

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION
NOTICE OF MOTION NO. 993 OF 2016

IN

ADMIRALTY SUIT NO. 18 OF 2016

Madison Pacific Trust Limited ... Applicant / Plaintiff

Versus

MV Garv Prem and Anr. ... Respondents

Mr. Rahul Narichania Senior Advocate a/w, Arjun Mital i/by Bose & Mitra & Co. Advocate for the Applicant/ Plaintiff.

None for Defendants.

CORAM : S.J. KATHAWALLA, J.
DATED : 25TH APRIL, 2016

P.C.:

1. By this Notice of Motion, the Plaintiff, inter alia, seeks an order directing that the Defendant Vessel m.v. GARV PREM be sold by the Sheriff of Mumbai and for the sale proceeds to be paid into the Registry of this Court.
2. Mr. Narichania, Ld. Senior Counsel appearing for the Applicant submits that the Defendant No.1 Vessel has been arrested by an order of this Court dated 8th January 2016, however the Defendant No.2., the owner of the Defendant No.1 Vessel has not entered appearance or taken steps for the release of the Vessel. Mr. Narichania also submits that the Defendant No.2, a Singapore based company, is in financial trouble and in this regard Judicial Mangers have been appointed by the High Court of Singapore. Mr. Narichania tenders an Affidavit of Service in respect of the service of the present Notice of Motion upon the Defendant No.1 Vessel, the Defendant No.2 as well as the Judicial Mangers of the Vessel. Though served none have appeared. The Defendant No.1 Vessel has been lying at the Port of Gangavaram since January 2016. This is a private port where the port charges are very high. There is apprehension that the crew wages have also not been paid. Each days delay may

increase the claims over the Defendant No. 1 Vessel. It is therefore necessary to pass orders for the sale of the Defendant No.1 Vessel *pendente lite*.

3. In light of the above, a case for the sale of the Defendant Vessels is made out. Prayers (a) to (f) of the Notice of Motion are therefore, allowed.

4. In view thereof, the Sheriff of Mumbai shall have the Defendant Vessel appraised by independent surveyors Ericson Richards, fix the terms and conditions of sale, issue public advertisements and take all steps to complete the sale and make a report to this Court for confirmation of the sale as per the time line below.

- a) Completion of valuation of the vessel by 4th May 2016.
- b) Fixing of valuation price by the Court- 6th May 2016.
- c) Meeting of concerned advocates and parties for settling the terms and conditions of auction sale and issue of public advertisement of auction in the newspapers – The Free Press Journal, Janmabhoomi and Navshakti.- 6th May 2016.
- d) Inspection by attending bidders and submission of bids to the Sheriff of Mumbai- 23rd May 2016.
- e) Confirmation of the offer by the highest bidder by the Court- 6th June 2016.
- f) Payment of purchase price as per agreed terms and conditions of sale- 15th June 2016.

Leave to apply to the Vacation Bench if required is granted.

5. The costs and expenses of the publication and sale as mentioned above shall be initially borne by the Plaintiff/Applicant in the present suit. The Sheriff of Mumbai shall call for such amounts and the Plaintiff/Applicant shall deposit the same with the Sheriff. They will be entitled to be reimbursed from the sale

proceeds of the Defendant Vessel as soon as the sale proceeds are received by the Sheriff.

6. The Plaintiff/Applicant, if it is so inclined, is at liberty to make payments towards preservation and maintenance of the Defendant vessel. However, all such payments are to be made by the Plaintiff/Applicant through the Sheriff of Mumbai. If for instance, necessities are required to be supplied to the Defendant Vessel, the Sheriff of Mumbai is to expeditiously contact the relevant necessities suppliers at the port of Gangavaram and obtain quotes from them in relation to such supplies and engage the supplier with the lowest quotes, without approaching this Court. If any crew wages (accrued after the arrest of the Defendant Vessel) are required to be paid, such crew members are to approach the Sheriff of Mumbai with the relevant documentation.

7. Upon receiving a request for payment by any supplier, crew member or port authorities, or any necessary supplier for the period on or after the arrest of the Defendant Vessel, the Sheriff of Mumbai shall forthwith request for funds from the Plaintiff/Applicant who has arrested the Defendant Vessel setting forth the nature and quantum of payments that need to be made. If the Plaintiff/Applicant is inclined to make payment, it shall inform the Sheriff of Mumbai within 3 days of receipt of such communication from the Sheriff. Payment may then be made by the Plaintiff/Applicant to the below account of the Sheriff :

Name of the Bank : Canara Bank, Tamarind Lane, 8/10, Calcot House, Fort, Mumbai- 400023, India

Canara Bank Nostro Bank A/c with: CITI BANK NEW YORK

Canara Bank Correspondence Swift Code: CITIUS33

Canara Bank NOSTRO Account Details: 36053796

Canara Bank Swift Code No: CNRBINBBTML

Beneficiary Account Details: Sheriff of Mumbai

Account Number: 0239121001002

8. That after disbursements of costs incurred as Sheriff's expenses, the sale proceeds be deposited by the Sheriff of Mumbai with this Court in a USD interest bearing account with the Prothonotary & Senior Master, Bombay High Court.
9. The Notice of Motion accordingly stands disposed off with costs.

(S.J. KATHAWALLA, J.)