

ITEM NO.18

COURT NO.3

SECTION XIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).17706/2010

(From the judgement and order dated 23/03/2010 in WP No.4/2009
of The HIGH COURT OF ORISSA AT CUTTACK)

PARADEEP PORT TRUST & ANR

Petitioner(s)

VERSUS

INTERLINK P.LTD.

Respondent(s)

(With prayer for interim relief)

Date: 19/07/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE H.L. GOKHALE

For Petitioner(s) Mr. S.B. Upadhyay, Sr. Adv.
 Mr. Shiv Mangal Sharma, adv.
 Ms. Sharmila Upadhyay, Adv.

For Respondent(s) Mr. L. Nageswara Rao, Sr. Adv.
 Mr. Shibashish Misra, Adv.
 Mr. Digambar Mishra, Adv.

UPON hearing counsel the Court made the following
O R D E R

notice Mr. Shibashish Misra, learned counsel accepts
 for the caveator-respondent.

Leave granted.

The appeal is allowed in terms of the signed
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order, set aside the impugned order dated 23.3.2010
and remand the matter to the High Court for disposal of
the writ petition in accordance with law. The
respondent shall pay costs of Rs.25,000/- to
appellant.

The learned counsel for the respondent
submitted that the respondent has been currently using
the plot for executing an export contract and
requested that the respondent may be permitted to use
the plot upto 10th August, 2010. Such permission is
granted subject to payment of all arrears to the
appellant.

We make it clear that this order will not come in the way of respondent applying to the Port Authority for any relief or the Port trust considering such applications in accordance with law.

(O.P. Sharma) (M.S. Negi)
Court Master Court Master
(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5671 OF 2010
(Arising out of SLP(C)No.17706/2010)

PARADEEP PORT TRUST & ANR

Appellants

VERSUS

INTERLINK P.LTD.

Respondent

O R D E R

Mr. Shibashish Misra, learned counsel accepts notice for the caveator-respondent. Leave granted.
Heard the parties.

2. On 12.7.2004 the appellant Port Trust had allotted Plot No.3F/6 measuring 3000 sq.meters in the custom bound area of the port to the respondent who is engaged in the business of exporting iron ore. The said allotment was cancelled on 11.8.2005 on the ground that the respondent did not meet the minimum requirement and also committed defaults of various terms of allotment. Subsequently, on a direction by the High Court (dated 22.2.2007 in W.P.No.12915/2005)

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to consider the respondent's request for renewal, the appellant considered and granted an extension upto 31.3.2008. Thereafter the appellant again cancelled

the allotment on 5.6.2008 on account of unsatisfactory performance. In a subsequent writ petition (W.P.No.8213/2008) the High Court monitored the performance for a month and found that the performance of respondent unsatisfactory, but nevertheless directed the appellant to consider respondent's representation for consideration with reference to the performance of other plot holders. The appellant monitored the performance of the respondent and again cancelled the allotment on 19.12.2008 and sought vacant possession. In another writ petition filed by the respondent (W.P.No.4 of 2009), the High Court by its order dated 26.6.2009 ordered status quo in regard to possession as on 5.6.2008 and by a subsequent interim order dated 29.7.2009 directed priority berthing to all future vessels from the respondent. Ultimately by a virtual non-speaking order dated 23.3.2010, the High court allowed the writ petition and has directed appellant to make a permanent allotment of the said plot No.3F/6 to the respondent and further directed that respondent shall be given the benefit of third shipping whenever the respondent feels that it would not be able to fulfil the target.

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3. The impugned order (as also the series of orders of the High Court) is beyond the scope of exercise of writ jurisdiction. The High Court has virtually tried to run the business of the Port Trust and taken all decisions as far as the respondent is concerned and directed grant of benefits to respondent, even after appellant established repeated breaches/non-performance. Ultimately, the High Court has even chosen to direct the permanent allotment of the plot without assigning any reasons. Such orders

are wholly unwarranted. The well recognised principles that the courts will not interfere in the matters of policy or with contractual obligations were completely ignored by the High Court.

4. We, therefore, allow this appeal, set aside the impugned order dated 23.3.2010 and remand the matter to the High Court for disposal of the writ petition in accordance with law. The respondent shall pay costs of Rs.25,000/- to appellant.

4. The learned counsel for the respondent submitted that the respondent has been currently using the plot for executing an export contract and requested that the respondent may be permitted to use the plot upto 10th August, 2010. Such permission is granted subject to payment of all arrears to the appellant.

5. We make it clear that this order will not come in the way of respondent applying to the Port Authority for any relief or the Port trust considering such applications in accordance with law.

.....J.
[R.V.RAVEENDRAN]

NEW DELHI
DATED JULY 19, 2010.

.....J.
[H.L. GOKHALE]