

01.04.2025.
Item No. 5.
Court No. 13
ap

M.A.T. 364 of 2017
With
I.A. No. CAN 1 of 2017 (Old CAN 2706 of 2017)
And
I.A. No. CAN 2 of 2017 (Old CAN 5363 of 2017)

Diamond Beverages Private Limited & Anr.
Versus
Union of India & Ors.

Mr. Airun Chakraborty,
Mr. Biswajit Chowdhury,
Mr. Jatan Munga.

...For the appellants.

Mr. Abhrajit Mitra,
Mr. Ashok Kumar Jena.

...For the respondent Port Trust.

Mr. Sunil Kumar Singhania.

...For the Union of India.

1. Let affidavits-in-opposition and replies to the application under Order XLI, Rule 27 of the Code as also to the supplementary affidavit and CAN 1 of 2017 being the stay application filed in Court today be kept with the record.
2. Mr. Airun Chakraborty, learned Counsel led by Mr. Sudhasavya Banerjee, learned Counsel for the appellants has placed the decision of the learned Single Judge of this Court. He has also lucidly placed the facts of the case.
3. It appears from the order of the learned Single Judge that the tenders floated by Shyama Prosad Mookherjee Port Trust for leasing out its lands, the two writ petitioners participated and had grievances with regard to the cancellation of the tender.

4. Before the learned Single Judge, Counsel for the Port Trust has submitted that a fresh tender and bidding process would commence soon and the same would be governed by a revised Tariff Authority for Major Port (TAMP) Guidelines that would be effective from 7th April, 2016.

5. There have been subsequent events that have been brought in by the appellants by way of supplementary affidavit. It appears from the supplementary affidavit that the appellant has participated in the afresh tendering process, succeeded in the same and continues to be in possession of the plots of land under long term lease of 30 years, without option for renewal, comprising in about 7143.21 square meters on Taratala Road for industrial activities.

6. An unconditional acceptance dated 17th October, 2017 of the Port Trust's letter of intent dated 10th October, 2016 is available in the affidavit-in-opposition filed by the Port Trust to the appellant's application under Order XLI, Rule 27 of the Code.

7. This Court is, therefore, of the view that the appeal may have become infructuous.

8. An application under Order XLI, Rule 27 of the Code bringing in new facts and possibly a new cause of action has been filed by the appellant, M/s. Diamond Beverages Private Limited. This Court is of the view that the subject matter of the said application

is outside the scope of the main writ petition and the issue with regard to the quantum of rates under the new TAMP must be and are hereby left to be agitated in independent proceedings by the appellant.

9. This Court wishes to record its appreciation for the diligence with which the appeal has been conducted by the learned Counsel for the appellants, Mr. Airun Chakraborty.

10. With the aforesaid observations, the instant appeal shall stand disposed of.

11. In view of the disposal of the appeal itself, all the pending connected applications are disposed of.

12. There will be no order as to costs.

13. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)