

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

M.A./R.A./C.A. No.

of 20

IN

Original Application No.

of 20

FARAD CONTINUATION SHEET NO.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p><u>MA No.575 of 2015 in OA No.243 of 2011</u></p> <p>Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant of the OA, Miss Neelima Gohad, learned Presenting Officer for Respondents No.1 to 3 in OA and Shri Ramesh Ramamurthy, learned Advocate for Respondent No.4 in the OA, applicant hereof.</p> <p>2. This MA is brought by original respondent no.4 Jawaharlal Nehru Port Trust seeking immediate deletion of the said respondent and any further order. The deletion is sought on the ground that the claim of the applicant against the respondent no.4 is not maintainable in the sense that this Tribunal has no jurisdiction to entertain any application against the said Port Trust. According to the said respondent no.4, no other forum except the Hon'ble High Court has got the jurisdiction.</p> <p>3. We have heard submissions at the bar. In deciding this MA it is not necessary for us to examine the facts of the OA in detail. In fact even otherwise we should make it quite clear that all our observations herein are strictly restricted to the decision of this MA and it should not be so construed as our opinion on the merit of the matter.</p> <p>4. In this OA an application for amendment was moved which was rejected by this Tribunal by the order dated 23.4.2012. There against the matter was carried to the Hon'ble High Court by way of Writ Petition No.3581 of 2013 (Moreshwar Raghunath Deshmukh Versus State of Maharashtra). By order</p>

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Tribunal's orders

dated 1.12.2014 a Division Bench of the Hon'ble High Court was pleased to set aside the order therein impugned and the MA for amendment was allowed. The OA was ordered to be restored to file for rehearing and fresh orders.

5. We have carefully perused the order of the Hon'ble High Court and we do not find any direction therein that the issue of maintainability raised by the respondent no.4 should be heard as a preliminary issue before hearing of the main OA.

6. Shri Ramamurthy, Ld. Advocate for respondent no.4 strongly contended that inasmuch as, as he claims the matter in so far as his clients are concerned are not entertainable by this Tribunal, that aspect of the matter needs to be decided at the outset.

7. There is no legislative guidance in matters such as this one as is perhaps the case in the matter exclusively governed by the codified procedural law for example the CPC generally and Section 9(A) of the Maharashtra (Amendment) thereof in particular. That being the state of affairs and regard being had to the scope of the OA such as it is we are not so inclined to hear the issue sought to be raised by the respondent no.4 as a preliminary issue and the OA itself shall be heard and undoubtedly the respondent no.4 will have an opportunity to place their side and in that event every aspect including the maintainability as against them and in that context the jurisdiction will also be dealt with and considered. With these observations the MA stands disposed off with no order as to costs and the OA is appointed for final hearing on 15.3.2016.

Sd/-

Sd/-

(R.B. Malik)
Member (J)
1.3.2016

(Rajiv Agarwal)
Vice-Chairman
1.3.2016

(sgj)

TE: 1/3/16

COEAM:

Hon'ble Shri. RAJIV AGARWAL
(Vice - Chairman)

Hon'ble Shri R. B. MALIK (Member) J

APPEARANCE:

Shri/Smt. A.K. Bandiwadkar

Advocate for the Applicant in O.A.

Shri/Smt. H.G. Gohad

PRO P.O. for the Respondents No. 1403

in O.A.
Prakash Ramamoorthy Rao

Advocate for the Applicant

These of

Rejoinder filed by
Applicant & Respondent No. 4

M.A. is disposed off.

O.A. Adj. to 15/3/16.