

Memo dated 11.06.2015 in Application No.3526 of 2015
in
C.S.No.631 of 2014

K.RAVICHANDRABAABU,J.,

Learned counsel for the defendant has filed the above memo, dated 11.6.2015 in this application praying to release the defendant's Vessel MT Titan Vision, from arrest, which was granted by this Court by order dated 25.09.2014 passed in A.No.6124 of 2014 in C.S.No.631 of 2014. The said Memo reads as follows:

1) Pursuant to the order dated 03.06.2015 passed in Application No.3526 of 2015 in C.S.No.631 of 2014, the defendant has furnished a Bank Guarantee for a sum of Rs.5,14,10,114.50 on 10.06.2015 to secure the claim of the plaintiff. The Registry of this Hon'ble Court is satisfied with the execution of the Bank Guarantee and has also made an endorsement that the Bank Guarantee has been executed in compliance with the Order passed by this Hon'ble Court dated 03.06.2015 in Appln. No.3526 of 2015 in C.S.No.631 of 2014. The defendant has also settled the claim of other intervenors in the suit, who have also withdrawn their applications as "Settled out of Court".

2) This Hon'ble Court, by its Interim Order dated 25.09.2014 passed in Application No.6124 of 2014 filed by the plaintiff granted an order of arrest of the Defendant vessel M T TITAN VISION which was made absolute by its Common Order dated 23.12.2014 in Application Nos.6124 of 2014, 6259 of 2014, 6260 of 2014 and 6261 of 2014 in C.S.No.631 of 2014. The defendant has also challenged the said common order dated 23.12.2014 before the Division Bench of this Hon'ble Court in OSA.Nos.45 of 2015, 46 of 2015, 47 of 2015 and 48 of 2015 which is pending before the Division Bench which has

adjourned the hearings to 28.07.2015 for final hearing.

3) The defendant having now secured the claim of the plaintiff by furnishing a Bank Guarantee for the suit claim without prejudice to their rights, is now entitled to obtain the release of the defendant vessel M T TITAN VISION which was arrested by orders of this Hon'ble Court on 25.09.2014 passed in Application No.6124 of 2014 in C.S.No.631 of 2014 which was also made absolute on 23.12.2014.

4) Application No.3526 of 2015 in C.S.No.631 of 2014 seeking permission of this Hon'ble Court to furnish a Bank Guarantee for the suit claim was also allowed after recording the 'No objection' given by the plaintiff for furnishing a Bank Guarantee for the suit claim to secure the claim of the plaintiff. No prejudice will be caused to the plaintiff, if this Hon'ble Court releases the defendant vessel M T TITAN VISION from arrest as the plaintiff's claim has now been fully secured by a Bank Guarantee.

5) The defendant vessel M T TITAN VISION is remaining idle without trading for the past several months and is incurring huge expenditure. The defendant having settled the claim of all the intervenors and having secured the claim of the plaintiff without prejudice to their rights by furnishing a Bank guarantee is now entitled for release of the defendant vessel M T TITAN VISION.

It is therefore prayed that this Hon'ble Court be pleased to release the defendant vessel M T TITAN VISION from arrest which was granted by this Hon'ble Court by its order dated 25.09.2014 passed in Application No.6124 of 2014 in C.S.No.631 of 2014 and thus render justice."

2. The contentions of the said memo are not disputed by the learned

counsel appearing for the plaintiff.

3. The learned counsel appearing for the defendant submitted that since the claim of the plaintiff in the suit is secured by the defendant by furnishing a Bank Guarantee, the Vessel can be released by this Court which was ordered to be arrested on 25.09.2014 passed in Application No.6124 of 2014. As it is seen that the said order of arrest which was subsequently made absolute, is challenged before the Division Bench of this Court in OSA.Nos.45,46,47 and 48 of 2015 and those appeals are pending before the Division Bench of this Court, this Court is of the view that it is for the applicant/defendant to approach the Division Bench of this Court and place all these facts and get appropriate orders, especially when it is stated by the learned counsel for the defendant that they would like to get an order on merits in the above OSAs.

4. The said Memo is disposed of in the above terms.

12.06.2015

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Note:

Registry is directed to issue order copy today to both parties.

K.RAVICHANDRABAABU,J.,

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12.06.2015