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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.34 OF 2017
IN
WRIT PETITION NO.128 OF 2017

Redi Port Limited and anr Applicants

In the matter of

Fomento Resources Private I Ltd and anr. ... Petitioner.

V/s.

The State of Maharashtra and anr Respondents

Mr. P. K. Dhakephalkar, Senior Advocate a/w Mr. Gautam Ankhad, Mr. Vishesh Malviya, Ms. Madhuri Doshi i/by M/s Federal & Rashmikant, for the Applicant.

Mr. Subodh Kantak, Senior Advocate a/w Mr. Paras Rao, Ms. Swati Kamat, Mr. Shiraj Salekar, Mr. Deepkar, i/by Vidur Legal, for the Petitioner.

Mr. Chetan Kapadia, Mr. Sheelang Shah, Mr. I. J. Nankani, Ms. Janaki Garde i/by M/s Nankani & Associates, for intervener.

Mrs. M. M. Deshmukh, APP Respondent State.

CORAM : RANJIT MORE &
DR. SHALINI PHANSALKAR-JOSHI, JJ.

DATE : 18th JANUARY, 2017.

P.C. :

1. This application is filed by Redi Port Limited, for recalling of

the order dated 11th January, 2017, passed in Criminal Writ petition No.128 of 2017.

2. The said petition was filed by Fomento Resources Pvt. Ltd. Goa and anr, against State of Maharashtra, Collector, Sindhudurg and Vengurla Police Station, for providing police protection against anti social elements, who are alleged to have been obstructing transportation and export of iron ore.

3. When the petition was placed before us for admission, the learned APP, having taken instructions from the official of the Home Department, Government of Maharashtra, had made a statement that the Maharashtra Maritime Board will grant police protection within the premises of Redi Port and Vengurla Police Station of Maharashtra Police will grant the protection to the Petitioners in transporting such Mine Iron Ore, to the Redi Port. On the basis of the said statement, by order dated 11th January, 2017, we directed respondent State and Maharashtra Maritime Board to grant protection to the petitioners, subject to payment of reasonable charges.

4. Mr. Dhakephalkar, learned Senior Advocate, for the applicants submits that the order passed in above Writ Petition is seriously affecting the rights of applicants. He submits that neither applicant nor Maharashtra Maritime Board was not made party to the said

petition. He further submits that under the garb of police protection, obtained pursuant to order dated 11th January, 2017 in above petition, applicants are being dispossessed.

5. We now notice that there is dispute between the applicant and Maharashtra Maritime Board about the cancellation of concession agreement. Various Writ Petitions came to be filed by respective parties and at present, dispute as to termination of concession agreement is pending before the Apex Court. The applicants claim that they are in possession of said Port and Maharashtra Maritime Board, on the contrary is claiming that they are in possession.

6. In the above circumstances, Mr. Kantak, learned Senior Advocate, appearing on behalf of petitioners fairly states that he has no objection, if the order dated 11th January, 2017 is recalled and the petition is heard afresh by giving opportunities to the applicants as well as Maharashtra Maritime Board. Statement is accepted

7. In the light of above, application is disposed of by passing following order.

Order.

1. We recall the order dated 11th January, 2017, passed in W.P. No.128 of 2017.
2. The Writ Petition is restored to the original file.

3. The petitioner is directed to implead the present applicants Redi Port Limited and anr, as also Maharashtra Maritime Board as party respondents in the said petition.
4. Necessary amendment shall be carried out during the course of the day.
5. Registry is directed to place Writ Petition No.128 of 2017 on 19.01.2017 for admission.
6. Needless to state that the added respondents are at liberty to file affidavit-in-reply.

[DR. SHALINI PHANSALKAR JOSHI, J.]

[RANJIT MORE,J.]