**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR. JUSTICE EASWARAN S.**

**FRIDAY, THE 2ND DAY OF AUGUST 2024 / 11TH SRAVANA, 1946**

**WP(C) NO. 12138 OF 2017**

**PETITIONERS:**

1 COCHIN PORT LEASEHOLDERS ASSOCIATION
WILLINGDON ISLAND, KOCHI, REP. BY PRESIDENT,R.NANDAGOPAL

2 ACHUTHAN PILLAI & COMPANY
SHIPPING AND CLEARING AGENTS, WILLINGDON ISLAND, KOCHI- 682 003, REP BY MANAGING PARTNER - MRS. N.LMAHESWARI

3 DARRAGH SMAIL AND COMPANY (P) LTD
PLOT NO.19, CAT III, KOCHI- 682003 REP. BY ITS MANAGING DIRECOR MR.K.J JOSE

BY ADVS.
SRI.S.VINOD BHAT
KUM.ANAGHA LAKSHMY RAMAN
SRI.LEGITH T.KOTTAKKAL

**RESPONDENTS:**

1 BOARD OF TRUSTEES
COCHIN PORT TURST, PORT TRUST OFFICE, WILLINGDON ISLAND, ERNAKULAM- 682 009

2 CHAIRMAN
COCHIN PORT TRUST, WILLINGTON ISLAND, ERNAKULAM- 682 009

3 SECRETARY
COCHIN PORT TRUST, WILLINGTON ISLAND, ERNAKULAM- 682 009

4 TARIFF AUTHOLRITY OF MAJOR PORTS (TAMP FOR SHORT)
4TH FLOOR, BHANDAR BHAVAN, M.P.ROAD, MAZAGON, MUMBAI- 400 010

5 UNION OF INDIA
REP. BY ITS SECRETARY, MINISTRY OF SHIPPING, ROAD TRANSPORT & HIGHWAYS, NEW DELHI- 110 001

BY ADVS.
SRI.V.ABRAHAM MARKOS
ASSISTANT SOLICITOR GENERAL
SHRI.P.VIJAYAKUMAR, ASG OF INDIA
SRI.ABRAHAM JOSEPH MARKOS
SRI.HARAN THOMAS GEORGE
SRI.ISAAC THOMAS

SCGC- SRI. T.C KRISHNA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02.08.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**EASWARAN S., J.**

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**W.P.(C) No. 12138 of 2017**

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**Dated this the 2nd day of August, 2024**

**JUDGMENT**

When this writ petition is taken up for consideration on 02.08.2024, there is a serious difference of opinion between the learned counsel appearing for the petitioners as well as the learned Standing Counsel for the Cochin Port Trust (Trust), on the applicability of two judgments made across the bar by the counsel for the respondents. The learned Standing Counsel for the Trust points out that the matter in question is covered by the judgment of the learned Single Judge in WP(C) No.7941/2010 which was affirmed by the the learned Division Bench in Writ Appeal No. 342/2017. It is also pointed out that in a similar circumstance, another learned Single Judge of this Court had, by judgment dated 04.09.2019, dismissed W.P.(C) No.5974/2015.

2. The learned counsel for the petitioners submits that, this case is not covered by the judgment of the Division Bench

in Writ Appeal No.342/2017.

Be that as it may, I find that in a similar case, the learned Single Judge has ordered declining the interference in W.P.(C).5974/2015. On going through the judgment, this Court is in respectful agreement with the views expressed by the leaned Single Judge in W.P.(C) No.5974/2015. Accordingly, following the judgment of the learned Single Judge in W.P.(C) No.5974/2015 dated 04.09.2019 this writ petition is also dismissed.

Sd/-
**EASWARAN S.**
**JUDGE**

Raj.

## APPENDIX OF WP(C) 12138/2017

**PETITIONER EXHIBITS**

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| EXHIBITP1 | COPY OF THE DEED OF LEASE DATED 29-07-1993 BETWEEN 1ST RESPONDENT AND 3RD PETITIONER |
| EXHIBIT P2 | COPY OF THE LETTER DATED 01-12-2016 ISSUED BY THE 3RD RESPONDENT TO THE 2ND PETITIONER |
| EXHIBIT P3 | COPY OF BILL DATED 01-03-2017 ISSUED TO THE 2ND PETITIONER |
| EXHIBIT P3(A) | copy of bill dated 01-03-2017 issued to the 2nd petitioner |
| EXHIBIT P3(B) | COPY OF BILL DAED 01-03-2017 ISSED TO THE 3RD PETITIONER |
| EXHIBIT P4 | COPY OF THE ORDER DATED 21-06-2016 PASSED BY THE 4TH RESPONDENT |
| EXHIBIT P5 | COPY OF THE ORDER DATED 25-07-2015 IN WPC NO.5974/2015 OF THE HIGH COURT OF KERALA |
| EXHIBIT P6 | COPY OF THE ORDER DATED 25-07-2015 IN WPC NO.5974/2015 OF THE HIGH COURT OF KERALA |
| EXHIBIT P7 | COPY OF THE LAND POLICY FORMULATED BY 5TH RESPONDENT |
| EXHIBIT P9 | COPY OF BILL NO.4938 DATED 02/09/2017 ISSUED TO JAIRAM AND SONS. |
| EXHIBIT P10 | COPY OF BILL NO.4934 DATED 02/09/2017 ISSUED TO INDIAN INDUSTRIES LTD. |
| EXHIBIT P8 | COPY OF THE REPRESENTATION DATED 03-03-2017 |
| EXHIBIT P14 | COPY OF BILL NO.9501 DATED 01-12-2016 ISSUED TO THE 3RD PETITIONER. |
| EXHIBIT P11 | COPY OF BILL 4935 DATED 02/09/2017 ISSUED TO INDIAN INDUSTRIES LTD. |
| EXHIBIT P14(a) | COPY OF BILL NO. 9502 DATED 01-12-2016 ISSUED TO THE 3RD PETITIONER. |
| EXHIBIT P12 | COPY OF BILL 4769 DATED 02/09/2017 ISSUED TO MERCANTILE AND MARINE SERVICE. |
| EXHIBIT P13 | COPY OF LIST OF MEMBERS OF 1ST PETITIONER ASSOCIATION. |
| EXHIBIT P14(b) | COPY OF BILL NO.9503 DATED 01-12-2016 ISSUED TO THE 3RD PETITIONER. |
| EXHIBIT P14(c) | COPY OF BILL NO. 13252 DATED 01-03-2017 ISSUED TO THE 3RD PETITIONER. |

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| EXHIBIT P14(d) | COPY OF BILL NO. 13253 DATED 01-03-2017 ISSUED TO THE 3RD PETITIONER. |
| EXHIBIT P14(e) | COPY OF BILL NO.143254 DATED 01-03-2017 ISSUED TO THE 3RD PETITIONER. |
| EXHIBIT P15 | COPY OF TAX INVOICE NO. 4926 DATED 02-09-2017 ISSUED TO THE 3RD PETITIONER. |
| EXHIBIT P15(a) | COPY OF TAX INVOICE NO.4927 DATED 02-09-2017 ISSUED TO THE 3RD PETITIONER. |
| EXHIBIT P15(b) | COPY OF TAX INVOICE NO.4928 DATED 02-09-2017 ISSUED TO THE 3RD PETITIONER. |
| EXHIBIT P15(d) | COPY OF TAX INVOICE NO. 11629 DATED 01-03-2018 ISSUED TO THE 3RD PETITIONER. |
| EXHIBIT P15(e) | COPY OF TAX INVOICE NO.11630 DATED 01-03-2018 ISSUED TO THE 3RD PETITIONER. |
| EXHIBIT P15(f) | COPY OF TAX INVOICE NO.5919 DATED 01-03-2018 ISSUED TO THE 3RD PETITIONER. |
| EXHIBIT P15(g) | COPY OF TAX INVOICE NO. 5920 DATED 01-03-2018 ISSUED TO THE 3RD PETITIONER. |
| EXHIBIT P15(h) | COPY OF TAX INVOICE NO.5921 DATED 01-03-2018 ISSUED TO THE 3RD PETITIONER. |
| EXHIBIT P15(i) | COPY OF TAX INVOICE NO.11827 DATED 01-03-2019 ISSUED TO THE 3RD PETITONER. |
| EXHIBIT P15(j) | COPY OF TAX INVOICE NO. 11828 DATED 01-03-2019 ISSUED TO THE 3RD PETITIONER. |
| EXHIBIT P15(k) | COPY OF TAX INVOICE NO.12642 DATED 26-03-2019 ISSUED TO THE 3RD PETITIONER. |
| EXHIBIT P16 | COPY OF THE DETAILS OF DUE PAYMENTS IN TABULAR FORMAT. |
| EXHIBIT P17 | COPY OF THE LETTER NO.EM/T/188/RENEWAL/2018 DATED 14-06-2019 ISSUED BY THE 1ST RESPONDENT. |
| RESPONDENT EXHIBITS | |
| EXHIBIT R1 (a) | TRUE COPY OF THE LETTER DATED 24.10.2002 ISSUED BY THE RESPONDENT |
| EXHIBIT R1 (b) | TRUE COPY OF LETTER DATED 16/03/2009 ISSUED BY THE 2ND PETITIONER ALONG WITH ANNEXURES. |
| EXHIBIT R1 (c) | TRUE COPY OF LETTER DATED 20/07/2013 ISSUED BY THE RESPONDENT. |
| EXHIBIT R1 (d) | TRUE COPY OF LETTER DATED 12/02/2010 ISSUED BY THE RESPONDENT. |
| EXHIBIT R1 (e) | TRUE COPY OF LETTER DATED 26/06/1997. |
| EXHIBIT R1 (f) | TRUE COPY OF LETTER DATED 16/03/2009 |

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| | ISSUED BY THE 2ND PETITIONER. |
| EXHIBIT R1(g) | TRUE COPY OF CLARIFICATIONS TO THE LAND POLICY GUIDELINES ISSUED BY THE MINISTRY IF SHIPPING UNDER COVER OF LETTER DATED 17/07/2015. |
| EXHIBIT R1(h) | TRUE COPY OF THE COMMON JUDGMENT DATED 10/07/2013 IN OP NO.5106/1992 AND CONNECTED CASES. |
| EXHIBIT R1(i) | TRUE COPY OF RECORD OF PROCEEDINGS DATED 20/01/2009 IN CIVIL APPEAL NO.2630/2004 AND CONNECTED CASES. |

// True Copy // PA To Judge