

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY & VICE ADMIRALTY JURISDICTION
NOTICE OF MOTION NO.1137 OF 2016
IN
ADMIRALTY SUIT NO.41 OF 2015

DVB Group Merchant Bank (Asia) Ltd.

...Plaintiff / Applicant

V/s

m.v. "Malaviya Twenty Three"
IMO number: 9299082 &Ors.

...Defendants

Mr. Rahul Narichania, Senior Advocate with Ms. Pooja Kapadia & Ms. Pratiksha Avhad, i/b. M/s. Mulla & Mulla & Craigie Blunt & Caroe for Plaintiff.

Mr. A.S. Doctor i/b. Manoj Khatri for Defendant Nos. 1 to 6.

Mr. Pankaj Sawant, Senior Advocate with Mr. Jahan A. Chokshi i/b. M/s. Divya Shah Associates for Defendant No.7.

Mr. Akshay KolsePatil i/b. A. Mehta Lalji & Co. for Defendant No.8.

Mr. J.B. Mishra for Defendant No.11.

CORAM: S. C. GUPTE, J.

DATE: 4 May, 2016

P.C. :

1. In view of the order dated 3rd May, 2016 passed by Justice S.J. Kathawalla in the present Suit, the Plaintiff without prejudice to their rights and contentions does not press the present Notice of Motion.

Accordingly, the present Notice of Motion No.1137 of 2016 is disposed of with no orders as to costs. The ad-interim order passed in the present Notice of Motion stands vacated forthwith.

2. Defendant No.8, (SCI), is directed to make payment of the entire charter hire amounting to approximately Rs. 27.25 crores due to Defendant No.6 (GOL) as far as possible within 3 working days and in any event, within 7 working days. Defendant No.6 (GOL) undertakes to this Court to forthwith, upon receiving payment from Defendant No.8 (SCI), pay the service tax authority an amount of approximately Rs.12.7 crores towards the entire service tax dues. Upon payment of the entire service tax by Defendant No.6 (GOL), the Service Tax Authority is directed to withdraw its demand notice dated 28th March, 2016 issued to Defendant No. 7 (ONGC) and also the demand notice dated 15th March, 2016 to Defendant No.8, (SCI) within two working days. Defendant No.6 (GOL) to utilize the balance amount (after payment of service tax) in compliance with the order dated 3rd May, 2016 passed by Justice S.J. Kathawalla. Service Tax Authority to file its affidavit as per the earlier order dated 2nd May 2016 passed by this Court. It is clarified that if the Service Tax Department has any dues to recover on account of further interest or penalty, this order shall not prejudice their claims for such interest or penalty. All rights and contentions of all parties on such demand, if any, are kept open.
3. On demand by the Plaintiff, Defendant No. 6 (GOL) shall forthwith furnish full particulars of the payments made to the Service Tax Department and the balance payments received from SCI towards the charter hire. Defendant No. 6 (GOL) undertakes to do so.

4. The undertaking given by Defendant No. 6 (GOL) is accepted and the Notice of Motion, accordingly, stands disposed of in the aforesaid terms.

(S.C. Gupta, J.)