

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 31ST DAY OF JULY 2015/9TH SRAVANA, 1937

WP(C).No. 15367 of 2015 (U)

PETITIONER:

**UNILEVER INDIA EXPORTS LTD.,
HAVING THEIR REGISTERED OFFICE AT
BD SAWANT MARG CHAKALA,
ANDHERI (EAST)MUMBAI 400099 AND HAVING
THEIR BRANCH OFFICE AT MILNE ROAD,
WILLINGDON ISLAND, COCHIN - 682003,
REPRESENTED BY AUTHORIZED PERSON,
R.ANANTHANARAYANAN.**

**BY SRI.PRAVINDRAN (SENIOR ADVOCATE)
ADVS. SRI.MADHU RADHAKRISHNAN
SRI.NELSON JOSEPH
SRI.M.D.JOSEPH**

RESPONDENT(S):

- 1. THE ESTATE MANAGER/SECRETARY,
COCHIN PORT TRUST, WILLINGTON ISLAND,
PORT TRUST BUILDING, COCHIN - 682003.**
- 2. CHAIRMAN, COCHIN PORT TRUST,
WILLINGTON ISLAND - 682003.**
- 3. THE CHIEF ENGINEER, COCHIN PORT TRUST,
WILLINGTON ISLAND - 682003.**
- 4. UNION OF INDIA,
MINISTRY OF SHIPPING & TRANSPORT,
REPRESENTED BY THE SECRETARY,
TRANSPORT BHAVAN I,
PARLIAMENT STREET, NEW DELHI - 110001.**

**R1 TO R3 BY ADV. SRI.ABRAHAM JOSEPH MARKOS, SC
ADVS. SRI.V.ABRAHAM MARKOS
SRI.BINU MATHEW
SRI.TOM THOMAS (KAKKUZHIYIL)
SRI.ISAAC THOMAS
SRI.NOBY THOMAS CYRIAC**

R4 BY SRI.N.NAGARESH, A S G

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 31-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- P1:- TRUE COPY OF THE ORIGINAL LEASE DEED DATED 13/11/1973.
- P2:- TRUE COPY OF THE LETTER ISSUED BY THE 3RD RESPONDENT DATED 30/4/2014.
- P3:- TRUE COPY OF THE RENEWAL LETTER ISSUED BY THE PETITIONER DATED 15/5/2014.
- P4:- TRUE COPY OF THE CERTIFICATE ISSUED AND THE EXPORT PERFORMANCE FOR AUGUST 2014 AND NOVEMBER 2014 RELEASED BY THE COCHIN CHAMBER OF COMMERCE AND INDUSTRY DATED 14/5/2014.
- P5:- TRUE COPY OF THE NOTICE DATED 4/9/2014 ISSUED BY THE 3RD RESPONDENT.
- P6:- TRUE COPY OF THE NOTICE DATED 14/10/2014 ISSUED BY THE 3RD RESPONDENT.
- P7:- TRUE COPY OF THE COMMON JUDGMENT IN WP 29830/2014 DATED 11/11/2014.
- P8:- TRUE COPY OF THE JUDGMENT IN WA 1960/2014.
- P9:- TRUE COPY OF THE JUDGMENT IN WPC 5251/2015.
- P10:- TRUE COPY OF THE MINUTES OF THE MEETING HELD BY THE 2ND RESPONDENT.
- P11:- TRUE COPY OF THE REPRESENTATION DATED 17/4/2015 SENT BY THE PETITIONER TO THE 2ND RESPONDENT.
- P12:- TRUE COPY OF LETTER DATED 17/4/2015 ISSUED BY THE ASSISTANT ESTATE MANAGER.
- P13:- TRUE COPY OF THE NOTICE ISSUED UNDER SEC 4 OF THE ACT BY THE 1ST RESPONDENT.
- P14:- TRUE COPY OF THE REQUEST LETTER FOR TIME SUBMITTED BY THE PETITIONER DATED 24/4/2015.
- P15:- TRUE COPY OF LETTER DATED 28/4/2015 ISSUED BY 1ST RESPONDENT.
- P16:- TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER.
- P17:- TRUE COPY OF THE FINAL ORDER PASSED BY THE 1ST RESPONDENT DATED 18/5/2015.

WP(C).No. 15367 of 2015 (U)

RESPONDENT(S)' EXHIBITS & ANNEXURES:

- ANNEXURE A :** TRUE COPY OF LETTER NO.EM5/LEASE RENEWAL/HUL/2010
DATED 24.11.2010 ISSUED BY THE 1ST RESPONDENT TO THE
PETITIONER ALONG WITH ITS AD CARD.
- ANNEXURE B :** TRUE COPY OF LETTER NO.EM11/98-B/RENEWAL OF
LEASES/2011 DATED 21.12.2011 ISSUED BY THE
1ST RESPONDENT TO THE PETITIONER ALONG WITH ITS AD
CARD.
- ANNEXURE C :** TRUE COPY OF LETTER NO.EM5/C/L/2030/58/2014
DATED 3.1.2015 ISSUED BY THE 1ST RESPONDENT TO THE
PETITIONER ALONG WITH ITS AD CARD.
- ANNEXURE D :** TRUE COPY OF LIST OF SPACES ALONG WITH THE LIST OF
TENDERERS.

//TRUE COPY//

P.S. TO JUDGE

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K. VINOD CHANDRAN, J.

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W.P.(C) No.15367 of 2015 - U

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Dated this the 31st day of July, 2015

J U D G M E N T

The above writ petition is filed against Ext.P17 order passed under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for brevity, 'the Act'). The contention raised is that the petitioner was never afforded an opportunity of hearing, which is mandatory under Section 4 of the Act.

2. In view of the orders to be passed herein, this Court is of the opinion that this Court need not go in to the question whether a hearing was granted or whether Ext.P17 should be sustained. Admittedly, the petitioner was granted an opportunity to participate in a tender by the Port Trust itself. However, the petitioner did not participate, since the premises, which was put in auction was not conducive for their business. The petitioner had also issued Ext.P11, in which they had undertaken that they would in fact vacate the premises if they were given six months time.

3. Even now the learned Senior Counsel appearing for the petitioner submits that they would vacate the premises if granted six months. However, it is to be noticed that Ext.P11 itself was issued on 17.04.2015 and four months have elapsed from that date. In such circumstance, this Court is of the opinion that an additional four months can be granted from today on which the petitioner undertake to vacate the premises.

4. In such circumstance, there would be a direction that the petitioner shall not be dispossessed from the premises for a period of four months from today and on the expiry of the same, the petitioner would either hand over vacant possession on the plot to the Port Trust as provided in the lease agreement or the Port Trust would have the right to enter the premises and take it over, in which event the costs and liability would be solely that of the petitioner.

The writ petition is disposed of.

Sd/-
K. VINOD CHANDRAN,
JUDGE