2025 INSC 257

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2025
[@SPECIAL LEAVE PETITION (CIVIL) NO.15490 OF 2021]

JSW STEEL LTD. **APPELLANT**

VERSUS

THE BOARD OF TRUSTEES OF THE MUMBAI PORT TRUST MUMBAI & ORS. **RESPONDENTS**

R1: THE BOARD OF TRUSTEES OF THE MUMBAI PORT TRUST MUMBAI

R2: M/S. N.S. GUZDAR & CO.

R3: M/S SHIVAM ENTERPRISES

R4: UNITED INDIA INSURANCE COMPANY LTD.

O R D E R

AHSANUDDIN AMANULLAH & PRASHANT KUMAR MISHRA, JJ.

Leave granted. Heard learned senior counsel/counsel for the parties.

BACKGROUND:

2. The appellant is aggrieved by the Impugned Order, by which Writ Petition No.2127/1996 filed by it before the High Court was disposed of. The High Court noted that the said writ petition principally sought the following reliefs:

'(a) That this Hon'ble Court be pleased to issue a Writ of prohibition or a writ in the nature of prohibition or any other appropriate writ, order or direction under Article 226 of the Constitution of India, prohibiting the Respondents from insisting upon the Petitioners to remove the wreck of SATYAM or take any steps in that behalf and/or to deposit any amounts as costs of such wreck

> ***removal;***
> ***(b) For a permanent injunction restraining the Respondents, their servants and agents from taking any steps against the Petitioners and preventing the Petitioners from availing of the services of the Mumbai Port Trust and its waters for the purpose of safely transitting their barges containing iron ore being moved from the mother vessel to Dharamtar jetty;'***

3. The writ petition has been disposed of by the High Court in the following terms:

> ***'(i) We permit the Respondent No.1 Mumbai Port Trust to withdraw the amount deposited in this Court by the Petitioner alongwith accrued interest without prejudice to the rights and contentions of the parties;***
> ***(ii) Inasmuch there are disputed facts involved and since the Petition is now rendered infructuous, it could be open for the Petitioner to file a suit against the Respondents for refund/recovery of Rs.70,00,000/- alongwith accrued interest, if so advised. The remedies of the Respondent No.1 Mumbai Port Trust to recover further amounts, if any, are also kept open;***
> ***(iii) The Writ Petition and the Notice of Motion are disposed of in the aforesaid terms. There shall be no order as to costs.'***

<u>SUBMISSIONS</u>:

4. Learned senior counsel for the appellant submits that the crux of the issue is as to whether the appellant is liable to pay the charges for removal of the wreck of a barge ('*Satyam*') belonging to respondent no.3 (M/s Shivam Engineers) which capsized while ferrying iron ore from the ship of the appellant to the port concerned. Learned counsel drew the attention of this Court to the Notice/Communication dated 19.04.1995 issued by the then Deputy Conservator of respondent no.1, which specifically states that

power under Section 14(1)[1] of the Indian Ports Act, 1908[2] was being exercised and the appellant (in its then *avatar* as '*M/s Nippon Denro Ispat Ltd.*') was called upon '*to deposit a sum Rs.70 lakhs[3] as adequate security to ensure that the said wreck has been raised or removed within the stipulated period*'.[4] It was submitted that though the appellant had deposited the amount, the question was as to whether it was liable since Section 14(1) of the Act places liability on the owner of the vessel concerned and, admittedly, in the present position, the owner of the vessel was respondent no.3 and not the appellant. It was further contended that the High Court disposed of the writ petition on the erroneous presumption that it has become infructuous and that the parties (appellant and respondent no.1 *inter-se*) have the remedy to recover further amount(s), which was kept open. It was submitted that once the law is clear as to on whom the liability for the wreckage or its removal lies, the appellant could not be saddled with the cost therefor. Lastly, it was urged that the further direction in favour of respondent no.1 to encash Rs.70 lakhs (alongwith accrued

[1] '***14. Raising or removal of wreck impeding navigation within limits of port***.—*(1) If any vessel is wrecked, standard or sunk in any port in such a manner as to impede or likely to impede any navigation thereof, the conservator shall give notice to the owner of the vessel to raise, remove or destroy the vessel within such period as may be specified in the notice and to furnish such adequate security to the satisfaction of the conservator to ensure that the vessel shall be raised, removed or destroyed within the said period:*

Provided that the conservator may extend such period to such further period as he may consider necessary having regard to the circumstances of such case and the extent of its impediment to navigation.

xxx'

[2] Hereinafter referred to as the 'Act'.

[3] Under Section 14(3) of the Act, which reads as under:

'*(3) The expenses and further sum aforesaid shall be payable to the conservator out of the sale-proceeds of the property, and the balance shall be paid to the person entitled to the property recovered, or, if no such person appears and claims the balance, shall be held in deposit for payment, without interest, to any person thereafter establishing his right thereto:*

Provided that the person makes his claim within three years from the date of the sale.'

[4] The stipulated period was 30 days.

interest), deposited by the appellant pursuant to earlier order(s) of the High Court, is totally unjustified in law.

5. *Per contra*, learned counsel for respondent no.1 submits that the High Court has merely closed the issue as 20 years had passed. It was submitted that the wreckage has already been cleared. Learned counsel also advanced that the right of the appellant has been safeguarded, inasmuch as, it has the right to move a suit, where the dues, if any, against the parties concerned can be thrashed out.

DECISION:

6. Having considered the matter, we find merit in the submissions put forth by the appellant. The way the High Court approached the issue appears to be erroneous for the simple reason that the *lis* was very much alive, as a pure question of law stood raised i.e., on whom the liability for clearing the wreckage was to be fastened. The Impugned Order has not dealt with this fundamental issue. When on a purely legal issue, the appellant raised a legal objection, and also deposited the amount demanded by respondent no.1 in the High Court, in our considered view, the High Court was required to answer the question of law. In this analysis, no exercise was required involving disputed factual questions. Moreover, the efflux of time is a result of systemic delay, not due to any *laches* on the part of the appellant.

7. Our view on the aspects of (a) lapse of time alone not being a ground to close the matter, and (b) adjudicating a petition under Article 226 when it does not really involve a disputed factual setting, finds support from the decisions of this Court, extracted

below:

***B S Hari Commandant v Union of India*, (2023) 13 SCC 779:**

> ***'51. Article 226 of the Constitution is a succour to remedy injustice, and any limit on exercise of such power, is only self-imposed. Gainful reference can be made to, amongst others, A.V. Venkateswaran v. Ramchand Sobhraj Wadhwani [A.V. Venkateswaran v. Ramchand Sobhraj Wadhwani, 1961 SCC OnLine SC 16: (1962) 1 SCR 753: AIR 1961 SC 1506] and U.P. State Sugar Corpn. Ltd. v. Kamal Swaroop Tandon [U.P. State Sugar Corpn. Ltd. v. Kamal Swaroop Tandon, (2008) 2 SCC 41: (2008) 1 SCC (L&S) 352]. The High Courts, under the constitutional scheme, are endowed with the ability to issue prerogative writs to safeguard rights of citizens. For exactly this reason, this Court has never laid down any straitjacket principles that can be said to have "cribbed, cabined and confined" [to borrow the term employed by the Hon. Bhagwati, J. (as he then was) in E.P. Royappa v. State of T.N. [E.P. Royappa v. State of T.N., (1974) 4 SCC 3 : 1974 SCC (L&S) 165]], the extraordinary powers vested under Articles 226 or 227 of the Constitution. Adjudged on the anvil of Nawab Shaqafath Ali Khan [Nawab Shaqafath Ali Khan v. Nawab Imdad Jah Bahadur, (2009) 5 SCC 162: (2009) 2 SCC (Civ) 421], this was a fit case for the High Court to have examined the matter threadbare, more so, when it did not involve navigating a factual minefield.'***
>
> **(emphasis supplied)**

***Union Territory of Ladakh v Jammu and Kashmir National Conference*, 2023 SCC OnLine SC 1140:**

> ***'32. The Court would categorically emphasize that no litigant should have even an iota of doubt or an impression (rather, a misimpression) that just because of systemic delay or the matter not being taken up by the Courts resulting in efflux of time the cause would be defeated, and the Court would be rendered helpless to ensure justice to the party concerned…'***
>
> **(emphasis supplied)**

8. In the above circumstances, we are unable to sustain the order impugned. Accordingly, the same is set aside. WP No.2127/1996 is revived. The matter is remanded to the High Court to consider all issues on merits as raised in the writ petition. As the monies deposited by the appellant are stated to have already been withdrawn by respondent no.1, were the appellant to eventually

succeed in the writ petition, the appellant would be suitably compensated on this score.

9. Having regard to the fact that the writ petition is of the year 1996, we request the High Court to give priority to the matter and dispose it of as expeditiously as possible. Our request is to be construed in line with *Tirupati Balaji Developers (P) Ltd. v State of Bihar*, (2004) 5 SCC 1. Parties are not precluded from raising any question(s) of law and fact.

10. The appeal stands allowed in the afore-mentioned terms.

11. I.A. Diary No.40046/2024 (seeking impleadment) stands disposed of with the observation that it shall be open to the applicant/proposed respondent to make such prayer before the High Court, which may consider the same as per law. Remaining I.A.s stand closed forthwith, in view of the appeal itself being allowed.

……J.
[AHSANUDDIN AMANULLAH]

……J.
[PRASHANT KUMAR MISHRA]

NEW DELHI
14 FEBRUARY 2025

ITEM NO.40 COURT NO.17 SECTION IX

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

Petition for Special Leave to Appeal (Civil) No.15490/2021

[Arising out of the Impugned Final Judgment and Order dated 13-08-2021 in WP No.2127/1996 passed by the High Court of Judicature at Bombay]

JSW STEEL LTD. Petitioner

VERSUS

THE BOARD OF TRUSTEES OF THE MUMBAI PORT TRUST MUMBAI & ORS. Respondents

[IA No.124670/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No.124669/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES
IA No.133155/2021 - STAY APPLICATION]

Date : 14-02-2025 This matter was taken up for hearing today.

CORAM :
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Petitioner(s) Mr. Huzefa Ahmadi, Sr. Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Rishi Agrawala, Adv.
Ms. Aanchal Mullick, Adv.
Ms. Kamakshi Sehgal, Adv.
Mr. Rohan Sharma, Adv.
Mr. E. C. Agrawala, AoR

For Respondent(s) Mr. Abhishek Puri, Adv.
Ms. Surbhi Gupta, Adv.
Mr. Sahil Grewal, Adv.
Mrs. Reeta Dewan Puri, Adv.
Mr. P. N. Puri, AoR

Mr. Apoorv Shukla, AoR
Mr. Puneet Chahar, Adv.
Ms. Prabhleen A. Shukla, Adv.

UPON hearing Counsel, the Court passed the following
O R D E R

Leave granted.

2. Heard learned senior counsel/counsel for the parties.

3. The appeal stands allowed in terms of the signed reportable order (hereinafter referred to as the ‘order’).

4. The pending applications are dealt with in the manner indicated in the order.

(SAPNA BISHT) **(MAMTA RANI)**
COURT MASTER (SH) **COURT MASTER (NSH)**

[Signed Reportable Order is placed on the file.]