

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.No.440 of 2020
and C.M.P.No.6723 of 2020

M/s Ex Servicemen Enterprises
Rep by its Proprietor
Mr.P. Uthrapathy
No.9/1, Honey Dew Apartments,
Kilpauk Garden, II Street,
Chennai - 10

.. Appellant

-vs-

- 1.The Traffic Manager,
Administrative Office, Chennai Port Trust,
Rajaji Salai, Chennai - 1.
2. The Deputy Traffic Manager (L&B),
Administrative Office, Chennai Port Trust,
Rajaji Salai, Chennai - 1.
3. The Estate Officer,
Chennai Port Trust,
Administrative Office, Chennai Port Trust,
Rajaji Salai, Chennai - 1.

.. Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 30.09.2019 in W.M.P.No.27738 of 2019 in W.P.No.28110 of 2019 on the file of this Court.

Prayer in WMP No.27788/19 in WP No.28110/2019 : To stay the operation of the impugned notice bearing F.No.C5(b)/791/2011/T dated 05/08/2019 issued by the Second Respondent, pending disposal of the above writ petition.

Prayer in WP No.28110/2019 : Writ of certiorari or any other order in the nature of a writ calling for the records in impugned notice bearing No.F.No.C5/791/2011/T dated 05/08/2019 issued by the second respondent, quash the same.

For Appellant : MrP. Sidharthan

For Respondents : Ms.Madhuri Donti Reddy

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

Having heard learned counsel for the appellant and learned counsel for the respondents Port Trust, it is not in dispute that such matters have already been dealt with by the Division Bench of this Court in a batch of writ Appeals leading Writ Appeal No.4296 of 2019, where the following order was passed on 13.12.2019:-

" Heard learned counsel for the appellant and learned counsel appearing for the respondents / Chennai Port Trust.

2. The appellant contends that the learned Single Judge granted stay from dispossession and has also observed that the appellant is liable to pay penal licence fee for the occupation. It is this part by which, the appellant is aggrieved and hence the writ appeal is against the interim order passed in WMP No.27058 of 2019 in W.P.No.27571 of 2019 dated 30.09.2019.

3. Leaned counsel for the appellant has invited the attention of this Court to the judgment of the Division Bench of this Court in W.A.Nos.3746, 3754 and 3623 to 3628 of 2019 dated 20.11.2019 (M/s Hexxon Maritime Services and others vs The Chairman, Chennai Port Trust and another), where, apart from reducing the payment of 50% of the penal licence fee, the Division Bench has however made certain observations directing the Chennai Port Trust to complete fresh e-Auction Tender process within a period of three months so that the appellant will not be compelled to pay the penal licence rent, as there cannot be any impediment for Chennai Port Trust in conducting fresh e-auction even with the

temporary structures as the interest of both the parties viz., 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. The appellant prays that similar order may also be passed in the present appeal.

4. Opposing this prayer, learned counsel appearing for Port Trust submits that the clarification application has already been moved in the said appeals, inasmuch as, the observations made by the Division Bench with regard to the protection by way of Clause 11.3(c) of the Amended Land Policy Guidelines, Major Ports, 2014 affect the very merits of the matter and the proceedings before the learned Single Judge stand impeded on account of the above said observations. It is in this background, a clarification has been sought for in this regard.

5. Having considered the submissions raised, we find that since clarification application has already been moved, the present appeal cannot be disposed of by issuing identical direction, but so far as the direction for payment of penal licence fee is concerned, following the aforesaid judgment of Division Bench, we also direct that in the present case, the appellant will be liable to pay 50% penal licence fee only subject to the final orders in the petition.

6. Accordingly, the impugned order is modified to the extent stated above and the writ appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed."

2. This writ appeal is accordingly disposed of on the same terms. No costs. Consequently, connected CMP No.6723 of 2020 is closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//
Sub Assistant Registrar

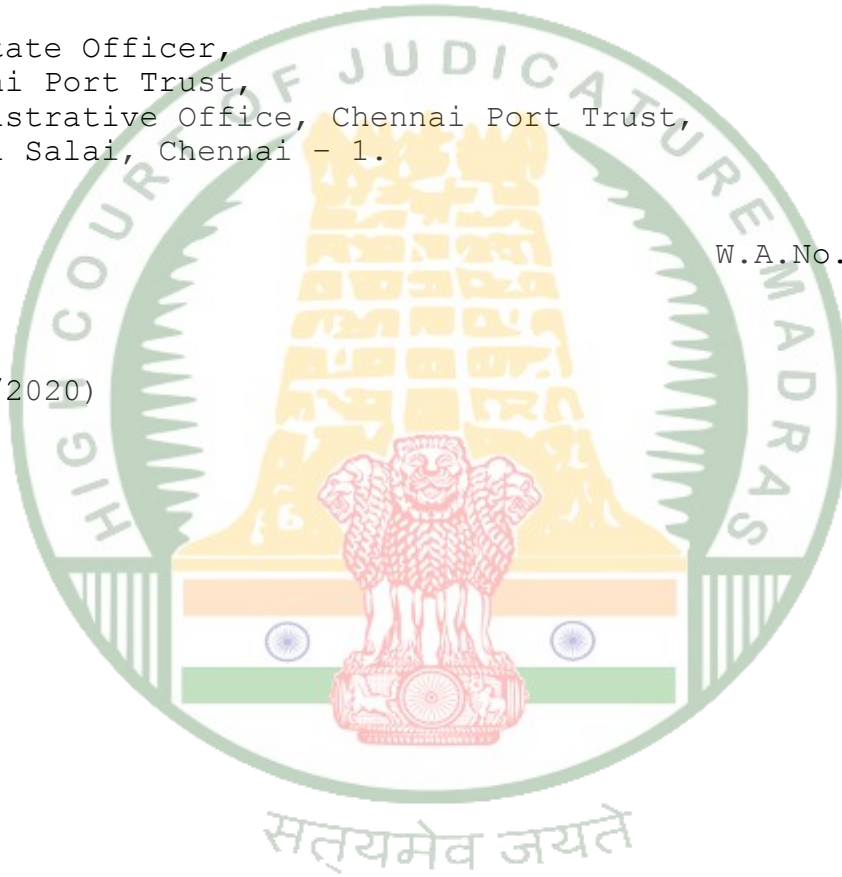
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To

1. The Traffic Manager,
Administrative Office, Chennai Port Trust,
Rajaji Salai, Chennai - 1.
2. The Deputy Traffic Manager (L&B),
Administrative Office, Chennai Port Trust,
Rajaji Salai, Chennai - 1.
3. The Estate Officer,
Chennai Port Trust,
Administrative Office, Chennai Port Trust,
Rajaji Salai, Chennai - 1.

W.A.No.440 of 2020

LN (CO)
GMY (27/07/2020)



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