



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2023

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.245 of 2018

M/s.Eastern Waterways Pvt. Ltd.,
Represented by its Director,
Having registered office at
No.2, C.V.Raman Road,
Alwarpet, Chennai – 18.

.. Petitioner

Vs.

1.The Chennai Port Trust,
Represented by its Chairman,
No.1, Rajaji Salai, Chennai – 600 001.

2.The Deputy Conservator,
Marine Department,
Chennai Port Trust, Chennai.

3.The Harbour Master / Doc Master 1,
Marine Department,
Chennai Port Trust, Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to release the boat “Aqua Pioneer” harbour craft in the working condition prevailing as on the date of illegal detention by the respondents so as to enable the



petitioner to tow the boat to Kasimedu Fishing Harbour with the help of fishing boat for carrying out repairs and damages occurred during the illegal detention on 22.08.2016 by the respondent and consequentially direct the respondent to issue entry pass either in the name of the petitioner, its staffs and authorized persons or in the name of Accord Marine Surveyors & Consultants.

For Petitioner

.. Mr.M.Kempraj

For R1 to R3

.. Mr.P.M.Subramaniam,
Standing Counsel

ORDER

This writ petition has been filed in the nature of Mandamus seeking a direction to the respondents to release the boat, which is a harbour craft namely 'Aqua Pioneer', which is now within the limits of the Chennai Port Trust.

2.This vessel is used to ferry from the berthing place to the ship which is awaiting berth. This vessel which belongs to the petitioner, unfortunately, is not in working condition, as on date. Licence is required to ferry her. A contentious dispute has been raised, whether the licence was



renewed subsequent to the year 2015.

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3.It is the case of the petitioner that the licence was renewed till 31.12.2016. This statement is disputed by the learned Standing counsel for the respondents who claimed that an enquiry will have to be done, since in their records, the licence has not been renewed till the year 2016.

4.That is an issue which is beyond the scope of examination of the present writ petition.

5.In the present writ petition, the averments made are that the petitioner seeks to secure the vessel and tow her to the Kasimedu fishing harbour. However, this is again contested by the learned Standing counsel for the respondents, who emphasised that the petitioner will have to pay the charges which had accrued owing to the berthing of the vessel within the confinements of the port.

6.These are all issue which can be examined only in a civil proceeding and in a Writ Court, neither can the charges be determined nor



can any of the damages caused to the vessel be determined, nor can the allegations of fraud in obtaining the licence be determined. They are matters of evidence.

7.If the petitioner seeks to remove the vessel, then the petitioner should pay the necessary charges. The petitioner also has the option of lifting the vessel by a crane and transporting her through road and thereafter disposing her and converting. The petitioner can even remain quiet and permit the respondents to auction the vessel and recover the dues payable by the petitioner. These are issues over which a decision has to be taken only by the petitioner and the respondents in a civil forum and not before the Writ Court.

8.This Court cannot grant any relief to the petitioner. It is only advisable that the petitioner takes a quick decision either to remove the vessel from the confinements of the respondent port or permit the respondents to auction the vessel and adjust the sale consideration with the dues payable by the petitioner. This Court cannot pass any orders to remove the vessel or not to remove the vessel. They are decisions to be taken only



by the petitioner and the respondents.

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9. The petitioner should take a decision in the first place to either voluntarily removing the vessel or permitting the respondents to bring her on auction. A decision should be taken by the petitioner on or before 31.03.2023. If the petitioner does not take any decision to remove the vessel, then the respondents are at liberty to auction the vessel.

10. With the above observations, the Writ Petition stands dismissed.

No costs.

05.01.2023

Index: Yes/No

Internet: Yes/No

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To

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No.1, Rajaji Salai, Chennai – 600 001.
- 2.The Deputy Conservator,
Marine Department,
Chennai Port Trust, Chennai.
- 3.The Harbour Master / Doc Master 1,
Marine Department,
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C.V.KARTHIKEYAN,J.

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