

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

WA.No. 2142 of 2015 IN WP(C).20166/2010

AGAINST THE JUDGMENT IN WP(C) 20166/2010 DATED 13/07/2015

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APPELLANT/PETITIONER IN W.P. :

T.R.ASHOKAN
S/O. T.RAMAN, MANAGING PARTNER
M/S. SUPER TRADE WEIGH BRIDGE, OPPOSITE MGF AUTO
MALSYAPURI P.O., MATTANCHERY HALT, WILLINGTON ISLAND
KOCHI-29.

BY ADVS.SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SRI.RAJESH VIJAYENDRAN
SMT.ACHU SUBHA ABRAHAM

RESPONDENTS/RESPONDENTS :

1. COCHIN PORT TRUST,
REPRESENTED BY IT SECRETARY, WILLINGDON ISLAND
KOCHI-682009.
2. THE CHIARMAN
COCHIN PORT TRUST, WILLINGDON ISLAND, KOCHI-682003.
3. THE DEPUTY SECRETARY (ESTATE)
COCHIN PORT TRUST, ESTATE DIVISION
GENERAL ADMINISTRATION DEPARTMENT, WILLINGDON ISLAND
KOCHI-682009.

R1 BY ADV. SRI.K.ANAND (SR.)
SMT.LATHA ANAND

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 30-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.A. No. 2142 OF 2015

Dated this the 30th day of October, 2015

JUDGMENT

Shaffique, J.

The petitioner in W.P.(C) No.20166 of 2010 has filed this appeal challenging the judgment dated 13.07.2015 by which the writ petition was dismissed by learned Single Judge.

2. The writ petition was filed challenging Exts.P16 and P17 notices issued by the Cochin Port Trust. Ext.P16 is an order dated 24.02.2010 by which the petitioner was informed that the period of temporary licence granted for occupation of 860M² open space near the old National Highway was extended upto 30.06.2010 and no further extension beyond such period will be given. The petitioner was also called upon to surrender the premises on or before 30.06.2010. Ext.P17 is another notice dated 09.03.2010 wherein the petitioner was informed that as per the guidelines of the Government allotment of license for long duration is not permissible. Accordingly, it was informed that no other extension could be granted to the

petitioner and that the land could be allotted only by inviting tenders and the petitioner can participate in the tender process, if interested. The main contention urged by the petitioner was that he was originally having a long term lease with Cochin Port Trust for installing a weigh bridge. The period of lease was for 28 years. During the period of lease a request was made by the Cochin Port Trust to relocate the Weigh Bridge and accordingly the Weigh Bridge was relocated. Petitioner submits that he is entitled to continue till the expiry of the original lease period.

3. The 1st respondent has filed a counter affidavit *inter alia* stating that after relocating the premises, license was granted for a limited period and thereafter petitioner has no right to continue occupation of the premises. That apart, as per the guidelines formulated by Government of India, license could not be given for a long period.

4. Learned Standing Counsel for the respondent submits that necessary steps have been taken for evicting the petitioner under the Public Premises (Eviction of Un-authorised Occupants) Act, 1971, after the dismissal of the writ petition.

5. The main grievance raised by the appellant is that learned Single Judge had erroneously come to a conclusion that petitioner is not entitled for 28 years lease, i.e 28 years from the date of completion of construction, which has been originally granted.

6. Since proceedings have already been taken against the petitioner under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, necessarily it is open for the petitioner to raise all his contentions before the Estate Officer. It is also brought to our notice that the Estate Officer has already passed an order and appellant has preferred an appeal before the District Court as CMA No. 64 of 2015 and there is stay of the order passed by the Estate Officer. Hence the appellant is entitled to agitate his right in the pending proceedings.

7. Learned counsel for the appellant submits that in view of the judgment of learned Single Judge, he is not in a position to raise the contention regarding wrongful cancellation of the license/lease. We make it clear that appellant/petitioner shall be entitled to raise all contentions including the contention

regarding the validity of the period of lease before the District Court before which the matter is pending consideration.

Accordingly, this writ appeal is disposed of permitting the petitioner to raise all his contentions before the District Court in the proceedings under the Act and the District Court shall consider the same untrammelled by any of the findings in the judgment.

**Ashok Bhushan,
Chief Justice.**

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