

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

Con.Case(C).No. 770 of 2015 (S)

ORDER DATED 25.2.2014 & 05-06-2014 IN WP(C) 5342/2014.
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PETITIONER/PETITIONER IN WP(C) 5342/2014 :

**M/S.MEKA DREDGING CO PVT.LTD.,
HAVING ITS CORPORATE OFFICE AT 304,
SIV SMRITHI CHAMBERS 49, DR.A.B.ROAD, WORLI,
MUMBAI, REPRESENTED BY ITS POWER OF ATTORNEY
HOLDER, MR.HAFIZ NIZAM WAGHU, AGED 25,
S/O.NIZAM A. WAGHU, FLAT NO.604, A WING, KAIF TOWER,
6TH FLOOR, TANK BUNDAR ROAD, REAY ROAD (WEST),
MUMBAI-400 010.**

**BY ADVS.SRI.PHILIP J.VETTICKATTU
SRI.B.PREMNATH (E)**

RESPONDENT(S)/RESPONDENTS 3 & 4 IN WP(C) 5342/2014 :

- 1. SHAIK PAREED, AGE AND FATHER'S NAME NOT
KNOWN TO THIS PETITIONER, THE DIRECTOR,
THE DIRECTORATE OF PORTS, VALIYATHURA,
VALLAKADAVU P.O., THIRUVANANTHAPURAM,
PIN-695008, REPRESENTED BY ITS DIRECTOR.**
- 2. CAPTAIN KURIAKOSE, AGE AND FATHER'S NAME
NOT KNOWN TO THIS PETITIONER,
THE PORT OFFICER, PORT OFFICE, NEENDAKARA,
ASRAMAM, KOLLAM-02.**

BY GOVERNMENT PLEADER SRI.ABDUL SALAM

**THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN
FINALLY HEARD ON 13-11-2015, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:**

mbr/

APPENDIX

PETITIONERS' ANNEXURES:

- ANNEXURE A1 :** TRUE COPY OF INTERIM ORDER IN WP(C)NO.5342//2014 DATED 25.2.2014 OF THIS HON'BLE COURT.
- ANNEXURE A2 :** TRUE COPY OF INTERIM ORDER DATED 5.6.2014 IN IA.NO.5198/2014 IN WP(C)NO.5342//2014 OF THIS HON'BLE COURT.
- ANNEXURE A3 :** TRUE COPY OF LETTER DATED 11.6.2014 SENT TO THE RESPONDENTS BY THE PETITIONER.
- ANNEXURE A4 :** TRUE COPY OF LETTER DATED 3.4.2015 ISSUED BY THE PETITIONER TO THE RESPONDENTS.
- ANNEXURE A5 :** TRUE COPY OF COMMUNICATION DATED 29.4.2015 ISSUED BY THE PORT CONSERVATOR, KOLLAM TO THE PETITIONER.
- ANNEXURE A6 :** TRUE COPY OF COMMUNICATION DATED 18.5.2015 ISSUED BY THE PETITIONER TO THE RESPONDENTS.
- ANNEXURE A7 :** TRUE COPY OF THE LETTER DATED 16.1.2014 ISSUED BY THE DIRECT OF PORTS TO THE PETITIONER.

RESPONDENTS' ANNEXURES:

- ANNEXURE R2(A) :** TRUE COPY OF THE LETTER DATED 30.5.2014 ISSUED BY THE PORT OFFICER.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.M. SHAFFIQUE, J.

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Contempt of Court Case (C) No. 770 of 2015

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Dated this, the 13th day of November, 2015

J U D G M E N T

This contempt case has been filed alleging noncompliance of interim directions issued by this Court on 25/2/2014 and thereafter as per order dated 5/6/2014 in IA No.5198/14. By interim order dated 25/2/2014, this Court passed an order staying levy of Port dues based on Ext.P7 Government Order on the petitioner or others similarly placed. By order in IA No.5198/2014, this Court directed respondents 3 and 4 to issue necessary clearance for taking out the Trailer Suction Hopper Dredger, namely, Hanista owned by the petitioner. Petitioner submits that despite the directions issued, the Port Conservator had called upon the petitioner to pay an amount of ₹40,30,019/- being various charges before he being permitted to remove the vessel.

2. Counter affidavit has been filed inter alia stating that the order dated 25/2/2014 only stayed the levy of 'Port dues' based on Government Order dated 23/3/2013 and the increased Port dues were not collected. It is stated that there are other

charges which the petitioner is liable to pay, which was never stayed by this Court. Further, it is pointed out that interim directions issued by this Court did not ever indicate that the amount legally payable towards the berth hire charges, wharfage etc has to be waived.

3. In fact, the main contention urged by the petitioner in the writ petition was that Ext.P7 Government Order increasing the various rates in the Port was illegal as the same was not published in the Official Gazette and that 60 days period was not over after such publication. The interim relief even sought for was as under; “Stay the operation of Ext.P7 to the extent it pertains to the vessel of the petitioner namely Hanista V (formerly named as Meka 1) towards port dues by way of berth charges/wharfage”. However, in the interim order, the learned Single Judge had only referred to the word “port dues”, which, on a perusal of Ext.P7, is a separate category.

4. Respondent authorities are now taking a highly technical stand that when various categories of charges are mentioned in Ext.P7 notification, what is stayed is only “port dues” in Ext.P7. Having regard to the fact that there is lack of

COC No.770/15

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clarity in the order passed, when compared to the interim order sought for in the writ petition, I do not think that a case of wilful contempt arises in the case. Petitioner ought to have obtained appropriate clarification to the interim order dated 25/2/2014 in the matter.

Under such circumstances, prima facie, I do not think that there is wilful contempt and accordingly, this contempt case is dropped.

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

13/11/2015

//True Copy//

P.S to Judge