

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2009

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THE HON'BLE MR.JUSTICE K.VENKATARAMAN

Writ Petition No.1570 of 2009

S.Ram Kumar

.. Petitioner

vs.

1. Union of India
Ministry of Finance,
Department of Revenue,
Represented by its Chairman,
Central Board of Excise & Customs,
159-A, North Block, New Delhi-110 001

2. Chief Commissioner of Customs
No.60, Rajaji Salai
Custom House, Chennai-600 001

3. Commissioner of Customs (Air)
Airport and Air Cargo Complex
Meenambakkam, Chennai-600 027

4. Commissioner of Customs
Sea, Chennai

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issue of a writ of Mandamus directing the respondents to take all appropriate steps to prevent infringement of petitioner registered patent No.214388 by detecting illegal imports and seizing of mobile phones having technology for simultaneous use of two SIM cards (dual SIM) at the points of entry itself.

For petitioner : Mr.N.L.Rajah

For respondents : Mr.T.R.Senthil Kumar
for R1 to R4

O R D E R

The petitioner has come forward with the present writ petition for a writ of mandamus directing the respondents to take all appropriate steps to prevent infringement of the petitioner registered Patent No.214388 by detecting illegal imports and seizing

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of mobile phones having technology for simultaneous use of two SIM cards (dual SIM) at the points of entry itself.

2. Counter affidavit had been filed by the respondents stating that the approval of the registration of the Patent Holder notice was made on 19.1.2009 and thereafter, action had been taken by the third respondent from 27.1.2009 onwards.

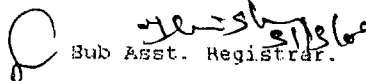
3. Paragraph 21 of the counter affidavit is usefully extracted hereunder:

"21. I further submit that there are NO imports of dual SIM phones through Chennai Seaport i.e. by the 4th respondent and therefore no action has been taken in this regard by the Sea Commissionerate. As regards imports made through the Air Commissionerate i.e., the 3rd respondent from 27.1.2009 onwards i.e. on the day immediately after completion of the registration with UPRNo.AO167INMAA4PR and there after, around 250 clearances were permitted only with the consent of the Patent Holder, namely the petitioner herein and cleared from the Customs frontier. Other customs houses in India have also been informed about the registration and necessary protection is given to the petitioner."

4. Taking into account the counter affidavit filed by the respondents and since the action had already been initiated by the third respondent after the registration of the Patent Holder notice on 19.1.2009, the respondents shall continue to take action till the certificate is valid as per law. The writ petition is ordered accordingly. Consequently, connected M.P.No.1 of 2009 is closed. No costs.

Sd/-
Asst. Registrar.

/true copy/


Sub Asst. Registrar.

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To:

1. The Chairman,
Union of India
Ministry of Finance,
Department of Revenue,
Central Board of Excise & Customs,
159-A, North Block, New Delhi-110 001

2. Chief Commissioner of Customs
No.60, Rajaji Salai
Custom House, Chennai-600 001

3. Commissioner of Customs (Air)
Airport and Air Cargo Complex
Meenambakkam, Chennai-600 027

4. Commissioner of Customs
Sea, Chennai

+ 1 CC to M/s.BFS Legal,SR.9308

+ 1 CC to Mr.T.R.Senthil Kumar,Advocate,SR.9199

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