

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Tuesday, the Thirtieth day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM
and
The Hon`ble Mrs.Justice R.THARANI

WA(MD) No.542 of 2019
and C.M.P(MD)No.4578 of 2019

PSA SICAL TERMINALS LTD,
HAVING ITS REGISTERED OFFICE AT
SOUTH INDIA HOUSE,
36-40, ARMENIAN STREET,
CHENNAI 600 001,
REP BY ITS AUTHORIZED SIGNATORY,
MR.SURESH NARAYANA AMIRAPU. ... APPELLANT/ PETITIONER

-Vs-

- 1 UNION OF INDIA,
REP BY ITS SECRETARY, MINISTRY OF SHIPPING,
ROAD TRANSPORT & HIGHWAYS, DEPARTMENT OF SHIPPING,
PORT DEPARTMENT, RANSPORT BHAWAN NO.1,
PARLIAMENT STREET, NEW DELHI 110 001.
- 2 THE BOARD OF TRUSTEES OF
V.O.CHIDAMBARANAR PORT TRUST,
REP BY ITS CHAIRMAN, HAVING ITS
OFFICE AT ADMINISTRATIVE BUILDING,
TUTICORIN PORT TRUST,
TUTICORIN 628 004. ... RESPONDENTS 1 & 2/
RESPONDENTS 1 & 2

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to set aside the order dated 23rd April 2019 passed by this Hon`ble Court in WP(MD) No.7368 of 2019.

Prayer in CMP(MD) . 4578/ 2019 :

Pleased to grant a stay of operation of the said impugned order dated 23rd April 2019 passed by this Honourable Court in WP(MD) No.7368 of 2019 and allow the appeal in terms of the relief sought for in WP(MD) No.7368 of 2019 and during the pendency of the above WA.

PRAYER IN WP(MD). No.7368 of 2019:

<https://hcservices.ecourts.gov.in/hcservices/>

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, restraining the second

respondent, its men, agents, servants and other persons claiming through or under them, from in any manner discriminating against the petitioner herein in the handling or operation of its Container Terminal at Berth VII at the VOC Port, by providing preferential treatment to any other party operating in any other Berth in the said Port, so that all the parties are on a level playing field and to consequently direct the second respondent to deepen the draught of Berth VII to the same level as that of Berth No.VIII or allot any other berth having a similar draught and to carry out any necessary extension or piling work to achieve the deepening of the draught in Berth No.VII and until such time, permit the petitioner to carry out its operations from an alternate berth with a Draught similar to what is offered to the other parties operating the Container Terminal in Tuticorin and till such time dispense with the obligation of minimum monthly guaranteed through put under the License Agreement and permit the petitioner to pay the royalty on the actual TEUs handled, and to forbear the Second Respondent, their men, Agents and Servants from demanding, recovering or initiating any coercive action against the petitioner including by way of invoking the Bank Guarantee dated 8th July, 2016 bearing No.04620BG 16008209 with a validity upto 14th October, 2019.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.P.ARAVINTHPANDIAN, Additional Advocate General for Mr.S.RAGHUNATHAN, Advocate for the appellant and of Mr.YASOTAWARATHAN, Senior Counsel for Mr.S.YASWANTH, Advocate for R2, the court made the following order:-

Heard Mr.P.Aravinthpandian, learned Additional Advocate General for Mr.S.Reghunathan, learned counsel for the appellant and Mr.Yasotawarathan, learned Senior counsel for the second respondent.

2. Taking note of the facts of the case and the arguments advanced by the learned Senior Counsels appearing on either side and in order to meet the ends of justice, this Court is inclined to extent the interim order granted by the learned Single Judge in W.P (MD)No.7368 of 2019 till 10.06.2019, however on condition that the petitioner pays a sum of Rs.5 crores to the second respondent on or before 07.05.2019. It is made clear that payment of the amount is without prejudice to the rights of the parties.

3. Post the matter on 10.06.2019.

sd/-
30/04/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE SECRETARY, UNION OF INDIA,
MINISTRY OF SHIPPING,
ROAD TRANSPORT & HIGHWAYS, DEPARTMENT OF SHIPPING,
PORT DEPARTMENT, RANSPORT BHAWAN NO.1,
PARLIAMENT STREET, NEW DELHI 110 001.

2 THE CHAIRMAN,
THE BOARD OF TRUSTEES OF
V.O.CHIDAMBARANAR PORT TRUST,
HAVING ITS
OFFICE AT ADMINISTRATIVE BUILDING,
TUTICORIN PORT TRUST,
TUTICORIN 628 004.

+1. C.C. to Mr.S.RAGHUNATHAN Advocate SR.No.7811
+1CC TO Mr.S.YASWANTH, Advocate, Sr No.8009

ORDER
IN
WA(MD) No.542 of 2019 and
C.M.P(MD)No.4578 of 2019
Date :30/04/2019

MS/PN/SAR-2/30.04.2019/3P.5C



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