

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.11.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.A.Nos.3746, 3754 & 3623 to 3628 of 2019
and
C.M.P.Nos.23756, 23789, 23218, 23220,
23223, 23224, 23225 & 23228 of 2019

M/s.Hexxon Maritime Services,
rep. by its Manager,
Mr.John Bosco
60, Rajaji Salai, Chennai 600 001. Appellant/Petitioner in
W.A.No.3746/2019

M/s.Hy-Power Marine Services,
rep. by its Proprietor
Mr.M.Saravanan,
17, Ebrahimji Saheb Street,
Chennai 600 001. Appellant/Petitioner/
Petitioner in W.A.No.3754/2019

M/s.Chidambaram Shipcare Pvt. Ltd.,
rep. by its Director,
Mr.Ramdas S.Iyer
38, First Floor, Second Line Beach,
Chennai 600 001. Appellant/Petitioner/
Petitioner in W.A.No.3623/2019

M/s.Choudary Technical Ship Services
Pvt. Ltd.,
rep. by its General Manager,
M.Murugan,
72, Moore Street, 2nd Floor,
Room No.3, Chennai 600 001. Appellant/Petitioner/
Petitioner in W.A.No.3624/2019

M/s.Shri Sangeethaa Logistics,
rep. by its Proprietor,
Mr.N.S.Sidharthan,
No.1, Old Sical Plot,
Fire Fighting Road,
Inside Chennai Harbour,
Chennai 600 009. Appellant/Petitioner/
Petitioner in W.A.No.3625/2019

M/s.Ras Turbo Pvt. Ltd.,
rep. by its General Manger-
Mahendra Chowdhary,
B-101, Opp. Ml Ware House,
Gate No.10, Section III,
Chennai Port Trust, Chennai 600 009.

Appellant/Petitioner
Petitioner in W.A.No.3626/2019

M/s.Royal Tech Marine Engineers
Pvt. Ltd.,
rep. by its Director,
S.Jayaprakash,
No.20, II Floor, Second Line
Beach Road,
Chennai 600 001.

Appellant/Petitioner/
Petitioner in W.A.No.3627/2019

M/s.Hindussthan Marine
Engineering Works,
rep. by its Proprietor,
Mr.N.S.Sidharthan,
No.1, Old Sical Plot,
Fire Fighting Road,
Inside Chennai Harbour,
Chennai 600 009.

Appellant/Petitioner/
Petitioner in W.A.No.3628/2019

Versus

1. The Chairman,
Chennai Port Trust,
Chennai 600 001.

...1st respondent/1st
Respondent/1st Respondent

2. Traffic Manager,
Chennai Port Trust,
Chennai 600 001.

...2nd Respondents/2nd Respondent/
2nd Respondent

Prayer: Writ Appeals filed under Clause 15 of the Letters Patent
against the order dated 30.9.2019 in (i) W.M.P.No.27162 of 2019
in W.P.No.27648 of 2019 (ii) W.M.P.No.27056 of 2019 in
W.P.No.27569 of 2019 (iii)W.M.P.No.27059 of 2019 in W.P.No.27572
of 2019 (iv) W.M.P.No.27170 of 2019 in W.P.No.27657 of 2019 (v)
W.M.P.No.27164 of 2019 in W.P.No.27653 of 2019 (vi)
W.M.P.No.27054 of 2019 in W.P.No.27566 of 2019 (vii)
W.M.P.No.27160 of 2019 in W.P.No.27642 of 2019 (viii)
W.M.P.No.27168 of 2019 in W.P.No.27656 of 2019 passed by this

court in so far as holding that the petitioners shall be liable to pay the penal license fee for the occupation from 01.10.2019 onwards in the terms fixed in the order challenged in the Writ Petition.

WMP.No.27162/2019 in WP.No.27648 of 2019:

to issue an order of Interim Stay of impugned proceedings dated 05.08.2019 in Letter No.C2(b)/855/13/T issued by the 2nd respondent

WP.No.27648 of 2019:Petition filed under Article 226 of the constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the impugned proceedings dated 05.08.2019 in Letter No.C2(b)/855/13/T on the file of the second Respondent and to quash the said impugned order being in derogation of the statutory provisions and consequentially direct the respondents to call for e-tender permitting the petitioner to participate for the open space allotment and bid for the same

WMP.no.27056 of 2019 in WP.No.27569 of 2019:to issue an order of Interim Stay of impugned proceedings dated 05.08.2019 in Letter No. C2 (b) / 1339 / 2013 / T issued by the 2nd Respondent pending disposal of the above Writ Petition.

WP.No.27569 of 2019:to call for the records of the impugned proceedings dated 05.08.2019 in Letter No.C2 (b) / 1339 / 2013 / T on the file of the second Respondent and to quash the said impugned order being in derogation of the statutory provisions and consequentially direct the Respondents to call for e- tender permitting the petitioner to participate for the open space allotment and bid for the same.

WMP.No.27059 of 2019 in WP.No.27572 of 2019:to issue an order of Interim Stay of impugned proceedings dated 05.08.2019 in Letter No. C5 / 909 / 2013 / T issued by the 2nd Respondent pending disposal of the above Writ Petition.

Prayer in WP.No.27572 of 2019:to call for the records of the impugned proceedings dated 05.08.2019 in Letter No.C5 / 909 / 2013 / T on the file of the second Respondent and to quash the said impugned order being in derogation of the statutory provisions and decision of the Honourable Supreme court of India and consequentially direct the Respondents to call for e- tender permitting the petitioner to participate for the open space allotment and bid for the same.

WMP.No.27170 of 2019 in WP.No.27657 of 2019

to issue an order of Interim Stay of impugned proceedings dated 05.08.2019 in Letter No.C5/962/2011/T issued by the 2nd respondent pending disposal of the above writ petition

WP.No.27657 of 2019:to call for the records of the impugned proceedings dated 05.08.2019 in Letter No.C5/962/2011/T on the file of the second Respondent and to quash the said impugned order being in derogation of the statutory provisions and decision of the Honourable Supreme court of India and consequentially direct the respondents to call for e-tender permitting the petitioner to participate for the open space allotment and bid for the same

WMP.No.27164 of 2019 in WP.No.27653 of 2019:to issue an order of Interim Stay of impugned proceedings dated 06.08.2019 in Letter No.C1/1178/2013/T issued by the 2nd respondent pending disposal of the above writ petition

WP.No.27653 of 2019:to call for the records of the impugned proceedings dated 06.08.2019 in Letter No.C1/1178/2013/T on the file of the second Respondent and to quash the said impugned order being in derogation of the statutory provisions and decision of the Honourable Supreme Court of India and consequentially direct the respondents to call for e-tender permitting the petitioner to participate for the open space allotment and bid for the same

WMP.No.27054/2019 in WP.No.27566 of 2019:

to issue an order of Interim Stay of impugned proceedings dated 05.08.2019 in Letter No. C3 / 174 / 2013 / T issued by the 2nd Respondent pending disposal of the above Writ Petition.

WP.No.27566 of 2019:to call for the records of the impugned proceedings dated 05.08.2019 in Letter No. C3 / 174 / 2013 / T on the file of the second Respondent and to quash the said impugned order being in derogation of the statutory provisions and decision of the Honourable Supreme Court of India and consequentially direct the Respondents to call for e- tender permitting the petitioner to participate for the open space allotment and bid for the same.

WMP.No.27160 of 2019 in WP.No.27642 of 2019:

to issue an order of Interim Stay of Impugned proceedings dated 05.08.2019 in Letter No.C3/0056/2017/T issued by the 2nd respondent pending disposal of the above writ petition

WP.NO.27642 of 2019:to call for the records of the impugned proceedings dated 05.08.2019 in Letter No.C3/0056/2017/T on the file of the second Respondent and to quash the said impugned order being in derogation of the statutory provisions and consequentially direct the respondents to call for e-tender permitting the petitioner to participate for the open space allotment and bid for the same

WMP.No.27168 of 2019 in WP.No.27656 of 2019:

to call for the records of the impugned proceedings dated 05.08.2019 in Letter No.C3/0056/2017/T on the file of the second Respondent and to quash the said impugned order being in derogation of the statutory provisions and decision of the Honourable Supreme Court of India and consequentially direct the respondents to call for e-tender permitting the petitioner to participate for the open space allotment and bid for the same

WP.No.27656 of 2019:to call for the records of the impugned proceedings dated 05.08.2019 in Letter No.C2(b)/1321/13/T on the file of the second Respondent and to quash the said impugned order being in derogation of the statutory provisions and decision of the Honourable Supreme Court of India and consequentially direct the respondents to call for e-tender permitting the petitioner to participate for the open space allotment and bid for the same

For Appellants : Mr.M.Suresh

For Respondents : Ms.Madhuri Donti Reddy

COMMON JUDGMENT
(Judgment of the court was made by Dr.VINEET KOTHARI, J.)

These Writ Appeals are directed against the interim order passed by the learned Single Judge on 30th September 2019 in the Writ Petitions filed by the Appellants directing the Appellants/Petitioners to pay the Penal Licence Fee from 1.10.2019 onwards for their occupation of the spaces allotted by the Chennai Port Trust, while staying the order passed by the

Chennai Port Trust for removal of the temporary construction erected by the Petitioners in the areas allotted by the Chennai Port Trust.

2. The Appellants/Petitioners are licensees in respect of the specified areas allotted to them by the Respondent-Chennai Port Trust for carrying out repairs of the Vessels which come to the Chennai Port. Their licence period expired on 30th September 2019.

3. The grievance raised by the Appellants/Petitioners is that the Respondent-Port Trust has failed to undertake fresh e-Auction Tender Process for inviting fresh Tenders and concluding the same and without doing so, they terminated Petitioners' Licences and demanded for Penal rent, which is three times the normal Licence Fee. Therefore, the learned counsel for the Petitioner, Mr.M.Suresh submitted that the learned Single Judge, by the impugned interim order, erred in directing the Appellants/Petitioners to pay the said Penal Licence Rent to the Chennai Port Trust in the absence of any time frame fixed for undertaking the fresh e-Auction Tender process.

4. The learned counsel for the Respondents, Ms.Madhuri Donti Reddy, however, submitted that since some of the licensees had taken a stand before the Chennai Port Trust that they would vacate the premises removing their temporary structures, whereas some of them have approached this Court and are continuing in the allotted spaces, therefore, the Chennai Port Trust could not finalise the modalities for issuing fresh e-Auction Notice for inviting Tenders as to whether the Tender should be for allotment of spaces with the existing temporary structures or for vacant spaces after removing the same in view of the amended Land Policy Guidelines formulated by them.

5. Having heard the learned counsel for the parties, we are of the opinion that the present Writ Appeals can be disposed of with the following directions:

i) Let the Petitioners/Appellants, who want to continue to occupy the allotted spaces beyond 30th September 2019, the date on which their licences had expired, pay 50% of the penal licence rent demanded by the Respondent/Port Trust on month to month basis, so long as they hold over in the said allotted spaces, subject to the final orders to be passed by the learned Single Judge, in pending Writ Petitions.

ii) The Respondent Chennai Port Trust is directed to complete the fresh e-Auction Tender process within a period of 3 months from today so that for a unduly for a long period, the Appellants/Petitioners will not be compelled to pay the Penal Licence Rent, as there cannot be any impediment for the Chennai Port Trust in conducting fresh e-Auction even with the temporary structures as the interest of both the parties viz., the Chennai

Port Trust and the erstwhile Lessees in this regard is protected by way of clause 11.3(c) of the Amended Land Policy Guidelines, Major Ports, 2014, which says that if any structure has been constructed by the earlier Lessee on the leased land, it would be valued by a third party valuer to be agreed upon by the Port Trust and the earlier lessee and the successful bidder has to remit the value of the structures which would be passed on to the previous lessee.

6. Therefore, we direct the Respondent-Chennai Port Trust to complete the e-Auction Tender Process within a period of three months from today and the existing licencees shall be entitled to participate in the said fresh e-Auction Tender process as well.

7. The payment of 50% penalty licence rent by the licencees, who are continuing to remain in possession beyond 30th September 2019 shall remain subject to the final decision of the learned Single Judge in the Writ Petitions.

8. With the above observations, we dispose of the present Writ Appeals and request the learned Single Judge to dispose of the Writ Petitions as expeditiously as possible. No costs. Consequently, the connected Miscellaneous Petitions are also closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To:

1. The Chairman,
Chennai Port Trust,
Chennai 600 001.
2. Traffic Manager,
Chennai Port Trust,
Chennai 600 001.

+1 cc to Mr.Madhurai Donti Reddy Advocate sr97124
+8 ccs to Mr.M.Suresh Advocate sr96360 to 96367

W.A.Nos.3746, 3754 &
3623 to 3628 of 2019

vba(co)
aa28/11/2019