IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2127 OF 1996

JSW Steel Limited formerly known as ISPAT Industries Limited … Petitioner

vs.

The Board of Trustees of the Mumbai Port Trust and others … Respondents

WITH

INTERIM APPLICATION (L) NO.17073 OF 2025

WITH

INTERIM APPLICATION (L) NO.29912 OF 2025

WITH

INTERIM APPLICATION (L) NO.13670 OF 2025

IN

WRIT PETITION NO.2127 OF 1996

Mr. Surel Shah, Senior Advocate a/w. Ms. Fatema Kachwalla and Ms.Meher Mistri, i/b. J. Sagar Associates for petitioner and for applicant in IAL/17073/2025 and IAL/29912/2025.

Mr. Venkatesh Dhond, Senior Advocate a/w. Mr. Dhruva Gandhi and Ms. Heenal Wadhwa, i/b. The Law Point for respondent No.1.

Mr. S. Shamim a/w. Mr. Murtuza Slatewala, i/b. S. Shamim and Co. for respondent No.2.

Mr. Shyam Kapadia a/w. Mr. Vikas V. Warekar and Mr. Shamant Satia, i/b. Warekar and Warekar for respondent No.3 and for applicant in IAL/13670/2025.

CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.
Reserved on : FEBRUARY 17, 2026
Pronounced on : APRIL 10, 2026

JUDGEMENT : (*Per Justice Manish Pitale*)

. The proceedings in this petition were remitted by the Supreme Court by its order dated 14.02.2025, after setting aside order dated

13.08.2021 passed by a Division Bench of this Court, disposing of the writ petition as infructuous, on the basis of the events that took place during the pendency of the petition. The Supreme Court found that the writ petition could not have been disposed of, as a pure question of law was required to be decided in the light of Section 14 of the Indian Ports Act, 1908 (for short 'the said Act') and that in that context, the *lis* between the parties was very much alive. The Supreme Court requested this Court to give priority to the matter for disposing it of expeditiously. In this backdrop, the writ petition was taken up for hearing and disposal.

2. The petitioner, formerly known as ISPAT Industries Limited, was engaged in the business of manufacturing steel at its plant located at Dolvi, Dharamatar, Raigad and for the said purpose, it was required to import large quantities of iron ore. The petitioner constructed a private jetty at Dharamatar and it's cargo was being transported through the jetty to the said plant from waters upon which the respondent No.1 - Mumbai Port Trust (MPT), formerly known as Bombay Port Trust, was having control. As large vessels could not directly access the jetty, the cargo was required to be discharged at anchorage outside the port limits of respondent No.1 – MPT and it had to be transported to the petitioner's jetty through the waters of the port in small barges. During monsoon season, the petitioner had to conduct its lighterage operations from Jawaharlal Nehru Port Trust (JNPT) anchorage to a jetty at Dharamatar.

3. A number of communications were exchanged between the petitioner and the respondent No.1 - MPT for permission to the petitioner to use the said waters for transporting cargo in barges from larger vessels outside the port limit to the petitioner's jetty on payment of applicable charges. In this context, on 27.09.1994, the

petitioner executed a contract with the respondent No.2 - N. S. Guzder & Co., under which the said respondent No.2 was responsible for providing barges for transporting the said cargo of the petitioner. Respondent No.3 - Shivam Engineers executed a memorandum of understanding (for short, 'MOU') with the respondent No.2 to provide barges, including a barge called M. V. Satyam on a time charter basis. On 09.01.1995, requisite permission was granted to the said barge M. V. Satyam under the provisions of the said Act to move in the said waters under the control of the respondent No.1 - MPT.

4. On 11.04.1995, the said barge M. V. Satyam, carrying iron ore from a larger vessel M. V. Aditya Gaurav to the petitioner's jetty, sank in the harbour at anchorage W-1. In this backdrop, on 19.04.1995, the respondent No.1, through its Deputy Conservator, issued a notice addressed to the petitioner and respondent Nos.2 and 3 under Section 14(1) of the said Act, calling upon them to raise and remove the wreck of the said barge M. V. Satyam within 30 days from the date it sank, so that the wreck impeding navigation of vessels entering or leaving the port of Mumbai and the Jawaharlal Nehru Port, would be removed. The respondent No.1 - MPT further called upon the noticees to deposit a sum of ₹ 70 lakhs as security, to ensure that the said wreck was raised or removed within the stipulated period of time.

5. A number of communications were exchanged between the parties and meetings were held in the context of the situation created by sinking of barge M. V. Satyam. On 30.09.1996, the petitioner sent a communication to the Deputy Conservator of respondent No.1 - MPT that in the light of the fact that under Section 14 of the said Act, only the 'owner' of the barge could be held responsible for removal of

such wreckage, the petitioner could not be held responsible and that the demand made by the respondent No.1 – MPT for making financial contribution towards removal of the wreckage, was not acceptable.

6. In this backdrop, on 14.10.1996, the Deputy Conservator of the respondent No.1 - MPT sent a communication to the petitioner referring to the sinking of barge M. V. Satyam and the failure on the part of the petitioner to deposit ₹ 70 lakhs, in terms of the notice dated 19.04.1995. Thereupon, it was stated that since the petitioner had refused to participate in the tender process for salvaging the wreck, the permission granted to the petitioner for transit of barges for lighterage operations at the Mumbai harbour, stood suspended with immediate effect.

7. Since this had an adverse impact on the very business of the petitioner, it was constrained to file the instant Writ Petition No.2127 of 1996, before this Court. The petitioner prayed for a writ against the respondent No.1, prohibiting it from insisting on the petitioner removing the said wreck of barge M. V. Satyam or depositing amount in that context and also prayed for restraining the respondent No.1 from preventing the petitioner from availing the services of the MPT and its waters. The petitioner also prayed for interim stay of the aforesaid communication dated 14.10.1996.

8. On 31.10.1996, this Court, while admitting the writ petition, granted ad-interim relief in terms of prayer clause (c), thereby staying the operation of the impugned communication dated 14.10.1996, subject to the petitioner depositing a sum of ₹ 70 lakhs in this Court. It is to be noted that prior to the aforesaid communication dated 14.10.1996 being issued by the respondent

No.1 - MPT, a number of communications were exchanged between the parties, with regard to raising or removing of the wreckage. The respondent No.1 - MPT specifically relies upon such communications in support of its contentions raised before this Court during the course of hearing.

9. It is the matter of record that the respondent No.1 - MPT called for tenders for removing the wreckage and for undertaking salvage operations. After initial tenders failed, eventually, one Madgavkar Salvage was awarded the contract on 'no cure - no pay' basis for a sum of ₹ 87 lakhs. On 29.01.1998, the said contractor - Madgavkar Salvage completed the salvage operations and raised a bill with regard to the same. Respondent No.1 - MPT cleared the bill.

10. This writ petition came up for hearing on 13.08.2021, when a Division Bench of this Court took into consideration the aforesaid fact of the salvage operations being completed. It was noted that the respondent No.1 - MPT had already paid the amount to Madgavkar Salvage for the said salvage operations and that a notice of motion was filed on behalf of the said respondent for withdrawing the amount deposited by the petitioner.

11. Having taken into consideration the events that took place during the pendency of the writ petition, the Division Bench of this Court held that the petition was rendered infructuous and disposed of the same, as well as the notice of motion filed by the said respondent for withdrawal of the amount by permitting the said respondent to withdraw the amount deposited in this Court along with accrued interest, without prejudice to the rights and contentions of the parties. It was further held that since disputed questions of facts were involved and in the backdrop of the writ petition having

been rendered infructuous, it was open for the petitioner to file a suit against the respondents for refund / recovery of ₹ 70 lakhs along with accrued interest, if so advised. The remedies of the respondent No.1 to recover further amounts, if any, were also kept open.

12. Aggrieved by the said order of this Court, the petitioner filed Special Leave Petition (C) No.15490 of 2021. On 14.02.2025, the Supreme Court found the approach adopted by this Court, while disposing of the writ petition by the order dated 13.08.2021, as erroneous, holding that the *lis* between the parties was very much alive. It was held that a pure question of law i.e. on whom the liability for clearing the wreckage was to be fastened, was raised and that it ought to have been decided by this Court, as the petitioner had raised a legal objection giving rise to the pure legal issue, which ought to have been answered. On this basis, the said order dated 13.08.2021 passed by this Court, was set aside and the matter was remanded to this Court with a request for expeditious disposal.

13. Mr. Surel Shah, the learned senior counsel appearing for the petitioner submitted that notice dated 19.04.1995 issued under Section 14 of the said Act, although addressed to the petitioner also, could not be the basis to foist liability on the petitioner for raising or removing the wreckage of barge M. V. Satyam, as the petitioner was not the owner of the said barge. It was submitted that the said barge M. V. Satyam qualified to be a 'vessel' under Section 3(7) of the said Act and since only the 'owner' of the vessel could be held liable under Section 14 thereof, there was no question of the petitioner being held liable, in the facts and circumstances of present case. Attention of this Court was specifically invited to the order dated 14.02.2025, whereby the Supreme Court had remitted the present matter to this Court. It was submitted that the Supreme Court

specifically held that the *lis* between the parties was very much alive and that a pure question of law arose in the matter, pertaining to the issue as to on whom the liability for clearing the wreckage, was to be fastened. By referring to the contents of Section 14 of the said Act, it was submitted that apart from the said provision specifically requiring notice to be issued to the 'owner' of the vessel, a mechanism was provided as to in what manner the expenses for raising, removal or destroying the wreckage were to be fastened.

14. It was submitted that the petitioner had specifically denied its liability on the ground that it was not the owner of the barge M. V. Satyam. It was submitted that the documents on record clearly demonstrated that the respondent No.3 was the owner of the said barge and therefore, the petitioner could not be held liable. It was submitted that the emphasis placed on behalf of respondent No.1 - MPT on communications exchanged with the petitioner was misplaced and the ownership of the vessel cannot be fastened on the petitioner merely on the basis of such exchange of communications. It was submitted that the petitioner had only engaged the services of the said barge owned by respondent No.3, through respondent No.2 and that the MOU executed between respondent Nos.2 and 3 demonstrated that the barge was hired on a time charter basis, wherein the petitioner had no commercial control over the barge.

15. Attention of this Court was also invited to the letter dated 09.01.1995 issued by the Deputy Conservator of respondent No.1 - MPT, addressed to respondent No.2, granting permission for the said barge M. V. Satyam to move in Bombay harbour and its waters. On this basis, it was submitted that the proceeding under Section 14 of the said Act could be undertaken only in respect of the owner of the barge and not the petitioner and that the notice was wrongly issued

to the petitioner.

16. The learned senior counsel appearing for the petitioner further referred to the contents of the affidavit filed on behalf of respondent No.1 - MPT in Notice of Motion No.374 of 1998 filed in the present petition, wherein it was specifically stated that respondent Nos.2 and 3 were the owners of the barge and that they were liable to secure respondent No.1 - MPT for the expenses incurred for removal of salvage. It was submitted that therefore, respondent No.1 - MPT itself conceded that the petitioner was not the owner of the barge.

17. Reliance was placed on the judgement of the Supreme Court in the case of *The Union of India vs. Gosalia Shipping (Pvt.) Ltd.*, **(1978) 3 SCC 23**, to elaborate as to what could be said to be a 'time charter party' as opposed to a 'voyage charter party'. It was submitted that the instant case pertained to a time charter party, wherein the ownership and possession of the vessel (in this case, M. V. Satyam) remained with the owner i.e. respondent No.3. It was emphasized that the petitioner was never in commercial control of the said barge and that it could never be said to be a disponent owner. On this basis, it was submitted that respondent No.1 - MPT cannot rely upon judgement of this Court in the case of *Liverpool and London Steamship Protection and Indemnity Association Ltd. vs. m. t. Symphony and others*, **(2003) 4 Mh.L.J. 708**, judgement of the Delhi High Court in the case of *Sara International Ltd. vs. Arab Shipping Co. (P) Ltd.*, **2009 (113) DRJ 717** and judgement of the Karnataka High Court in the case of *Zurbagan Shipping LLC vs. C. S. Flourish and others* (**judgement and order dated 31.10.2025 passed in Original Side Appeal No.4 of 2025**).

18. The learned senior counsel appearing for the petitioner relied upon judgements of the Calcutta High Court in the cases of *Lee Young Sang and another vs. The Board of Trustees for the Port of Calcutta*, **1997 SCC OnLine Cal 231** and *Sri Maharshi Shipping Private Limited and another vs. Syama Prasad Mookerjee Port, Kolkata and others*, **2023 SCC OnLine Cal 5602**, to submit that Section 14 of the said Act required the 'owner' of the vessel to clear the salvage and this supported the contentions raised on behalf of the petitioner in this petition. Reliance was also placed on the judgement of this Court, in the case of *Oil and Natural Gas Corporation Ltd. vs. Osprey Underwriting Agencies Ltd. and others*, **(1998) 3 All MR 713**, to contend that the liability of removing the wreckage and salvage could not be foisted on the petitioner, in the facts and circumstances of the present case.

19. Since respondent No.1 - MPT sought to justify its stand on materials other than the contents of the said notice issued under Section 14 of the said Act and reliance was sought to be placed on Sections 10 to 12 thereof, it was submitted that the correctness or otherwise of the said notice, could be tested only on the basis of the contents thereof and not any other extraneous material. It was further submitted that this was not a case of a wrong provision being quoted or the source of power being available elsewhere for respondent No.1 - MPT.

20. Reliance was placed on the judgements of the Supreme Court in the cases of *Commissioner of Police, Bombay vs. Gordhandas Bhanji*, **1951 SCC 1088** and *Mohinder Singh Gill and another vs. The Chief Election Commissioner, New Delhi and others*, **(1978) 1 SCC 405**. It was also submitted that respondent No.1 - MPT was not justified in relying upon the judgement of this Court in the case of

Adani Ports and Special Economic Zone Limited vs. Board of Trustees of Jawaharlal Nehru Port Authority and others, **2022 SCC OnLine Bom 1326** and judgements of the Supreme Court in the cases of *Assistant General Manager, State Bank of India and another vs. Tanya Energy Enterprises, Through its Managing Partner Shri Alluri Lakshmi Narasimha Varma* (**judgement and order dated 15.09.2025 passed in Civil Appeal No.11134 of 2025**) and *Chairman, All India Railway Recruitment Board and another vs. K. Shyam Kumar and others*, **(2010) 6 SCC 614**, for the reason that in the said cases, the Courts found that there was sufficient material in the pleadings and documents to test the contentions raised by the petitioner, challenging action undertaken by instrumentalities of the State.

21. In the said cases, the Courts found that such pleadings and material could certainly be taken into account, even if the position of law laid down by the Supreme Court in the aforesaid cases of **Commissioner of Police, Bombay vs. Gordhandas Bhanji** (*supra*) and **Mohinder Singh Gill and another vs. The Chief Election Commissioner, New Delhi and others** (*supra*), was to be taken into consideration. But, in the present case, there are no pleadings or any documents on record to show as to how respondent No.1 - MPT can now seek to rely upon Sections 10 to 12 of the said Act, to justify the notice specifically issued under Section 14 thereof. It was submitted that in this regard, reliance placed on a plethora of other judgements on behalf of respondent No.1 - MPT, is also not justified.

22. It was further submitted that the contention raised on behalf of respondent No.1 - MPT by relying upon the provisions of the Merchant Shipping Act, 1958 (for short, Merchant Shipping Act), is also not justified, as the aforesaid point has been raised in the written submissions at the time of final hearing, with no basis for the

same in the pleadings in the writ petition. It was submitted that the said respondent was trying to justify its actions against the petitioner by taking recourse to the said statute, which does not find mention either in the said notice dated 19.04.1995 issued under Section 14 of the said Act, or in any other affidavit or documents on record. Without prejudice to the said submission, it was submitted that a proper reading of the provisions of the Merchant Shipping Act, including Section 402 thereof, on which reliance was placed by respondent No.1 - MPT, would show that the same cannot apply to the facts and circumstances of the present case.

23. Section 402 of the Merchant Shipping Act pertains to services rendered for recovering salvage, cargo or wreck and it provides for a specific mechanism for the same. It has to be read with the Merchant Shipping (Wrecks and Salvage) Rules, 1974 (for short, the Merchant Shipping Rules) that provide a further elaborate mechanism to deal with such situations. Any action thereunder presupposes certain steps to be taken, which admittedly were not taken by respondent No.1 - MPT and therefore, at this belated stage of hearing of the writ petition, the said respondent cannot be allowed to rely upon the said provisions to justify its action against the petitioner.

24. In this regard also, reliance was placed on the aforementioned contention that the action of respondent No.1 - MPT could not be justified on the basis of provisions of law not relied upon and the pleadings, affidavit or material on record, making no reference to the same. It was further submitted that even in the cases where this Court and Supreme Court looked at pleadings, affidavit and material available on record to test the correctness or otherwise of the impugned action, a measure of public interest was involved, while in the present case, the only question was regarding the identification

of the party liable under Section 14 of the said Act.

25. The learned senior counsel appearing for the petitioner further submitted that respondent No.1 - MPT could certainly not rely upon the principles of *Quantum Meruit* and Polluter Pays, as the said principles are wholly inapplicable to the facts of the present case. It was nowhere the case of the said respondent that any pollution was caused by the incident in question and that action in that regard was contemplated, when notice was issued under Section 14 of the said Act. Similarly, respondent No.1 - MPT was not providing any service in respect of removal of wreckage of barge M. V. Satyam to invoke the *Quantum Meruit* principle.

26. It was further submitted that while remanding the matter, the Supreme Court had also clearly indicated that the petitioner was liable to be compensated in the event the petition succeeded, as the respondent No.1 - MPT had already withdrawn the amount deposited by the petitioner as per order passed by this Court. It was submitted that after the writ petition was dismissed as per the earlier order passed by this Court, which was set aside by the Supreme Court in appeal, the said respondent MPT had withdrawn the amount deposited by the petitioner along with interest i.e. ₹ 4,09,25,764. It was submitted that in the event, this Court accepts the contentions of the petitioner and sets aside the impugned order, thereby allowing the present petition, the said respondent ought to be directed to pay the said amount to the petitioner.

27. On the other hand, Mr. Venkatesh Dhond, learned senior counsel appearing for respondent No.1 - MPT submitted that the communications exchanged between the petitioner and the said respondent show that at every stage, the petitioner referred to the

barges used for lighterage operations, as ‘our barges’. These included the barge M. V. Satyam that sank, leading to the controversy between the parties. It was emphasized that permission was also granted for the said barge M. V. Satyam to be used in the waters under the control of the said respondent, on applications made by the petitioner in that regard. The conduct of the petitioner, immediately after the incident of sinking of the said barge, is also significant, as it demonstrates that in a series of meetings held with the said respondent, the petitioner represented itself as the owner of the barge and also accepted to bear the liability of costs to be incurred for removal of wreckage of the said barge. In principle, the petitioner agreed to bear the expenses for removal of the cargo also and this was without any reservation.

28. In this regard, it was submitted that in its reply to the Notice of Motion No.374 of 1998 filed by respondent No.3, the petitioner adopted a new stand of foisting liability on the ‘owner’ of the barge, only in order to wriggle out of its responsibility and liability. It was further submitted that when communications were exchanged between the petitioner and respondent No.1 MPT, in respect of services of salvage companies sought to be engaged, the petitioner accepted its liability. Although the initial attempts to enter into contract with salvage companies, failed, eventually Madgavkar Salvage Company was engaged, which successfully removed the salvage and raised a bill on the respondent No.1 MPT. In the facts and circumstances of the present case, the petitioner ought to have borne the entire liability.

29. It was submitted that the petitioner was deliberately interpreting Section 14 of the said Act in a hyper-technical manner, to claim that it would foist liability only on the ‘registered owner’ of

the vessel. Reliance was placed on the judgement of this Court in the case of **Liverpool and London Steamship Protection and Indemnity Association Ltd. vs. m. t. Symphony and others** (*supra*), judgement of the Delhi High Court in the case of **Sara International Ltd. vs. Arab Shipping Co. (P) Ltd.** (*supra*) and judgement of the Karnataka High Court in the case of **Zurbagan Shipping LLC vs. C. S. Flourish and others** (*supra*), to contend that the petitioner was the disponent owner, as it had engaged the services of the barge M. V. Satyam for transporting its cargo of iron ore between the mother ship to its jetty. This clearly demonstrated the commercial control over the said barge being exercised by the petitioner and therefore, as a disponent owner, it was liable to bear the expenses for removal of the vessel along with the cargo, under Section 14 of the said Act.

30. It was further submitted that the petitioner cannot escape liability on the ground that the subject notice dated 19.04.1995 mentioned only Section 14 of the said Act. Merely mentioning of a wrong provision would not lead to a conclusion that respondent No.1 - MPT did not have any source of power to call upon the petitioner to bear the liability of removal of wreckage of the said vessel.

31. It was submitted that the petitioner cannot be allowed to interpret the law laid down by the Supreme Court in the cases of **Commissioner of Police, Bombay vs. Gordhandas Bhanji** (*supra*) and **Mohinder Singh Gill and another vs. The Chief Election Commissioner, New Delhi and others** (*supra*), to contend that other than the contents of the said notice dated 19.04.1995, this Court cannot look at any other material. Much emphasis was placed on the judgement of this Court in the case of **Adani Ports and Special Economic Zone Limited vs. Board of Trustees of Jawaharlal Nehru Port Authority and others** (*supra*) and judgement of the Supreme

Court in the case of **Assistant General Manager, State Bank of India and another vs. Tanya Energy Enterprises, Through its Managing Partner Shri Alluri Lakshmi Narasimha Varma** (*supra*), to contend that this Court could indeed look at all the material and documents on record, in order to test whether the respondent No.1 - MPT was justified in calling upon the petitioner to bear the liability of removal of wreckage.

32. In support of the said propositions, reliance was placed on further judgements of the Supreme Court in the cases of *N. Mani vs. Sangeetha Theatre and others,* **(2004) 12 SCC 278**, *P. K. Palanisamy vs. N. Arunmugham and another*, **(2009) 9 SCC 173** and *Commissioner of Customs & Central Excise, Goa vs. Pankaj Jaju*, **2013 SCC OnLine Bom 2063**. Reliance was also placed on the judgment of the Supreme Court in the case of *Union of India and another vs. Mohit Minerals Private Limited,* **(2022) 10 SCC 700**, to contend that non-reference to the source of power cannot vitiate its exercise and application, so long as such source of power legally exists.

33. The learned senior counsel appearing for respondent No.1 - MPT relied upon Sections 10 to 12 of the said Act, to contend that the source of power for the said respondent to foist liability on the petitioner, was clearly available under the said provisions. The material on record demonstrated that the cargo i.e. the iron ore belonging to the petitioner along with the said vessel i.e. barge M. V. Satyam, had created obstruction within the limits of the port and therefore, the said respondent was well within its rights to call upon the petitioner to make good the costs for removal of such obstruction.

34. It was further submitted that the petitioner was also liable under the Merchant Shipping Act, particularly Section 402 thereof, for the liability of removal of wreckage. It was submitted that when services were provided for removal of vessel or cargo or equipment of a wrecked vessel, the owner of the vessel was liable to pay reasonable sum for salvage to the salvor. In the present case, since the petitioner refused to bear the liability, the respondent No.1 - MPT had to remove the wreckage by engaging the services of Madgavkar Salvage. The amount charged by the said company was liable to be paid by the petitioner and therefore, the source of power for the said respondent, could also be located in the Merchant Shipping Act. It was submitted that even if the petitioner claims that only respondent No.3 can be treated as the owner of the vessel, the petitioner continued to be the owner of the cargo i.e. the iron ore and therefore, Section 402 of the Merchant Shipping Act clearly applies to the facts of the present case. This was particularly so, as the charges raised by the said Madgavkar Salvage pertained mainly to the removal of the cargo, apart from removal of wreckage of the vessel to remove the obstruction in the port.

35. The learned senior counsel for the respondent No.1 - MPT further invoked the principles of *Quantum Meruit* and Polluter Pays, to contend that these were additional grounds on which the petitioner ought to be held liable. On these aspects of the matter, reliance was placed on the judgements of the Supreme Court in the cases of *Alopi Parshad & Sons Ltd. vs. Union of India* (**AIR 1960 SC 588**) and *Delhi Pollution Control Committee vs. Lodhi Property Co. Ltd.* (**2025 SCC OnLine SC 1601**).

36. Mr. S. Shamim, learned counsel appeared on behalf of respondent No.2 and submitted that the said respondent could not

be held liable in any manner.

37. Mr. Shyam Kapadia, learned counsel appeared on behalf of respondent No.3 and submitted that sub-sections (1A), (1B), 2, 3 and 4 of Section 14 of the said Act lay down a stepwise mechanism, with regard to the manner in which action is to be undertaken for raising or removing the wrecked vessel, which is impeding navigation. Such mechanism was never followed by respondent No.1 and therefore, there was no question of foisting any liability on respondent No.3. Even with regard to the provisions of Merchant Shipping Act and the Rules framed thereunder, it was submitted that appropriate steps were required to be taken, wherein there was a mechanism for dispute resolution and only upon undertaking such steps, the liability could be foisted. It was submitted that therefore, in the present petition filed by the petitioner, the respondent No.1 - MPT cannot be permitted to make any claim against respondent No.3. On this basis, it was submitted that this Court may consider passing appropriate orders in the writ petition.

38. Having heard the learned counsel for the parties and in the light of the present matter having been remitted by the Supreme Court, it would be appropriate to first refer to the order dated 14.02.2025 passed by the Supreme Court in Appeal arising out of Special Leave Petition (C) No.15490 of 2021. The Supreme Court, while setting aside the earlier order dated 13.08.2021 passed by this Court, disposing of this writ petition, observed as follows:

> ‘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. xxx xxx xxx
>
> 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.'

39. Thus, it is evident that this Court is required to consider a specific question of law as to on whom the liability of clearing the wreckage was to be fastened, under Section 14 of the said Act and if the finding thereon is in favour of the petitioner, then it is to be suitably compensated. This is particularly in the backdrop of the fact that respondent No.1 - MPT withdrew the amount of ₹ 70 lakhs deposited by the petitioner, after the present writ petition was disposed of as per order dated 13.08.2021. It is undisputed that the said amount with interest came to ₹ 4,09,25,764, which the respondent No.1 - MPT had withdrawn.

40. Thus, the fundamental question for consideration in this writ petition is, as to whether the challenge raised by the petitioner is sustainable and whether the petitioner is justified in contending that as per Section 14 of the said Act, it is not liable for removal of

wreckage and consequently, for bearing the costs for the same. In other words, the petitioner contends that the notice dated 19.04.1995 sent by the respondent No.1 - MPT was maintainable only against the 'owner' of the barge M. V. Satyam i.e. the vessel which sank and whose wreckage was to be removed.

41. On the basis of the documents on record, it is asserted that the petitioner is not covered under the expression 'owner' and therefore, on this very ground, the said notice is rendered unsustainable. Consequently, the letter dated 14.10.1996 withdrawing the permission granted to the petitioner to use waters under the supervision and control of the respondent No.1 - MPT, is also rendered unsustainable. The respondent No.1 has refuted the said claim and it is asserted that in the facts and circumstances of the present case, the petitioner stood covered under the expression 'owner' and that the hyper-technical contention raised on behalf of the petitioner that the 'owner' has to be the 'registered owner', ought not to be accepted.

42. In this context, it is necessary to refer to Section 14 of the said Act, which reads as follows:

> '**14. Raising or removal or wreck impeding navigation within limits of Port**:
>
> (*1*) If any vessel is wrecked, stranded 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.

(*1A*) Where the owner of any vessel to whom a notice has been issued under sub-section (*1*) fails to raise, remove or destroy such vessel within the period specified in the notice or the extended period or fails to furnish the security required of him, the conservator may cause the vessel to be raised, removed or destroyed.

(*1B*) Notwithstanding anything contained in the foregoing sub-sections, if the conservator is of the opinion that any vessel which is wrecked, stranded or sunk in any port is required to be immediately raised, removed or destroyed for the purpose of uninterrupted navigation in such port, he may, without giving any notice under sub-section (*1*), cause the vessel to be raised, removed or destroyed.

(*2*) If any property recovered by a conservator acting under sub-section (*1A*) or sub-section (*1B*) is unclaimed or the person claiming it fails to pay the reasonable expenses incurred by the conservator under that sub-section and a further sum of twenty per cent. of the amount of such expenses, the conservator may sell the property by public auction, if the property is of a perishable nature, forthwith, and, if it is not of a perishable nature, at any time not less than thirty days after the recovery thereof.

(*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*) Where the sale proceeds of the property are not sufficient to meet the expenses and further sum aforesaid, the owner of the vessel at the time the vessel was wrecked, stranded or sunk shall be liable to pay the deficiency to the conservator on demand, and if the deficiency be not paid within one month of such demand the conservator may recover the deficiency from such owner in the manner laid down in sub-section (*2*) of section 57 for recovery of expenses and damages or in any

other manner according as the deficiency does not or does exceed one thousand rupees.'

43. There can be no dispute about the fact that the above-quoted provision specifically uses the word 'owner'. The said word is not defined in the said Act. There can also be no dispute about the fact that the definition of 'vessel' in Section 3(7) thereof, indeed covers the said barge M. V. Satyam, which sank in the port waters, leading to the controversy between the parties.

44. As to whether the petitioner can be said to be the owner of the barge M. V. Satyam, will have to be decided on the basis of the documents and material on record, which are undisputed. Respondent No.1 - MPT has placed much reliance on letters dated 25.11.1993, 07.02.1994 and 16.03.1994, sent by the petitioner to the said respondent, while seeking permission for operating barges, in order to transport its cargo i.e. the iron ore from the mother vessel to the jetty, for further transport to the plant of the petitioner. It was emphasized that in each of such communications, the petitioner used the expression 'our barges'. According to respondent No.1 - MPT, this demonstrates that even according to the petitioner, it was the owner of the barges. The said argument is stated only to be rejected. Merely because the petitioner used the expression 'our barges' in such communications, while seeking permission for operation of barges in the waters under the control of respondent No.1, would not foist ownership in the petitioner in respect of the barges so used, including the barge M. V. Satyam. The word 'owner' has a specific connotation in law and reference to such letters/communications cannot take the case of the said respondent any further.

45. The documents on record also show that the petitioner had engaged the services of respondent No.2, an international freight

forwarders company, for hiring barges in order to transport the cargo from the mother vessel to the jetty. Respondent No.2 entered into the aforesaid MOU with respondent No.3, which was the owner of the barges, including the barge M. V. Satyam. The document granting permission for operation of the barges dated 09.01.1995, shows that the Deputy Conservator of respondent No.1 - MPT addressed the said permission letter to respondent No.2, marking copies to its other officers, including the Senior Dock Master and Chief Signalman at the Port Signal Station.

46. Respondent No.3, in its affidavit filed in Notice of Motion No.62 of 1997 filed in this writ petition, specifically stated that it 'owned' the barge M. V. Satyam and it was given on time charter to respondent No.2 for a specific period of time and that the petitioner had merely employed the services of respondent No.2. Such statements were repeated by respondent No.3 in its affidavit in Notice of Motion No.374 of 1998 filed in this writ petition, specifically stating that it was true that respondent No.2 had chartered the said barge M. V. Satyam, which was 'owned' by respondent No.3 and that during one of its trips, the said barge sank.

47. Apart from this, the affidavit filed by respondent No.1 itself in Notice of Motion No.62 of 1997 filed in this writ petition, also specifically stated that respondent Nos.2 and 3 were 'owners' of the barge M. V. Satyam and hence, they were liable. Such statements make it abundantly clear that it was an admitted position that respondent No.3 was the owner of the barge M. V. Satyam and it was treated so by respondent No.1 - MPT itself. As a matter of fact, in the notice dated 19.04.1995 issued by respondent No.1 in the context of sinking of barge M. V. Satyam, the respondent No.3 was stated to be the owner of the said barge and respondent No.2 was stated to be

the charterer, while the petitioner was specifically stated to be the 'principal employer'. Thus, it becomes clear that even as per respondent No.1 - MPT, the owner of the barge M. V. Satyam was respondent No.3 and there is no disputed question of fact regarding the same.

48. Faced with this situation, it was claimed on behalf of respondent No.1 - MPT that the petitioner was the 'disponent owner' of the barge M. V. Satyam and therefore, it cannot escape liability. In the first place, there is no support for the proposition that the word 'owner' used in Section 14 of the said Act has to be read as a 'disponent owner'. So long as the words used in the provision are specific, their literal meaning is to be adopted, unless such an approach leads to illogical and unsustainable consequences. This Court does not find any reason to depart from adopting the literal meaning of the word 'owner' used in Section 14 of the said Act.

49. Yet, even if the said contention raised on behalf of respondent No.1 - MPT is to be considered in the facts and circumstances of the present case, it will have to be examined as to what is the purport of the expression 'disponent owner' and whether it can apply to the petitioner in the present case.

50. In the case of **Liverpool and London Steamship Protection and Indemnity Association Ltd. vs. m. t. Symphony and others** (*supra*), a Division Bench of this Court had an occasion to consider the said aspect of the matter and it was held that a disponent owner means a person or a company that controls the commercial operation of a ship and very often, such a disponent owner is a shipping line, which time charters the ship and issues liner bills of lading to its owner.

51. In this context, a reference to the judgement of the Supreme

Court in the case of *Epoch Enterrepots vs. M. V. Won FU*, **(2003) 1 SCC 305**, would be relevant. In the said case, the Supreme Court considered the said aspect of a disponent owner and observed as follows:

> '36. Even, however, assuming the agreement has in fact been entered into by the disponent owner, unless sufficient evidence is laid that the charter was by demise, whereby the possession and control of the vessel was given to the disponent owner, question of pursuing the cause of action against the vessel would not arise. Needless to add that charter parties are of three kinds: (a) demise charter; (b) voyage charter; and (c) time charter. Whereas in demise charter, the vessel is given to the charterer who thereafter takes complete control of the vessel including manning the same, in both voyage charter and time charter, master and crew are engaged by the owner who act under the owner's instructions but under the charterer's directions. Simply put, voyage charter is making available the vessel for use of carriage for a particular voyage and the time charter correspondingly is where the vessel is made available for carriage of cargo for a fixed period of time. In the contextual facts, apart from the fixture note, no other documentary support is available as to whether ownership arose through a charter by demise and possession and control of the vessel has already been given to the disponent owner. The facts disclose that the disponent was an intending charterer of the vessel from the owner and it is on expectancy of such a contract, the fixture note was issued. There was as a matter of fact no charter party or agreement with the charterer and some eventuality in future is stated to be the basis of the cause of action. It is on this score we think it expedient to record that even upon assumption of the appellant's case at its highest, no credence can be attached thereto. The disponent owner was not a demise charterer but it is on the happening of such an event in future that such a fixture note has been issued. In our view there is no sufficient evidence available as regards the action in rem making the

> vessel liable in the contract said to have been entered into, as recorded in the fixture note. It is in the nature of a breach of contract and liability of the vessel would not arise, though however, we are not expressing any opinion as regards the maintainability of an action in personam or its a eventual success.'

52. In the instant case, the MOU on record shows that respondent No.2 had chartered the barge M. V. Satyam belonging to respondent No.3. It was a time charter, wherein respondent No.3, as the owner of the barge M. V. Satyam, had chartered the same to respondent No.2. In the above-quoted paragraph in the judgement of the Supreme Court in the case of **Epoch Enterrepots vs. M. V. Won FU** (*supra*), a distinction has been drawn between a demise charter, a voyage charter and a time charter. It is specifically observed that in demise charter, the vessel is given to the charterer, who thereafter takes complete control of the vessel, including manning the same, while in voyage charter and time charter, the master and crew are engaged by the owner and they act under the instructions of the owner, but the directions of the charterer.

53. In the light of the said MOU placed on record and the permission letter dated 09.01.1995 issued by respondent No.1 - MPT, we find that respondent No.2 was the charterer, who had taken the vessel i.e. barge M. V. Satyam on time charter from respondent No.3, who was the owner of the same. The contents of the MOU show that the master was provided by respondent No.3 and the charges of hire were payable by respondent No.2 as the charterer. Thus, by no stretch of imagination, can the petitioner be covered under the expression 'disponent owner'. It cannot be said that the petitioner had complete control over the commercial operations of the vessel i.e. barge M. V. Satyam.

54. In this context, the petitioner is justified in relying upon the judgement of the Supreme Court in the case of **The Union of India vs. Gosalia Shipping (Pvt.) Ltd.** (*supra*), wherein the Supreme Court referred to the position that in a time charter, the ownership and possession of the ship remain with the original owner.

55. Therefore, reliance placed on behalf of respondent No.1 - MPT on the judgement of this Court in the case of **Liverpool and London Steamship Protection and Indemnity Association Ltd. vs. m. t. Symphony and others** (*supra*), judgement of the Delhi High Court in the case of **Sara International Ltd. vs. Arab Shipping Co. (P) Ltd.** (*supra*) and judgement of the Karnataka High Court in the case of **Zurbagan Shipping LLC vs. C. S. Flourish and others** (*supra*), is found to be unsustainable. Hence, on this score also, the contentions raised on behalf of the said respondent cannot be accepted. This is quite apart from the fact that Section 14 of the said Act concerns only the 'owner' of the vessel. We also find in this context that the petitioner is justified in relying upon the judgements of the Calcutta High Court in the cases of **Lee Young Sang and another vs. The Board of Trustees for the Port of Calcutta** (*supra*) and **Sri Maharshi Shipping Private Limited and another vs. Syama Prasad Mookerjee Port, Kolkata and others** (*supra*) and judgement of this Court in **Oil and Natural Gas Corporation Ltd. vs. Osprey Underwriting Agencies Ltd. and others** (*supra*).

56. We also find that Section 14 of the said Act lays down an elaborate stepwise mechanism in which the Conservator, like respondent No.1 - MPT in the present case, is required to proceed in situations where the vessel is wrecked, stranded or it sinks in the port in such a manner that it impedes or is likely to impede any navigation. As per the said provision, in such a situation, the

Conservator, like respondent No.1 – MPT herein, is required to issue notice to the owner of the vessel for providing adequate security for ensuring that the vessel is raised, removed or destroyed within the time specified in the notice, with a provision for the time period to be extended. If the owner of the vessel fails to raise, remove or destroy the vessel within the period specified in the notice or in the extended period, or fails to furnish security, the Conservator, like respondent No.1 – MPT herein, can raise, remove or destroy the vessel. In cases where such step is required to be taken urgently, the Conservator, like respondent No.1 - MPT herein, can raise, remove or destroy the vessel immediately for uninterrupted navigation of the port, without waiting for giving notice to the owner of the vessel.

57. It is further specified that while taking such action, if any property is recovered and it remains unclaimed or a person claiming it, fails to pay reasonable expenses incurred by the Conservator for raising, removing or destroying the vessel along with a further sum of 20% of the amount of such expenses, the Conservator can sell the property by public auction. The sale proceeds are to be utilized towards the expenses and the further sum and the balance is to be paid to the person entitled to the property so recovered. If no such person appears to claim the balance, it is required to be deposited for payment without interest to any person thereafter who establishes his right, provided such a claim is made within 3 years of sale of such property by public auction. It is further specified that where the sale proceeds are not sufficient to meet the expenses and the further sum, the ‘owner’ of the vessel at the time when it was wrecked, stranded or sank, is liable to make good the deficiency and if such deficient amount is not paid within one month of demand, the Conservator, like respondent No.1 – MPT herein, can recover such deficient amount as per the procedure laid down in Section 57(2) of the said

Act.

58. In this context, Section 57 of the said Act is relevant, which reads as follows:

> 57. **Ascertainment and recovery of expenses and damages payable under this Act.—**
>
> (1) If any dispute arises as to the sum to be paid in any case as expenses or damages under this Act, it shall be determined by a Magistrate upon application made to him for that purpose by either of the disputing parties.
>
> (2) Whenever any person is liable to pay any sum, not exceeding one thousand rupees, as expenses or damages under this Act, any Magistrate, upon application made to him by the authority to whom the sum is payable, may, in addition to or instead of any other means for enforcing payment, recover the sum as if it were a fine.'

59. It is relevant to note that sub-section (1) of Section 57 of the said Act lays down that if a dispute arises with regard to the said amount, it shall be determined by a Magistrate upon an application made by either of the disputing parties. Thus, there is an elaborate stepwise mechanism and procedure prescribed under Section 14 read with Section 57 of the said Act, under which the Conservator, like respondent No.1 – MPT herein, is required to proceed, in the event the wrecked, stranded or sunk vessel impedes navigation in the port.

60. In the present case, this Court finds that respondent No.1 - MPT failed to proceed in the stepwise manner prescribed under the said statutory provisions. After certain meetings and exchange of communications with the petitioner and respondent Nos.2 and 3, the respondent No.1 - MPT simply proceeded to issue the letter dated 14.10.1996 to the petitioner, referring to the sinking of the barge M.V. Satyam, the aforesaid notice dated 19.04.1995 issued to the petitioner, respondent Nos.2 and 3 and further stated that since the

petitioner had shown disinclination in participating in the tender process for salvaging the wreck, the permission granted to the petitioner for transit of barges for lighterage operations in the harbour, stood suspended with immediate effect. The said approach of respondent No.1 - MPT demonstrates that it failed to proceed as per the stepwise mechanism given in Section 14 read with Section 57 of the said Act.

61. As a matter of fact, since the petitioner was not the owner of the vessel i.e. barge M. V. Satyam, in the first place, the respondent No.1 – MPT could not have issued the said notice to the petitioner under Section 14 of the said Act. The failure on the part of respondent No.1 - MPT, as the Conservator, to proceed strictly in terms of the statutory provisions, deprived the parties to invoke Section 57(1) of the said Act to raise any dispute before the competent Magistrate, thereby showing the arbitrary and unsustainable approach adopted by the said respondent. Thus, the aforesaid action undertaken by the said respondent against the petitioner, cannot be sustained and the petitioner, not being the owner of the vessel i.e. barge M. V. Satyam, could not be held liable under Section 14 of the said Act.

62. In this situation, in order to sustain its action against the petitioner, during the course of hearing, respondent No.1 - MPT sought to place reliance on Sections 10 to 12 of the said Act. The said contention was based on the assertion that, as long as the source of power was available to the said respondent to proceed against the petitioner, mere reference to a wrong provision would not vitiate its action. It was also contended that the petitioner could not rely upon the position of law, clarified by the Supreme Court in the cases of **Commissioner of Police, Bombay vs. Gordhandas Bhanji** (*supra*) and

Mohinder Singh Gill and another vs. The Chief Election Commissioner, New Delhi and others (*supra*), for the reason that only the contents of the said notice dated 19.04.1995 issued by respondent No.1 - MPT under Section 14 of the said Act, could not be the basis to test the veracity of the action undertaken by the said respondent. It was submitted that the position of law clarified in subsequent judgments clearly indicated that the Court could look at pleadings and other material on record to examine as to whether the action could be sustained.

63. On the aspect of wrong provision being quoted and source of power still being available to the authority, reliance was placed on the judgments of the Supreme Court, in the cases of **N. Mani vs. Sangeetha Theatre and others** (*supra*), **P. K. Palanisamy vs. N. Arunmugham and another** (*supra*) and **Union of India and another vs. Mohit Minerals Private Limited** (*supra*), as also judgment of this Court in the case of **Commissioner of Customs & Central Excise, Goa vs. Pankaj Jaju** (*supra*). There can be no quarrel with the said proposition and it is well-settled that only because a wrong provision is mentioned, the action undertaken by an authority, which otherwise has a source of power to justify its action, cannot be held to be unsustainable. But, in the present case, the respondent No.1 -MPT chose to undertake action specifically under Section 14 of the said Act.

64. On pointed queries put to the learned senior counsel appearing for respondent No.1 - MPT as to whether reference to Section 14 of the said Act in the notice dated 19.04.1995, could be said to be a reference to a 'wrong provision', it was conceded that such was not the case. In other words, the respondent No.1 - MPT proceeded to exercise statutory power under the correct provision, while issuing

notice dated 19.04.1995. Therefore, respondent No.1 - MPT is required to justify recourse to the said correct provision invoked by it, in order to proceed against the petitioner, in the fact and circumstances of the present case. It is already concluded hereinabove that respondent No.1 - MPT could not have issued notice and proceeded against the petitioner under Section 14 of the said Act, as the petitioner was not the owner of the vessel i.e. barge M. V. Satyam.

65. It was in order to get over the said situation, that respondent No.1 - MPT, at the stage of final hearing of this writ petition, sought to rely upon Sections 10 to 12 of the said Act. It was sought to be contended that even if this Court were to hold that the notice dated 19.04.1995 could not have been issued to the petitioner under Section 14 of the said Act, the action intended to be taken by the said respondent against the petitioner, could be treated as an action under Sections 10 to 12 thereof. The said contention of respondent No.1 - MPT can also not be sustained. A perusal of Sections 10 to 12 of the said Act shows that while they pertain to removal of obstructions within the limits of the ports and recovery of such expenses for removal, the said provisions also specify a specific mechanism to be followed by the Conservator, like respondent No.1 – MPT herein.

66. At this stage, a reference to Sections 10 to 12 of the said Act is necessary and they read as follows:

> ‘10. **Removal of obstructions within limits of port**.—
>
> (1) The conservator may remove, or cause to be removed, any timber, raft or other thing, floating or being in any part of any such port, which in his opinion obstructs or impedes the free navigation thereof or the lawful use of any pier, jetty, landing-place, wharf, quary, dock, mooring or other work on any part of the shore or bank

which has been declared to be within the limits of the port and is not private property.

(2) The owner of any such timber, raft or other thing shall be liable to pay the reasonable expenses of the removal thereof, and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or causes any public nuisance affecting or likely to affect such free navigation or lawful use, he shall also be punishable with fine which may extend to one hundred rupees.

(3) The conservator or any Magistrate having jurisdiction over the offence may cause any such nuisance to be abated.

11. **Recovery of expenses of removal**.—

If the owner of any such timber, raft or other thing, or the person who has caused any such obstruction, impediment or public nuisance as is mentioned in the last foregoing section, neglects to pay the reasonable expenses incurred in the removal thereof, within one week after demand, or within fourteen days after such removal has been notified in the Official Gazette or in such other manner as the Government by general or special order directs, the conservator may cause such timber, raft or other thing, or the materials of any public nuisance so removed, or so much thereof as may be necessary, to be sold by public auction;

and may retain all the expenses of such removal and sale out of the proceeds of the sale, and shall pay the surplus of such proceeds, or deliver so much of the thing or materials as may remain unsold, to the person entitled to receive the same;

and, if no such person appears, shall cause the same to be kept and deposited in such manner as the Government directs;

and may, if necessary, from time to time, realise the expenses of keeping the same, together with the expenses of sale, by a further sale of so much of the thing or materials as may remain unsold.

12. **Removal of lawful obstructions**.—

(1) If any obstruction or impediment to the navigation of any port subject to this Act has been lawfully made, or has become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the conservator shall report the same for the information of the Government, and shall, with the sanction of the Government, cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration.

(2) Any dispute arising concerning such compensation shall be determined according to the law relating to like disputes in the case of land required for public purposes.'

67. A perusal of the above-quoted provisions shows that the Conservator, like respondent No.1 - MPT herein, can remove timber, raft or other thing floating, which in its opinion, is obstructing or impeding free navigation and that the owner of such timber, raft or other thing would be liable to pay reasonable expenses for removal thereof. It is further specified that the owner of such timber, raft or other thing shall be punishable with fine extending upto one hundred rupees, if public nuisance is caused and that the Conservator or any Magistrate having jurisdiction over the offence, can cause any such nuisance to be abated.

68. As regards recovery of expenses for removal, if the owner of such timber, raft or other thing causing obstruction or impediment, fails to pay reasonable expenses within one week after demand or within 14 days after such removal, the Conservator, like respondent No.1 - MPT herein, can sell such timber, raft or other thing by public auction and retain the amount towards expenses from the proceeds, with the surplus being delivered to the person entitled for the same. Thus, Sections 10 to 12 of the said Act again lay down a stepwise mechanism in which the Conservator, like respondent No.1 - MPT

herein, is required to proceed and it cannot be said that the notice dated 19.04.1995 issued by respondent No.1 - MPT invoking Section 14 thereof, should now be read as action taken under Sections 10 and 11 thereof.

69. The respondent No.1 is not justified in now contending that the source of power should be read under Sections 10 and 11 of the said Act, to sustain its action against the petitioner. In any case, it is difficult to understand how the said respondent is now insisting upon treating the iron ore of the petitioner being transported in the vessel i.e. barge M. V. Satyam to be treated as 'timber, raft or other thing floating or being in any part of the port'. The iron ore admittedly sank with the barge, further demonstrating the fallacy in the argument.

70. As regards Section 12 of the said Act, a plain reading of the same shows that it cannot be applicable to the controversy arising in the present petition. It is not even the case of the respondent No.1 - MPT that the obstruction or impediment to navigation in the port, subject to this Act, has become lawful by reason of long continuance or otherwise. Hence, reliance on the said provision is also not sustainable. It is found that reliance placed on the judgements on the part of the said respondent to claim that merely a wrong provision of law was quoted, cannot be sustained and hence, the said contention is also rejected.

71. As regards respondent No.1 - MPT being entitled to rely upon material other than the contents of the notice dated 19.04.1995 issued under Section 14 of the said Act, even if the judgements relied upon by respondent No.1 are to be taken into consideration i.e. in the cases of **Adani Ports and Special Economic Zone Limited vs.**

Board of Trustees of Jawaharlal Nehru Port Authority and others (*supra*) and **Assistant General Manager, State Bank of India and another vs. Tanya Energy Enterprises, Through its Managing Partner Shri Alluri Lakshmi Narasimha Varma** (*supra*) and **Chairman, All India Railway Recruitment Board and another vs. K. Shyam Kumar and others** (*supra*), this Court finds that there is total lack of any pleading or material on record to sustain the said contention. A perusal of the aforementioned judgements of the Supreme Court and this Court shows that apart from the contents of the notice/order, a Writ Court can take into consideration the documents and pleadings that could sustain the notice/order, which is the subject matter of examination. In the present case, there is absolutely nothing in the affidavits filed on behalf of respondent No.1 or in any of the documents, to justify the stand taken by the said respondent that its source of power could be located in Sections 10 to 12 of the said Act or that any other source could be said to be available.

72. It is also relevant to note that in both the aforesaid cases before the Supreme Court i.e. **Assistant General Manager, State Bank of India and another vs. Tanya Energy Enterprises, Through its Managing Partner Shri Alluri Lakshmi Narasimha Varma** (*supra*) and **Chairman, All India Railway Recruitment Board and another vs. K. Shyam Kumar and others** (*supra*) as also judgement of this Court in the case of **Adani Ports and Special Economic Zone Limited vs. Board of Trustees of Jawaharlal Nehru Port Authority and others** (*supra*), the Courts specifically came to the conclusion that public interest and larger public good were involved. The cases concerned issues of mass copying during the examinations, black-listing of a contractor and action being *bona fide* taken by a secured creditor against a defaulting borrower. Such are not the facts in the present case, as the only question herein concerns the liability of a particular party for

raising, removing or destroying a vessel/wreckage, which impedes navigation in a port, in terms of the provisions of the said Act and in the light of the contractual obligations between the parties *inter se*. In the facts and circumstances of the present case, it cannot be said that the said principle can be invoked in public interest or for larger public good. Hence, the said contention raised on behalf of respondent No.1 also fails.

73. It is to be noted that respondent No.1 further claimed at the stage of final hearing and only in the written submissions tendered at the stage of final hearing, for the first time, that the source of power can be located even in the Merchant Shipping Act. In this context, Section 402 thereof was invoked. The said provision reads as follows:

> '402. **Salvage payable for saving life, cargo or wreck**.—
>
> (1) Where services are rendered—
>
> (a) wholly or in part within the territorial waters of India in saving life from any vessel, or elsewhere in saving life from a vessel registered In India; or
>
> (b) in assisting a vessel or saving the cargo or equipment of a vessel which is wrecked, stranded or in distress at any place on or near the coasts of India; or
>
> (c) by any person other than the receiver of wreck in saving any wreck;
>
> there shall be payable to the salvor by the owner of the vessel, cargo, equipment or wreck, a reasonable sum for salvage having regard to all the circumstances of the case.
>
> (2) Salvage in respect of the preservation of life when payable by the owner of the vessel shall be payable in priority to all other claims for salvage.
>
> (3) Where salvage services are rendered by or on behalf of the Government or by a vessel of the Indian Navy or of

the Coast Guard or the commander or crew of any such vessel, the Government, the commander or the crew, as the case may be, shall be entitled to salvage and shall have the same rights and remedies in respect of those services as any other salvor.

(4) Any dispute arising concerning the amount due under this section shall be determined upon application made by either of the disputing parties–

(a) to a Judicial Magistrate of the first class or Metropolitan Magistrate, as the case may be, where the amount claimed does not exceed ten thousand rupees; or

(b) to the High Court, where the amount claimed exceeds ten thousand rupees.

(5) Where there is any dispute as to the persons who are entitled to the salvage amount under this section, the the Judicial Magistrate of the first class or the Metropolitan Magistrate or the High Court as the case may be, shall decide the dispute and if the are more persons than one entitled to such amount, such magistrate or the High Court shall apportion the amount thereof among such persons.

(6) The costs of and incidental to all proceedings before a Judicial Magistrate of the first class or Metropolitan Magistrate or the High Court under this section shall be in the discretion of such magistrate or the High Court, and such magistrate or the High Court shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purpose aforesaid.'

74. A perusal of the above-quoted provision shows that it applies where services are rendered for saving life from any vessel or assisting the vessel or saving cargo of a vessel, which is wrecked, stranded or is in distress at any place on or near the coasts of India by any person other than the receiver of the wreck. Such a person or salvor is required to be paid in terms of the above-quoted provision. Respondent No.1 has invoked the said provision on the basis that

eventually, it had to engage the services of Madgavkar Salvage for removing the salvage of the wreck. It is relevant to note that while respondent No.1 - MPT itself invoked Section 14 of the said Act by issuing notice dated 19.04.1995, it did not take recourse to the aforementioned stepwise mechanism specified in the said provision read with Section 57 thereof. Even with regard to the removal of salvage of the wreck by Madgavkar Salvage, it is an admitted position that the said action was completed on 29.01.1998, which was almost 2 years and 9 months after the incident of sinking of the barge M. V. Satyam and almost 15 months after the interim order was passed by this Court while admitting the writ petition.

75. The aforesaid timelines further demonstrate that respondent No.1 - MPT cannot take recourse to Section 402 of the Merchant Shipping Act as the source of its power to take action against the petitioner in the context of salvage of wreck of barge M. V. Satyam. Even otherwise, a perusal of the above-quoted Section 402 of the Merchant Shipping Act shows that if a dispute arises with regard to the amount under the said provision, it is to be determined on the basis of an application made by either of the disputing parties to the Judicial Magistrate First Class or Metropolitan Magistrate, where the amount claimed does not exceed ₹ 10,000 or before this Court, where the amount exceeds ₹ 10,000. The said mechanism of resolving the dispute was again not made available to either party, if at all the respondent No.1 - MPT could have taken recourse to the said provision.

76. We also find substance in the contention raised on behalf of the petitioner that the Merchant Shipping Rules framed under the provisions of the Merchant Shipping Act further provide an elaborate procedure about the manner in which steps are to be taken in the

context of wreckage of a vessel, claims concerning wreck, sale of such wreck and how the amount due for the salvage is to be determined and paid. No such procedure was resorted to or even relied upon by respondent No.1 and now at the stage of final hearing of the writ petition, without any basis in the affidavits or pleadings and by making reference merely in the written submissions tendered at the time of final hearing, obviously the respondent No.1 cannot be permitted to take recourse to the Merchant Shipping Act and the aforementioned Rules framed thereunder.

77. It is interesting to note that as per Section 3(23) of the Merchant Shipping Act, the word 'owner' is defined in the context of a sailing ship to mean a person to whom the sailing ship belongs. This is another indicator about the fact that the petitioner could not be termed as an 'owner' of the vessel i.e. barge M. V. Satyam.

78. As regards the contentions raised on behalf of respondent No.1 – MPT about invoking the principles of *Quantum Meruit* and Polluter Pays, suffice it to say that the said contentions were again being raised without any basis in the material placed on record before this Court. At the stage of final hearing, the said contentions were raised for the first time and reliance was sought to be placed on the judgement of the Supreme Court in the case of **Alopi Parshad & Sons Ltd. vs. Union of India** (*supra*). We find that respondent No.1 did not render any services to the petitioner on implication to a contract to remunerate. The principle of *Quantum Meruit* could be invoked only when the price has not been fixed by contract for work done or services rendered. We find the said contention of the respondent No.1 to be wholly misplaced in the facts and circumstances of the present case. As a matter of fact, the respondent No.1 – MPT could justify its actions only under the provisions of the said Act.

79. As regards reliance placed on the judgement of the Supreme Court in the case of **Delhi Pollution Control Committee vs. Lodhi Property Co. Ltd.** (*supra*), we find that the principles laid down in the said judgement are wholly inapplicable to the facts and circumstances of the present case. In the first place, nowhere in the affidavits, documents and other material placed in this writ petition, did the respondent No.1 – MPT ever claim that the cargo of the petitioner discharged any pollutant in the waters of the port or there was any resultant environmental damage. There is also nothing discernible in the material concerning the present petition to indicate any such aspect of potential risk or environmental damage. Hence, the principle of Polluter Pays cannot be invoked by the said respondent to foist any liability upon the petitioner.

80. It is also relevant to note that the respondent No.1 – MPT nowhere referred to the steps taken in respect of the material that was recovered eventually in January 1998, when the wreckage was removed. There is nothing demonstrated by the said respondent that the material which was recovered, was in any manner put to sale by auction or as to what happened to the proceeds thereof. In such a situation, it cannot lie in the mouth of the said respondent to claim that the petitioner can be said to be liable, in the facts and circumstances of the present case and as per the action sought to be undertaken by the said respondent under the provisions of the said Act.

81. Hence, it is held that the petitioner could not be held liable in pursuance of notice dated 19.04.1995 under Section 14 of the said Act. The consequent action of issuing letter/order dated 14.10.1996, suspending the permission to the petitioner for transit of barges and for lighterage operations, is also found to be unsustainable. As a

matter of fact, the said letter/order dated 14.10.1996 was stayed by this Court by its order dated 31.10.1996, subject to deposit of ₹ 70 lakhs in this Court. Therefore, the said letter/order dated 14.10.1996 is found to be unsustainable and it is set aside.

82. The Supreme Court in the above quoted paragraph No.8 of its order dated 14.02.2025, specifically held that the petitioner would be entitled to be suitably compensated, if it succeeds in the writ petition.

83. In view of the above, the writ petition is allowed in the above terms. We find that respondent No.1 – MPT had withdrawn an amount of ₹ 4,09,25,764 (₹ 70 lakhs deposited by the petitioner along with accrued interest), after this writ petition was earlier disposed of by this Court on 13.08.2021. As a consequence of this writ petition being allowed in above terms, the respondent No.1 – MPT is directed to pay the said amount to the petitioner within a period of six weeks from today.

84. It is made clear that this Court has decided the question as to whether the petitioner could be held liable in terms of notice dated 19.04.1995 issued under Section 14 of the said Act. We find substance in the contention raised on behalf of respondent No.3 that in the absence of the stepwise mechanism to be undertaken under the said provision, the said respondent was deprived of raising any dispute, as contemplated under Section 57 thereof. Hence, even if the respondent No.1 decides to proceed against respondent No.3 under Section 14 of the said Act, as the owner of the vessel, all the rights and contentions of respondent No.3, are kept open.

85. In view of the writ petition being allowed in the above terms, all pending notices of motion and interim applications are also disposed of.

(SHREERAM V. SHIRSAT, J.) (MANISH PITALE, J.)

Priya Kambli