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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

WRIT PETITION NO.8514 OF 2013 &
W.M.P.NO. 1 OF 2013

1. M/S.Eastern Waterways (P) Ltd.,
Represented By Its Director
Mrs. I.Samundeeswari,
No.2, C.V.Raman Road,
Alwarpet, Chennai-600 018. Petitioner

-Vs-

1. Deputy Conservator - Marine Department,
Chennai Port Trust,
Rajaji Salai, Chennai-600 001.
2. The Chairman,
Chennai Port Trust,
Chennai. Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified mandamus calling for the records pertaining to the impugned order of the 1st respondent vide Letter No.S4/4569/2008/M dated 04.08.2012 and quash the same and consequently direct the 1st respondent to waive the amount demanded so far since there was no pilot services provided for the petitioner company

For Petitioner : Ms.Vasugi Ramanan

For Respondents : Mr.Krishna Ravindran



O R D E R

The writ petition filed for waiver of amount demanded by the first respondent.

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2. According to the petitioner, during the award of contract, there were certain conditions made. In the said conditions, the payment of pilot charges was not mentioned. Without employing any pilot services, the petitioner is entitled to use their Barges. Therefore, the demand made by the respondents with regard to the pilot services is illegal and therefore they sought for quashing of the demand made by the first respondent.

3. On the other hand, the learned counsel appearing for the respondent would submit that in fact the petitioners have availed the pilot services and there are endorsements to that effect in the invoices raised by the first respondent/Port Trust. Further, there are several factual disputes with regard to availing of pilot service and conditions for usage of the pilot services.

4. Both the counsels would rely on the endorsements made by the officials of the Port Trust as well as the Master of the Barge belonging to the petitioner. Further, there is a dispute over the charges claimed for the pilot services. All these factual aspects can be decided only after collecting evidence from the parties. This Court sitting and exercising powers under Article 226 cannot go into the factual disputes and the genuineness of the endorsements made in the documents and the quantum of charges to be collected. All these issues has to be decided only by way of fact finding Court. Therefore, this Court permits the petitioner to withdraw the writ petition and approach the appropriate forum to re-address their grievances. Liberty is also granted to exempt the period during which the writ petition is pending for the purpose of counting limitation. The deposit of money made by the petitioner will be subject to result of the interim application moved before the appropriate forum.

5. With this observation, this writ petition stands dismissed as withdrawn. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

sha/kpr

Sub Assistant Registrar



To

1. Deputy Conservator - Marine Department,
Chennai Port Trust,
Rajaji Salai, Chennai-600 001.

2. The Chairman,
Chennai Port Trust,
Chennai.

W.P.No.8514 of 2013

W.M.P.No. 1 of 2013

PMK (CO)
PM/08/03/2022