

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

W.P.(C).No.14730 of 2015 (M)

PETITIONER(S):-

1. M/S. PACIFIC GLORY SHIPPING PTE. LTD.
ADD:21F, JIN AN TOWER, NO.908, DONGDAMING ROAD,
SHANGHAI, CHINA 200082, REPRESENTED BY THEIR AGENT
ACT INFRAPORT LTD, F2, FIRST FLOOR,
NETAGE ARCADE BUILDING, CHURCH LANDING ROAD,
KOCHI 682016, REPRESENTED BY ITS GENERAL MANAGER,
MR MURALEEDHARAN R.
2. **ACT** INFRAPORT LTD,
F2, FIRST FLOOR, NETAGE ARCADE BUILDING,
CHURCH LANDING ROAD,
KOCHI-682016, REPRESENTED BY ITS GENERAL MANAGER
MR MURALEEDHARAN R

BY ADVS.SRI.V.J. MATHEW (SENIOR ADVOCATE)
SMT.NESSIE SURESH
SRI.RAHUL MIRANDA
SRI.VIPIN P.VARGHESE.

RESPONDENT(S):-

1. THE BOARD OF TRUSTEES,
COCHIN PORT TRUST, W/ISLAND COCHIN-9,
REPRESENTED BY IT CHAIRMAN.
2. TRAFFIC MANAGER, COCHIN PORT TRUST,
COCHIN PORT TRUST,
W/ISLAND, COCHIN-9

3. THE COMMISSIONER OF CUTOMS,
COCHIN PORT TRUST, W/ISLAND, COCHIN-9.

4. M/S.COCHIN SHIPYARD LTD.,
COCHIN 682015, KERALA, INDIA.

R1 & R2 BY STANDING COUNSEL SRI.ABRAHAM MARKOS.

R3 BY STANDING COUNSEL SRI.THOMAS MATHEW NELLIMOOTTIL.

R4 BY ADVS.SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURRYAN THOMAS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
28-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXHIBIT P1: TRUE COPY OF FIXTURE NOTE DATED 9TH MARCH 2015.
- EXHIBIT P2: TRUE COPY OF BILL OF LADING NO.BC001 DATED 22TH MARCH 2015.
- EXHIBIT P3: TRUE COPY OF LETTER DATED 12TH MAY 2015 ISSUED BY 2ND PETITIONER TO 2ND RESPONDENT.
- EXHIBIT P4: TRUE COPY OF LETTER DATED 13TH MAY 2015 ISSUED BY 2ND PETITIONER TO 2ND RESPONDENT.
- EXHIBIT P5: TRUE COPY OF LETTER DATED 14TH MAY 2015 ISSUED BY 2ND PETITIONER TO 2ND RESPONDENT.
- EXHIBIT P6: TRUE COPY OF THE DEBT NOTE DATED 16TH MAY 2015 FOR AN AMOUNT OF USD 54,708.79
- EXHIBIT P7: TRUE COPY OF THE NOTICE OF LIEN DATED 17 TH MAY 2015 ISSUED BY THE 2ND PETITIONER TO THE RESPONDENTS.
- EXHIBIT P8: TRUE COPY OF THE FAX RECEIPTS ACKNOWLEDGING RECEIPT OF EXHIBIT P7 BY 1ST RESPONDENT, 2ND RESPONDENT, 3RD RESPONDENT AND 4TH RESPONDENT.
- EXHIBIT P9: TRUE COPY OF THE DEBIT NOTE DATED 27.5.2015 FOR AN AMOUNT OF RS.1,04,140.46 ISSUED TO THE PETITIONER/ 4TH RESPONDENT.

RESPONDENT(S)' EXHIBITS:-

- EXHIBIT R4(a) TRUE COPY OF THE PURCHASE ORDER DATED 13.2.2015.
- EXHIBIT R4(b) TRUE COPY OF THE AMENDMENT DATED 24.2.2015 TO EXT.R4(a) PURCHASE ORDER.

- EXHIBIT R4(c) TRUE COPY OF E-MAIL DATED 11.5.2015 FROM
M/S.CAFCO FREIGHT SYSTEMS PVT. LTD., TO THE
2ND PETITIONER.
- EXHIBIT R4(d) TRUE COPY OF THE LETTER DATED 18.05.2015, ISSUED BY
THE TRAFFIC MANAGER, COCHIN PORT TRUST.
- EXHIBIT R4(e) TRUE COPY OF LETTER DATED 20.5.2015 FROM THE
4TH RESPONDENT TO THE 2ND PETITIONER.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.14730 of 2015-M

Dated this the 28th day of May, 2015

JUDGMENT

The 1st petitioner is a ship chartering Company and the 2nd petitioner is the steamer agent of the 1st respondent, who have filed the above writ petition for a direction to respondents 1 and 2 to mark lien on the cargo of 1000 MTs of Steel Plate, which the 1st petitioner had brought into the country for the 4th respondent and unloaded at the premises of the Cochin Port Trust.

2. On admission itself, the learned counsel appearing for the respondents 1 and 2 in the writ petition had submitted that on receipt of the communication from the petitioner there was a lien marked on the cargo of 1000 MTs of Steel Plate and the said submission was recorded by order dated 19.05.2015.

3. I.A.No.6672 of 2015 was filed by the 4th respondent, disputing the lien as such and contending that a

lien of only 110 MTs would have to be recorded even if the petitioners' claim is allowed in its entirety.

4. A counter affidavit, dated 28.05.2015, has been filed by the writ petitioner, to I.A.No.6772 of 2015 filed by the 4th respondent therein, disputing the aforesaid contentions and specifically contending so:

“Hence even by going through the contentions of the petitioner herein in the direction petition, the Respondent No.1 & 2 are entitled to exercise lien on 218 MT of cargo as per Exhibit P9 debit note and another 82 MT of cargo for future expenses totalling 300 MT of cargo and Respondent No.1 & 2 have no objection in releasing the balance cargo of 700 MT to the petitioner as stated in the petition”.

5. In the circumstance of the undertaking in the counter affidavit filed to I.A.No.6772 of 2015, the petitioners require a lien to be marked only for 300 MTs. The said undertaking of the writ petitioners is recorded.

6. The writ petition would stand closed, leaving the 4th respondent to challenge the lien marked even with respect to the 300 MTs of cargo. The contentions of either parties are left open. The release of the cargo would be in accordance with the Rules and Regulations of the Cochin Port Trust. Parties are left to suffer their respective costs.

Sd/-

K.Vinod Chandran
Judge.

vkul/-

[true copy]