

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2020

CORAM :

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

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

W.A.Nos.3705, 3707 and 3708 of 2019
and C.M.P.Nos.23574, 23578 and 23581 of 2019

K. Ravindran .. Appellant in W.A.No.3705 of 2019
C.D. Mohan .. Appellant in W.A.No.3707 of 2019
A.V. Ilavarasan .. Appellant in W.A.No.3708 of 2019

-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, Rajaji Salai,
Chennai - 600 001

.. Respondents in all the appeals

Appeals filed under Clause 15 of the Letters Patent against the common order dated 30.09.2019 passed in W.M.P No.27722 of 2019 in W.P.No.28101 of 2019 (in respect of W.A.No.3705 of 2019); W.M.P.No.27732 of 2019 in W.P.No.28109 of 2019 (in respect of W.A.No.3707 of 2019) and W.M.P.No.27719 of 2019 in W.P.No.28097 of 2019 (in respect of W.A. No.3708 of 2019) on the file of this Court.

Prayer in WMP No.27722/2019 in WP No.28101/2019/ WMP No.27732/2019 in WP No.28109/2019 and WMP 27719/2019 in WP No.28097/2019 : Petitions praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to stay the operation of the impugned notice bearing F.No.C3/207/2013/T, F.No.C4/1161/2013/T and F.No.C2(b)/066/2018/T respectively dated 05.08.2019 issued by the Second Respondent pending disposal of the above Writ Petition No.28101 of 2019. (WMP No.27722/2019, WMP No.27732 and WMP No.27719 of 2019)

Petitions are praying that in the circumstance stated therein and in the affidavit filed therewith in the High Court and this Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari calling for the records in impugned notice bearing F.No.C3/207/2013/T, F.No.C4/1161/2013/T and F.No.C2(b)/066/2018/T respectively dated 05.08.2019 issued by the second Respondent quash the same. [WP Nos.28101, 28109 and 28097/2019]

For Appellants : Mr.P. Sidharthan

For Respondents : Ms. Madhuri Donti Reddy
Standing Counsel

COMMON JUDGMENT

(Delivered by The Hon'ble Chief Justice)

The challenge raised in these appeals is the same to that which was raised in W.A.No.4296 of 2019. The said Writ Appeal was disposed of by us on 13.12.2019 by passing the following order:-

"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.Learned counsel for the appellants submits that the premises which they are stated to be allegedly occupying is not of the same category as that of those in whose cases orders have been passed and extracted hereinabove.

3.Learned counsel for the respondent Port Trust submits that the legal position will remain the same keeping in view the

nature of the terms and conditions applicable and therefore, there being no distinction, the same orders may be passed disposing of the present appeals.

4. Having considered the submissions raised at the bar, we do not find any such legal distinction so as to warrant taking a different view with regard to the percentage of the deposit as against the penal amount imposed against the appellants.

We, accordingly, dispose of these appeals on the same terms contained in our order dated 13.12.2019 extracted hereinabove. There shall be no order as to costs. Consequently, C.M.P.Nos.23574, 23578 and 23581 of 2019 are closed.

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

sra

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, Rajaji Salai,
Chennai - 600 001

+3cc to Mr.P. Sidharthan, Advocate SR.No.432, 433, 434

+1cc to Ms. Madhuri Donti Reddy, Advocate SR.No.549

W.A.Nos.3705, 3707 and
3708 of 2019

RSI (CO)
GMY (29/01/2020)