

IN THE HIGH COURT OF KARNATAKA  
CIRCUIT BENCH AT DHARWAD

DATED THIS THE 31<sup>ST</sup> DAY OF OCTOBER 2012

PRESENT

THE HON'BLE MR. JUSTICE K.L.MANJUNATH

AND

THE HON'BLE MR. JUSTICE B.MANOHAR

WA NO.30057/2012 (GM-RES)

BETWEEN:

1. THE DIRECTOR,  
PORTS & INLAND WATER TRANSPORT  
DEPARTMENT, KARWAR,  
UTTARA KANNADA DISTRICT.
2. THE PORT OFFICER,  
KARWAR PORT,  
KARWAR-581 301,  
UTTARA KANNADA DISTRICT.
3. THE STATE OF KARNATAKA,  
PUBLIC WORKS & INLAND  
WATER TRANSPORT DEPARTMENT,  
3RD FLOOR, VIKASA SOUDHA,  
DR. B.R. AMBEDKAR VEEDHI,  
BANGALORE-560 001,  
BY ITS UNDER SECRETARY.

... APPELLANTS

(BY SHRI N.DINESH RAO, AGA)

AND:

1. ADANI ENTERPRISES LTD.,  
(FORMERLY KNOWN AS ADANI EXPORTS LTD.,)

BELEKERI PORT, BELEKERI-581 321,  
TQ.: ANKOLA, UTTARA KANNADA DISTRICT,  
HAVING ITS REGISTERED OFFICE AT:  
'ADANI HOUSE', NAVRANGPURA,  
AHMEDABAD, GUJARAT,  
REP. BY ITS VICE PRESIDENT &  
AUTHORISED SIGNATORY,  
MR. SAMUEL MANOHAR DAVID.

... RESPONDENT

(BY SHRI K.G.RAGHAVAN, SR. COUNSEL  
FOR SHRI MANJUNATH MELED, ADVOCATE FOR C/R)

THIS WRIT APPEAL IS FILED Under Section 4 OF  
THE KARNATAKA HIGH COURT ACT, 1961, PRAYING TO  
SET ASIDE THE ORDER OF THE LEARNED SINGLE  
JUDGE MADE IN WRIT PETITION NOs.67620-67623/2010  
(GM-RES) DATED 08/03/2011 AND ALLOW THE WRIT  
APPEAL AND DISMISS THE SAID WRIT PETITIONS.

THIS APPEAL COMING ON FOR PRELIMINARY  
HEARING THIS DAY, K.L.MANJUNATH J., DELIVERED  
THE FOLLOWING:-

#### JUDGMENT

Though this matter is listed for preliminary  
hearing, by consent of both the parties, this appeal is  
heard on merits.

2. There is a delay of 274 days in filing the appeal.  
In order to consider the application filed for condonation of  
delay, we are of the view it would be appropriate to refer

the facts of this case and then to consider the submissions of the learned counsel appearing for both the parties on the application filed for condonation of delay and so also on merits of the matter.

3. The respondent had been granted lands on lease in the Belekeri Port to use the same as stockyard. The land was leased under three separate lease deeds, each lease was for a period of 30 years, 15 years and one year respectively. The appellants have cancelled the lease deeds unilaterally without issuing any show cause notice on the ground that the respondent-writ petitioner has violated the terms and conditions of the lease. The order of forfeiture of lease was called in question by the writ petitioner by filing the Writ Petition Nos.67620-67623/2010 (GM-RES).

4. The learned single Judge by his order dated 8<sup>th</sup> March 2011 came to the conclusion that forfeiture of lease as per Annexure-E dated 07/07/2010, Annexure-P dated 12/07/2010 and Annexure-Q dated 10/12/7/2010, is without adhering to the principles of natural justice and

the lease has been cancelled behind the back of the respondent-writ petitioner without giving him an opportunity. Accordingly, the writ petitions were allowed granting liberty to the appellants to take action in accordance with law.

5. Being aggrieved by the order of learned Single Judge in the aforesaid writ petitions the present appeal is filed. There is a delay of 274 days in filing the appeal.

6. Having heard the learned counsel appearing for the parties and considering the order passed by the learned Single Judge, we are of the view that there are no merits in the appeal because when the lands were leased in favour of the respondent by the appellants to use the same as stockyard in Belekere port, the same could not have been terminated without issuing a show cause notice. If the learned Single Judge has held that the termination of lease unilaterally without giving an opportunity of being heard is bad and when he has given liberty to the appellants to issue notice and take action in accordance with law, we do not see any merit in this appeal and we

cannot find any infirmity or error in the order passed by the learned single Judge. Therefore, this appeal deserves to be dismissed and is dismissed accordingly. Since we have dismissed the appeal on merits, no further orders are required on I.A.No.1/2012 to condone the delay. Accordingly, I.A.No.1/2012 is dismissed. Consequently, I.A.No.2/2012 filed for stay and I.A.No.3/2012 filed for dispensation, do not survive for consideration. Accordingly, they are dismissed.

Sd/-  
JUDGE

Sd/-  
JUDGE

Vnp\*