

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 7TH DAY OF OCTOBER 2015/15TH ASWINA, 1937

WA.No. 1704 of 2015 (J) IN WP(C).19292/2014

AGAINST THE JUDGMENT IN WP(C) 19292/2014 DATED 14-07-2015

APPELLANT/PETITIONER :

GEETHA RAMANUJAN
PARTNER, M/S. LEEGEE CORPORATION, LEEGEES BUILDING
G.V.IYER ROAD, WILLINGTON ISLAND, KOCHI-682003.

BY ADVS.SRI.N.N.SUGUNAPALAN (SR.)
SRI.S.SUJIN

RESPONDENTS/RESPONDENTS :

1. ESTATE MANAGER
COCHIN PORT TRUST, PORT TRUST BUILDING
WILLINGTON ISLAND, COCHIN-682003.
2. THE CHAIRMAN
COCHIN PORT TRUST, PORT TRUST BUILDING
WILLINGTON ISLAND, COCHIN-682003.
3. COCHIN PORT TRUST
REPRESENTED BY ITS SECRETARY, PORT TRUST BUILDING
WILLINGTON ISLAND, COCHIN-682003.
4. UNION OF INDIA
REP. BY THE SECRETARY
MINISTRY OF SHIPPING AND TRANSPORT, NEW DELHI.

R1 TO R3 BY ADV. SRI.V.ABRAHAM MARKOS
SRI.BINU MATHEW
SRI.TOM THOMAS (KAKKUZHIYIL)
SRI.ABRAHAM JOSEPH MARKOS
SRI.ISAAC THOMAS
SRI.NOBY THOMAS CYRIAC
R4 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 22-09-2015, ALONG
WITH WA. 1750/2015, THE COURT ON 07-10-2015 DELIVERED THE FOLLOWING:

C.R.

ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.

W.A. Nos. 1704 and 1750 OF 2015

Dated this the 7th day of October, 2015

JUDGMENT

Ashok Bhushan, C.J.

These two writ appeals have been filed against a common judgment dated 14.07.2015 dismissing W.P.(C) No.19292 of 2014 and W.P.(C) No. 5284 of 2015. The parties shall be referred to as described in the writ petitions. The facts and issues raised in both these writ appeals are more or less similar, hence it shall be sufficient to refer to the pleadings in W.P.(C) No.19292 of 2014 giving rise to WA No.1704 of 2015 for deciding both the appeals. The facts which emerged from the pleadings of the parties are:

The Cochin Port Trust (hereinafter referred to as 'Port Trust') has granted various lands on lease to different parties in exercise of its power under Section 33 of Major Port Trusts Act, 1963. An area of 49.56 cents of land in plot No.25 at G.V. Iyer Road, Cochin Wellington Island was granted on lease to one V.K. Rajaram on 30.09.1961. A copy of the lease deed has been

brought on record as Ext.P1 to W.P.(C) No.19292 of 2014. The petitioner is an assignee from the said Sri.V.K. Rajaram. On 28.01.1990 the lease period of 30 years expired. Format of lease agreement was forwarded to the petitioner for renewal of lease according to the fresh terms and conditions issuing new scale of rates for a period of 10 years. The petitioner objected to the said conditions of renewal and did not submit lease proforma for execution. The Port Trust wrote letter dated 17.04.1997 and 06.11.1997 to the petitioner for submitting the lease agreement. On 21.12.2011 the Port Trust wrote to the petitioner informing that the petitioner may be allowed to continue till 31.12.2012. It was communicated that if by 31.12.2012 there is no renewal of the lease, lessee and sub-lessee should deliver vacant possession of the property. Petitioner represented against the letter dated 21.12.2011. On 30.06.2014 the Port Trust gave a notice to the petitioner that they have decided to resume the 49.56 cents of land allotted to the petitioner and asking the petitioner to surrender the land along with the building immediately.

2. The Cochin Port Trust Lessees' Association had filed W.P.(C) No.16851 of 2011 in the High Court. The petitioner filed

W.P.(C) No. 19292 of 2014 against the notice dated 30.06.2013. In W.P.(C) No.19292 of 2014 an interim direction was issued by this Court on 27.01.2015 directing the Chairman, Cochin Port Trust to pass an order with regard to the petitioner. The Chairman, pursuant to the order dated 27.01.2015 passed in the writ petition, issued notice to the petitioner and hearing was conducted on 05.02.2015. After considering the case of petitioner by order dated 09.02.2015 the application of the petitioner for further renewal of the lease was rejected and petitioner was required to surrender the land in its original condition. A notice dated 25.02.2015 was issued by the Estate Officer of Port Trust under Section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 directing the petitioner to show cause as to why an order of eviction be not passed. The Estate Officer subsequently passed an order on 08.04.2015 directing eviction of the petitioner. Estate Officer directed the petitioner to vacate the premises after demolishing the structure within 15 days. The petitioner filed W.P.(C) No.19292 of 2014 praying for the following reliefs:

“a) Issue a writ of Certiorari or any other appropriate writ, order or direction directing the respondents to quash Exts.P10 P11, P12, P13, P15, P16, P17 and P18.

b) Issue a writ of mandamus or any other appropriate writ, order or direction directing the respondents to permit the petitioner to continue in the leased premises paying the rent fixed prior to the present revision of the scale of rate.

c) Award to the petitioner the costs of the these proceedings.

d) Grant such other or further relief as this Hon'ble Court deems fit to grant in the particular facts and circumstances of the case.”

3. In the writ petition counter affidavit and additional counter affidavits have been filed by the Port Trust, to which reply affidavit was also filed by the petitioner. Learned Single Judge after hearing the parties by judgment dated 14.07.2015 dismissed the writ petition along with two other writ petitions.

4. Few facts of W.P.(C) No.5284 of 2015 also need to be noted which gives rise to W.A. No.1750 of 2015. The petitioner on 02.06.1967 was issued with a license deed for a period of 2 years with a stipulation that after completion of construction of a building as per the schedule to the license deed, 28 years lease shall be granted. Petitioner was thus subsequently granted lease for 30 years which was to expire on

01.06.1997 for an area of 23.04 cents of land in Survey No.2578 at Mattancherry Village. The petitioner constructed a building on the lease land. The lease granted to the petitioner was not renewed. A notice dated 04.09.2007 was issued to the petitioner directing him to handover the land to the Port Trust in its original condition after demolishing the structures in the plot. On 14.10.2014 notice was again issued for handing over the property in its original condition. W.P.(C) No.27972 of 2014 was filed by the petitioner which was decided along with few other writ petitions by a learned Single Judge on 11.11.2014. Learned Single Judge however, observed that the Port Trust shall take a decision to rehabilitate the lessees and also sub-lessees and until a decision is taken by the Port Trust, status quo shall be maintained. After the order of learned Single Judge dated 11.11.2014 the Chairman heard the petitioner and by decision dated 01.01.2015 rejected the application of the petitioner for renewal of the lease. An order dated 10.02.2015 was also passed by the Estate Officer of the Port Trust under Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 ordering the petitioner to vacate the premises after

demolishing the structure. The petitioner filed the writ petition praying for the following reliefs:

“(i) To issue a writ of certiorari or any other appropriate writ, order or direction to quash Exhibit P8 order issued by the Chairman Cochin Port Trust dated 01.01.2015 and Ext.P9 order dated 10.02.2015 issued by the Estate Officer issued under Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

(ii) To issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondents to provide the land and compensation for rehabilitation of the existing business carried out by the petitioner.

(iii) Award to the petitioner the costs of these proceedings and

(iv) Grant such other and further reliefs as are just, proper and necessary or may be prayed for.”

5. In the writ petition counter affidavit has been filed by the Port Trust. Learned Single Judge dismissed the writ petition on 14.07.2015 against which W.A. No.1750 of 2015 has been filed.

6. We have heard Sri.N.N.Sugunapalan, learned Senior Counsel appearing for the appellants and Sri.Abraham Markose, learned Senior Counsel appearing for the Port Trust.

7. Learned counsel for the appellants in support of the writ appeal contended that by virtue of Section 106 of the Kerala

Land Reforms Act, 1963 the petitioner who had constructed a building for commercial purpose before 20.05.1967 cannot be evicted from such land and is only liable to pay rent under the contract of tenancy. He submits that the lease having been executed on 30.09.1961, the petitioner was entitled for protection under Section 106 and learned Single Judge committed error in refusing to extend the benefit under Section 106 of the Act. It is submitted that the amendments made in Section 3 of the Kerala Land Reforms Act, 1963 granting exemption to Cochin Port Trust by Act No.35 of 1969 has no relevance for the present case since the amendment can only be prospective and cannot be applied to leases which were executed prior to the amendment under Section 3 of the Act. It is submitted that as per the Land Management Policy issued by the Ministry in the year 2014, the land could have been resumed by the Port Trust only when the land was required for 'own use' of Port Trust. The petitioner's land is being taken to handover it to Malabar Cements Limited and it cannot be said that the land is required for own use of Port Trust. In the event Port Trust does not use the land for itself, it has to put the land for auction. The

Malabar Cements Limited has requested for land at Mattancherry Wharf which was a different land and land which is being at present directed to handover to the Malabar Cements Limited is a land situated in Ernakulam Wharf. The action of Port Trust is not in conformity with the Land Management Policy, 2014. Petitioner having constructed the building is entitled to compensation for the building which may be valued. In any event the petitioner is entitled for a reasonable time. It is the obligation of the Port Trust to rehabilitate the petitioner and no steps having taken for rehabilitating the petitioner, the petitioner cannot be asked to vacate the premises.

8. Learned Senior Advocate Sri.Abraham Markose refuting the submission of learned counsel for the appellants contends that the appellants/petitioners have no right to continue in possession as their lease having come to an end and having never been renewed, they are liable to handover the property as per the terms and conditions of the lease. It is submitted that the renewal of lease is not automatic and the decision not to renew the lease has been taken by the Port Trust in accordance with the Land Management Policy. According to the Land

Management Policy, 2014 the Port Trust has to ensure that the land resources are put to optimum use as per the approved land use plan. The Port Trust can demand from any party such charges levied or even approved by the tariff authority of Major Ports constituted by the Central Government. The petitioner M/s.Leegee Corporation is not having any business and 95% of the area has been leased out to sub-lessees. In spite of the Port Trust asking the petitioner to get the lease renewed for a period of 10 years with effect from 29.01.1990, no steps were taken and as the lease having been expired, the petitioner is obliged to handover possession of the land in its original form. In so far as the New India Maritime Agencies (P) Limited is concerned, their lease has also expired in 1997 and lease having not been renewed, they have no right to continue and they are also liable to surrender the land in its original form with regard to which orders have already been passed. The submission that Malabar Cements Limited has requested for land at Mattancherry Wharf and the land of the petitioner did not cover any such requests is not correct.

9. The Malabar Cements Limited has earlier approached on 09.06.2012 for 7.87 Acres adjacent to Q4 berth at Mattancherry Wharf. Tender proceedings were held but none could match the reserve price, tender was discharged. On 16.08.2015 the Malabar Cement Limited again approached the Port Trust with a proposal to set up a Bulk Cement Logistics and Allied Material Handling Hub at Cochin Port Trust. Following the aforesaid request an area adjacent to Q7 berth at Ernakulam Wharf was identified and after site inspection on 20.08.2014 the Port Trust fixed the reserve price for 7 Acres near Ernakulam Wharf. Thus the petitioner's submission that the Malabar Cement Limited never requested for the land which is held by the petitioner, is not correct. The Port Trust decided to give the project to the Malabar Cements Limited for setting up of a Cement Logistic hub. The lease period of petitioner having come to an end as per the terms and conditions of the lease they are liable to surrender the vacant possession in its original form. Petitioners are not entitled for any compensation for their building. The petitioners being liable to surrender the land in its original form, i.e., after demolishing the construction therein,

they are not entitled for compensation for their construction. With regard to the consideration of rehabilitation of the petitioner in W.P.(C) No.5284 of 2015, the petitioner was informed to participate in the auction conducted for alternate premises. The petitioner never participated in the auction. Hence no grievance can be raised regarding non-rehabilitation of petitioner in W.P.(C) No.5284 of 2015. Learned Single Judge has considered all aspects of the matter and by the impugned judgment has rightly dismissed the writ petition. The petitioners are not entitled for any reliefs in these writ appeals.

10. We have considered the submission of learned counsel for the parties and perused the records. From the submissions of learned counsel for the parties and pleading on record following are the issues which arise for consideration in these writ appeals.

1. Whether petitioners have a right to get renewal of their lease deed which expired on 29.01.1990 and 01.06.1997 respectively ?

2. Whether the Chairman of Port Trust committed any error in rejecting the applications of petitioners for renewal of their leases vide its

decision dated 09.02.2015 and 01.01.2015 respectively ?

3. Whether petitioners were not liable to be evicted by virtue of Section 106 of the Kerala Land Reforms Act, 1963 ?

4. Whether petitioners were entitled for compensation for the building existing on the lease land ?

5. Whether the Estate Officer of the Port Trust was justified in initiating proceedings for eviction of the petitioners under the 1971 Act which culminated in an order of eviction of petitioners ?

6. Whether the petitioners are entitled for any reliefs ?

All the issues being inter connected are taken together for consideration.

11. It is relevant to notice the terms and conditions of the lease under which the land was leased to the petitioners. The copy of the lease deed dated 13.09.1961 has been filed as Exhibit P1 in W.P.(C) No.19292 of 2014. The condition Nos.3, 4, 5 and 6 which are relevant for the present case are as follows:

"3. And the lessor does hereby further agree that before the expiration of the said term of thirty years, the

lessee shall be entitled to remove all or any building and fixtures which at any time during the currency of this lease shall have been erected or fixed by the lessee upon the said land without any claim to any compensation whatever.

4. It is distinctly agreed that the lessee shall not claim or be entitled to any compensation whatever except as regards buildings and fixtures not removed by the lessee from the said land in compliance with a request in writing by the lessor.

5. It is also distinctly agreed that the lessee shall deliver up the demised premises at the expiration or sooner determination of tenancy restored to its former conditions.

6. It is further agreed that if the lessee does not remove the buildings and fixtures as allowed in Clause 2 or Clause 3 or restore the demised premises to its original conditions as required by Clause 5 above within the time prescribed in the said clauses the lessor shall have the right to remove the said buildings and fixtures and restore the demised premises to its original conditions and the cost of such removal and restoration shall be realised by the lessor by the sale of the materials and the balance, if any, from the lessee."

12. There is no dispute between the parties that after expiry of the first term of 30 years, the lease was never renewed. The Chairman of the Port Trust in its order while rejecting the prayer for renewal of the lease has considered all relevant aspects. With regard to M/s.Leegee Corporation, a finding has

already been recorded that the petitioner is profiting at the expense of the Port by sub-leasing the constructed area without sub-serving the object for which the land has been leased in the first place. Referring to the Policy Guidelines for Land Management by Major Ports, 2014 it has been stated that the guidelines stipulate that the Port Trust's land shall be used with the objective of generating traffic volumes through the Port. The order dated 09.02.2015 rejecting the prayer for renewal of the lease, Ext.P16 is a detailed order containing relevant reasons. It has already been noted that after expiry of the lease of Leegee Corporation on 29.01.1990 the Port Trust sent a format of lease deed for renewal for a period of 10 years with conditions as contained therein, the petitioner never agreed with the conditions which also included new scale of rates hence the renewal was never granted. The leases having not been renewed, the petitioners had no right to continue in possession. As noted above, the Port Trust had allowed all lessees including the petitioner to continue only till 31.12.2012. The renewal of lease having been refused, no error was committed by the Port Trust in initiating proceedings under the

1971 Act for eviction of the lessees. The eviction order under the 1971 Act was passed after giving notice and after considering the reply submitted by the petitioners. The order of eviction passed by the Estate Officer under the 1971 Act, thus cannot be faulted.

13. The submission which has been much pressed by learned counsel for the appellant is that under Section 106 of the Kerala Land Reforms Act, 1963 petitioners are protected from eviction. It is useful to refer to relevant provisions of the Kerala Land Reforms Act, 1963 for considering the said submission. Section 3 of the Act provides for exemption. Section 3(i) is as follows:

“3. (i) leases of lands or of buildings or of both belonging to or vested in the Government of Kerala or the Government of any other State in India or the Government of India or a local authority or the Cochin Port Trust or a corporation owned or controlled by the Government of Kerala or the Government of any other State in India or the Government of India.”

It is relevant to note that initially the lease of land of building of the Cochin Port Trust were not included in sub-clause (1) of Section 3. By Act 35 of 1967 with effect from 01.10.1970, the words “or the Cochin Port Trust” have been inserted.

14. Section 106 provides for a special provision relating to leases for commercial or industrial purposes. Section 106 of the Act reads as follows:

"106. Special provisions relating to leases for commercial or industrial purposes.- (1) Notwithstanding anything contained in this Act, or in any other law, or in any contract, or in any order or decree of Court, where on any land leased for commercial or industrial purpose, the lessee has constructed buildings for such commercial or industrial purpose before the 20th May, 1967, he shall not be liable to be evicted from such land, but shall be liable to pay rent under the contract of tenancy, and such rent shall be liable to be varied every twelve years."

15. Section 106 as noted above thus clearly protects lessees of land or building for commercial or industrial purpose from eviction which were with regard to leases granted prior to 20.05.1967. However, sub-section (3) was inserted in Section 106 of the Act by Act 35 of 1969 and further explanation to sub-section (3) was added by Act 17 of 1972 with effect from 02.11.1972. Section 106(3) along with explanation is quoted below:

"(3) Nothing contained in the sub-section (1), sub-section (1A) and sub-section (2) shall apply to lands owned or held by the Government of Kerala or a local authority.

Explanation,- For the purposes of this sub-section, "local authority" includes the Cochin Port Trust and any University established by an Act of the Kerala state Legislature."

Sub-section (3) of Section 106 gives an overriding effect to the provisions of sub-section (1) of Section 106. The intendment is clear that the protection given under Section 106 (1) is not applicable to the land owned or held by the Government of Kerala or a local authority. By explanation added with effect from 02.11.1972 it is clarified that the local authority includes the Cochin Port Trust.

16. The submission which has been pressed by Sri.N.N. Sugunapalan is that the amendment having been made by Act 35 of 1969 and explanation having been added with effect from 02.11.1972, the said provision shall not be applicable with regard to the leases granted to the petitioners. It is submitted that leases granted prior to the above amendment are not covered by the aforesaid amendment since amendment shall have no retroactive operation. The submission of learned counsel for the appellant, that amendments made in Section 106 by Act 35 of 1969 and Act 17 of 1972 as noted above, are not

retrospective but are only prospective, needs no disputation. We proceed on the premise that the amendments made in Section 106 by inserting sub-section (3) and explanation shall have only prospective operation. The question is as to when in the year 2014-15 the Port Trust has directed eviction of petitioner, whether Section 106(1) protects the petitioner from eviction, the answer is obvious, protection from eviction by orders which are under challenge in the writ petition having been issued at a period when sub-section (3) as well as explanation to Section 106 are very much in operation, hence protection under Section 106 (1) is not available to the petitioner. When sub-section (3) of Section 106 gives overriding effect to sub-section (1) of Section 106 in so far as the land owned or held by Government or local authority i.e. the Cochin Port Trust, the petitioner cannot claim protection under Section 106(1). Thus the submission made by learned counsel for the appellant on the basis of Section 106(1) and Section 106(3) is fallacious and cannot be accepted.

17. The submission which has further been pressed by learned counsel for the appellant is the claim for compensation for the building which was permitted to be erected by the

petitioner on the strength of the lease. We have already noticed the terms and conditions of the lease in Clauses 3, 4, 5 and 6. Present are cases where the period of lease has come to an end and leases have not been renewed. Clause (3) of the lease deed as noticed above entitles the lessee to remove all or any building or fixtures during the currency of the lease before expiry of term of 30 years. Further Clause (4) indicates that lessee shall not claim or to be entitled to any compensation except as regard building and fixtures not removed by the lessee from the said land in compliance with a request in writing by the lessor. Thus compensation is payable to the lessee only when a request has been made by lessor for not removing the fixtures or building. Further on expiry of the lease the lessee has to deliver the demise premises in its former condition.

18. In the present case M/s.Leegee Corporation by notice dated 30.06.2014 were called upon to surrender the land along with building in which context it was observed that the compensation for the building shall be paid upon receipt of the valuation report. However, when the petitioner has not surrendered the land or building, the Port Trust

had to initiate proceedings under the 1971 Act, after giving notice dated 25.02.2015, order was passed on 08.04.2015 by which following direction was issued:

"Now, therefore, in exercise of the powers conferred on me under sub-section (1) of Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I hereby order the said M/s.Leegee corporation, G.V.Iyer Road, W/Island, Cochin – 682 003 and all persons who may be in occupation of the said premises or any part thereof to vacate the said premises after demolishing the structures within 15 days of the date of publication of this order. In the event of refusal or failure to comply with this order within the period specified above the said M/s.Leegee Corporation and all other persons concerned are liable to be evicted from the said premises, if need be, by the use of such force as may be necessary."

Thus the final directions issued by the Port Trust is to surrender the land and vacate the premises after demolishing the structure within 15 days of the publication of the order. The Port Trust thus has by its order directed the petitioner to demolish its structure, hence the petitioner was entitled to remove its building and fixtures and payment of compensation cannot be demanded.

19. Similarly, with regard to the New India Maritime Agencies (P) Limited, the notice issued by the Port Trust dated

14.08.2014 the petitioner was directed to handover the area in its original condition after removing the dues. Further in an order passed under Section 5 of the 1971 Act again the Port Trust has directed the petitioner to vacate the premises after demolishing the structure. It is useful to quote the operative portion of the order which reads as under:

"Now, therefore, in exercise of the powers conferred on me under sub-section (1) of Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, I hereby order the said M/s.New India Maritime Agencies, G.V. Iyyar Road, P.B. No. 513, W/Island, Cochin - 682 003 and all persons who may be in occupation of the said premises or any part thereof to vacate the said premises after demolishing the structures within 15 days of the date of publication of this order. In the event of refusal or failure to comply with this order within the period specified above the said M/s.New India Maritime Agencies Private Limited and all other persons concerned are liable to be evicted from the said premises, if need be, by the use of such force as may be necessary."

Thus with regard to both the petitioners the ultimate direction of the Port Trust is to handover the premises after demolishing the structures and fixtures. In view of the above, no claim for compensation can be laid by the petitioners and learned

Single Judge did not commit any error in rejecting any such claim.

20. One more submission which has been pressed by learned counsel for the appellant is regarding rehabilitation. Reference has been made to sub-clause (j) of Clause 17 of Policy Guidelines for Land Management by Major Ports, 2014. Clause 17(j) reads as follows:

"17. xxxxx

(j) The Port Trust Board shall have the right to resume possession of the leased land in public interest before expiry of the lease period. In such cases, subject to availability of land, the lease may at the discretion of the Port Trust Board be given an option to relocate activities in another suitable location to be offered by the Port as per the land use plan."

The above Clause has no application since present is not a case of resumption or possession before expiry of lease period. Thus under the Policy Guidelines for Land Management by Major Ports, 2014 obligation of re-allocation is there only when possession is resumed during the currency of the lease.

21. In so far as the claim of rehabilitation by the petitioner-New India Maritime Agencies (P) Limited under the

judgment of learned Single Judge dated 11.11.2014 in W.P.(C) No.27972 is concerned, a Statement has been filed by the respondents in the writ petition. The learned Single Judge has already noticed that the petitioner was invited to participate in the auction proceedings for allotment of land in which the petitioner failed to participate. It is also relevant to note that New India Maritime Agencies (P) Limited has also filed W.A. No.1951 of 2015 against the judgment dated 11.11.2014 of learned Single Judge which writ appeal was disposed of reserving the right of the appellant to get adjudicated the claim when proceedings are initiated by the Port Trust under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. Objections raised by the petitioner in proceedings under the 1971 Act has been considered and order of eviction has been passed which, as observed above, cannot be faulted.

22. The submission of learned counsel for the appellant that the order directing the petitioner to vacate the premises is only with an object to handover the land to Malabar Cement Limited which cannot be termed to be use of land for own purpose of Port Trust. The action of Port trust to utilise the

land in accordance with the Land Management by Major Ports, 2014 by offering land to Malabar Cements is in furtherance of the Land Management Policy, 2014 and the said action is clearly an action for use of land by the Port Trust. The submission that this land which is to be vacated by the petitioner cannot be given to Malabar Cements Limited, cannot be accepted. More over, the petitioners' lease has never been renewed after 1990 and 1997 respectively, they cannot claim any right of continuance and their lease period having come to an end, they are obliged to surrender their land to the Port Trust in its original form. It does not lay in their mouth to say that the land should not be given to Malabar Cement Limited for carrying the project. We thus do not find any error in the judgment of learned Single Judge dismissing both the writ petitions.

Now we come to the last submission of Sri.N.N.Sugunapalan that some time may be given to the petitioners to vacate from the land. Petitioners' lease having not been renewed and there being no order permitting their continuance after 31.12.2012 petitioners have already remained in unauthorised occupation for several years. The Port Trust has

rightly initiated proceedings under the 1971 Act and directed for eviction. However, in view of the fact that we are deciding these writ appeals today we are of the view that petitioners be allowed three months' time to remove the building/fixtures etc from the land and handover the vacant possession on or before the expiry of three months' from today. Subject to the above, both the writ appeals are dismissed.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**