

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION
NOTICE OF MOTION NO.984 OF 2015
IN
ADMIRALTY SUIT NO.1181 OF 2015
WITH
NOTICE OF MOTION (L) NO.2199 OF 2015
IN
ADMIRALTY SUIT NO.41 OF 2015**

DVB Group Merchant Bank (Asia) Ltd. ... Applicant/Org. Plaintiff
In the matter between

DVB Group Merchant Bank (Asia Ltd. ... Plaintiff
versus

M.V. Malaviya Twenty Three, IMO No.9299082
and Ors. ... Defendants

Mr. Rahul Narichania, Senior Advocate with Mr. Shardul Thacker, Ms. Pooja Kapadia, Ms. Smriti Jha i/by M/s. Mulla and Mulla and Craigie Blunt and Caroe, for Plaintiff.

Mr. V.K.Ramabhadran, Senior Advocate with Mr. Manoj Khatri, Mr. Arnab Ghosh for Defendant Nos.1 to 6 and 9.

Mr. Pankaj Savant, Senior Advocate with Mr. Aziz Khan, Mr. Jahan A. Chokshi i/by M/s. Divya Shah Associates, for Defendant No.7 – ONGC.

Mr. Sunil Nair, Sr. Vice President with Mr. Sidat Senanayak, Vice President and Constituted Attornies of Plaintiff, present.

Mr. Shiv Kumar Vats, AGM Legal, Mr. Ram Choudhary, President, Ms. Abhilasha J. Salvi, Manager, Corporate Finance of Defendant No.6, present.

Mr. Shrirang Khadilkar, Strategic Advisor of Deep Water Services Ltd., present.

CORAM: S.J. KATHAWALLA, J.

DATE: 3rd OCTOBER, 2015

(IN CHAMBER)

P.C.:

1. Heard the learned Advocates for the parties and the following order is passed :

(i) The Plaintiff and Defendant Nos.1 to 6 and 9 have executed Consent Terms and tendered in Court. The same is taken on record and marked 'X' for identification. The Consent Terms are signed by the Authorized Signatories of the Plaintiff and Defendant Nos.1 to 6 and 9. Mr. Ram Choudhary, President of Defendant No.6 undertakes to file the requisite authority before this Court within one week from today. The undertaking is accepted. Order in terms of Consent Terms, marked 'X'.

(ii) The Authorized Dealers of Defendant No.6 will expeditiously complete all processes required for timely payment by Defendant No.6 to the Plaintiff as per the payment plan. All approvals required from the Reserve Bank of India would also be expeditiously processed by Defendant No.6 and the Authorized Dealer for effecting timely payment as provided in the Consent Terms. RBI would on any application received from the Authorized Dealers of Defendant No.6 expeditiously process the permission for effecting the payment as per the payment plan herein.

(iii) Defendant No.6 will make timely application to Indian Registrar of Shipping, Mercantile Marine Department, in the event of the sale of Defendant No.9 Vessel Malaviya Nine to ensure that the sale is completed timeously. Upon such applications being made to IRS/MMD supported by the required documentations, the said authorities will process such applications for completion of the sale /flagging.

(iv) All relevant and concerned Government Authorities to give their

approvals/consent/NOC, wheresoever required to facilitate remittance to the Plaintiff bank account stated above of all amounts due and payable to the Plaintiff under this Consent Terms plan set out herein at the earliest and also in order to facilitate the completion of the sale of any of the vessels and repatriation of the sale proceeds to the Plaintiff in their account mentioned above.

(v) The undertakings of the parties which are recorded in the Consent Terms are accepted.

(vi) The Defendant No.1 and 5 Vessels mortgaged to the Plaintiff are presently on charter to ONGC i.e. Defendant No.7. Defendant No.2 Vessel mortgaged to the Plaintiff is not commercially employed at present.

(vii) In consideration for Defendant No.6 signing Consent Terms dated 3rd October, 2015 in the above Notice of Motion, the Plaintiff hereby accords its consent to Defendant No.6 to give Defendant No.2 Vessel on charter to Defendant No.7.

(viii) Pursuant to the Consent Terms dated 3rd October, 2015, Defendant No.7 is hereby directed to directly make payment of the monthly charter hire under the charter contracts with the vessels viz. Defendant nos.1, 2 and 5 to the Plaintiff's Bank Account, the details of which are mentioned herein below :

HSBC Bank, New York (SWIFT : MRMDUS33)

for Account of DVB Group Merchant Bank (Asia) Ltd.

(SWIFT : DVKBSGSG)

Account No. 000.305.189

Such payment shall amount to a due discharge of the liability owed by Defendant No.7 to Defendant No.6 under the respective charter party agreements.

(ix) The above Notices of Motion are disposed off.

(x) Upon compliance of this order passed herein, the above Suit shall stand disposed off. The Advocate for the Plaintiff undertakes to inform the Prothonotary and Senior Master that the order is complied with and the Suit stands disposed off. The undertaking is accepted. Upon the Suit being disposed off the Plaintiff shall be entitled to refund of Court Fees, if any.

(xi) Liberty to apply.

(S.J.KATHAWALLA, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed order.