

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L)NO. 35870 OF 2023

Castrol India Limited

.. Petitioner

Versus

The Board of Mumbai Port Authority
& Others

.. Respondents

SMITA
RAJNIKANT
JOSHI

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SMITA RAJNIKANT
JOSHI
Date: 2024.07.30
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Adv. Mr. Viren Asar with Adv. Ahura Postvala, Adv. Anuj Athalye, Adv. Rohan Gupta and Adv. Shubham Kalbere i/b. Legasis Partners, for the Petitioner.

Adv. Mr. Rahul Jain with Ms. Khushboo Rupani i/b. HSA, for Respondent No.1.

Adv. Mr. P. M. Palshikar i/b. S. S. Ambedkar, for Respondent No.3.

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.

DATE: JULY 30, 2024

P. C.

1. The above Writ Petition is filed *inter alia* seeking to declare that under section 49 of the Major Port Trusts Act, 1963, Respondent No.2 (the Tariff Authority of Major Port) does not possess the power or jurisdiction to frame scale of rates of rent in respect of Respondent No.1's land falling out side the limits of the Mumbai Port. There are several other reliefs also sought in the above Writ Petition, *inter alia* declaring that the Respondents are not

entitled to frame, fix, levy and or charge any rates of rent/scale of rates of rent contrary to the ratio and the principles laid down by the Hon'ble Supreme Court in the case of *Jamshed Hormusji Wadia and Another v/s. The Board of Trustees of the Port of Mumbai & Others (2004) 3 SCC 214*.

2. The interim relief sought in the present Petition is that the Petitioner wants to surrender the plots of land and the compartments in their possession to the 1st Respondent (the Board of Mumbai Port Authority) and which they are refusing to take. When we enquired from the 1st Respondent Authority as to why they are refusing to take over possession, the learned Counsel appearing on behalf of the Authority, on instructions, stated that they shall take over possession of the plots of the Petitioner namely – R R No.2017, Plot No. 32, and Compartment Nos. 1 and 2, on 31st July, 2024 at 11.00 a.m. The learned Counsel appearing for the Petitioners stated that on possession being taken, the Port Authority shall also issue a Surrender Certificate (as per Ex. PP of the Petition) as done in the past for other plots that have been surrendered by the Petitioners. We accept the said statement as an undertaking given to the Court. In light of this statement, the learned Counsel appearing on behalf of the Petitioners does not press for any further ad-interim relief.

3. It is needless to clarify that the surrender of the aforesaid properties by the Petitioner to Respondent No.1 is without prejudice to the rights and contentions of all the parties.

4. Tag the above Writ Petition along with Writ Petition Nos.3143 of 2022 and other connected matters.

5. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]