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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**LEAVE PETITION (L) NO. 118 OF 2015
IN
SUIT (L) NO. 527 OF 2015**

Jupiter Dychem Pvt. Ltd. & Anr. ...Petitioners/Applicants
Vs.
M/s. Songa Shipping PTE Ltd Owner of
Vessel M.T. Songa Jade & Anr. ...Respondents/Orig.Defdts

Mr. Prathamesh Kamath a/w. Mr. Rahul Mehta
i/b. KMC Legal for the Petitioners

**CORAM : MRS. ROSHAN DALVI, J.
DATED : 12TH JUNE, 2015**

P.C. :

Not on board. On mentioning taken on board.

1. Draft amendments of plaint are tendered and allowed.
2. The plaintiffs have sued the defendants for recovery of Rs.224 crores jointly and severally by the defendants and for other incidental reliefs. The plaintiffs claim under a letter dated 13th June, 2014 of defendant No.2 agreeing and undertaking to pay to the plaintiffs the sum under the bill of lading dated 23rd May, 2014 in consideration of the plaintiffs refraining from arresting or rearresting the ship of defendant No.1. The agreement and undertaking in respect of the claim under the bill of lading dated 23rd May, 2014 is to the extent of Rs.112 crores including of interest and costs.

3. Defendant No.2 is registered in London. The letter is stated to be given to the plaintiffs in Mumbai. Defendant No.2 is stated to be the agent of defendant No.1 in the draft amendments tendered by the plaintiffs. Upon the query of the Court the plaintiffs' Counsel states that the agent of defendant No.2 actually handed over the letter dated 13th June 2014 to the plaintiffs in Mumbai. Indeed it is not seen to be sent by post or otherwise. It is upon this letter that the territorial jurisdiction of this Court is claimed in para 36 of the plaint.
4. The said letter states that the agreement (of defendant No.2) and the claim (under the bill of lading dated 23rd May, 2014) would be governed by and construed in accordance with English law and any dispute arising thereunder shall be subject to the exclusive jurisdiction of London LMAA Arbitration.
5. This letter would, therefore, constitute an agreement between the parties for grant of jurisdiction to the Courts/Arbitration in London, UK and exclude all other Courts as per the judgment in the case of **Swastik Gases Private Limited Vs. Indian Oil Corporation Limited (2013) 9 SCC 32**. It would constitute exclusion / restriction of jurisdiction of all Courts except Courts in London and further

that the parties agreed to go to arbitration in London being governed by English Law.

6. Consequently leave to sue both the defendants for the joint and several liability cannot be granted and is accordingly refused.

(ROSHAN DALVI, J.)