made the following

O R D E R

When the Writ Petition was taken up for consideration, certain submissions were made which can be incorporated by us by way of an interim arrangement, pending final disposal of the Writ Petition.

Admittedly, certain goods have been retained by the Customs authorities in respect of which a case had already been commenced against the petitioners. The same forms the subject matter of the Writ petition in which we had issued notice on 25th November, 2010 and had also in a subsequent order dated 29th November, 2010, requested Mr. Dey to take

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instructions with regard to the interim reliefs, prayed for in prayers (b) and (c) of the Writ Petition. in the companion matter, being Writ Petition (Crl.) No. 123/2010, it was ordered not to arrest the petitioner during the pendency of the Writ petition.

Incidentally,

In continuation of the aforesaid interim order, we also direct that the examination of the live consignments which are under seizure and recording of statements of all petitioners under Section 108 of the Customs Act, 1962, shall be taken up by the Customs Department and recording of statements under Section 108 would be commenced from 8th December, 2010 and will be completed on or before 15th December, 2010. Furthermore, the examination of the seized goods is to be concluded within two weeks, starting from 8th December, 2010 and ending on 22nd December, 2010.

It is

submitted on behalf of the Department that the recording of the statements and examination of the goods under Section

108 of the above Act shall be done between 9.00 AM and 6.00 PM each day and shall be completed within a week. As far as recording of statements of the petitioners is concerned, the same is to be conducted in the presence of the learned advocate, who will be allowed to stand within visible distance but outside the bounds of hearing. The petitioners shall cooperate with the Department and once the examination of the goods are completed, the same shall be released to the petitioners, subject to the usual formalities. It is also directed that since the goods in question, are such that it may not be appropriate for the same to be handled by labour other than those employed with the petitioners, the petitioners will be entitled to engage their own labour for the purpose of packing and unpacking of the consignment and the same shall be allowed by the Customs Department. The Department has also assured that the recording of the statement and examination of the goods will be video-graphed.

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We also make it clear that the petitioners shall not be arrested in connection with the case until further orders.

Let both the Writ Petitions referred to herein above, be listed for final disposal after eight weeks. The respondents will be entitled to file their counter affidavits within six weeks and rejoinder affidavit, if any thereto, may be filed within two weeks thereafter.

(Anita Malhotra)  
Sr.PA

(Juginder Kaur)  
Court Master