

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE-ADMIRALTY JURISDICTION**

**CHAMBER SUMMONS NO. 1128 OF 2014
IN
ADMIRALTY SUIT NO. 77 OF 2013**

Dan Bunkering Ltd.

.. Applicant/Intervener

In the matter between :

Axis Bank Ltd.

.. Plaintiff

Vs.

M.T. Pratibha Koyna & 7 Ors.

.. Defendants

Mr.Mayur Bhojwani a/w. Ms.Prangana Barva i/b M/s. Manilal Kher & Co.
for plaintiff.

Mr.Bimal Rajasekhar i/b Ashwin Shanker for applicant.

Mr.Sharan Jagtiani a/w. Mr.Rohan Lavkumar for defendant no.4 (in-
liquidation)

Mr.Sunil A. Pawar-Ex-Managing Director of Pratibha Shipping Co. Ltd.
present.

CORAM : K.R.SHRIRAM, J.

DATE : 14TH SEPTEMBER, 2016

P.C.

1 This chamber summons is taken out by the applicant for leave to intervene in the present suit. The applicant also has a claim against defendant no.3 for having supplied bunkers. The applicant has filed an independent suit bearing Admiralty Suit No.15 of 2013. Defendant no.3-vessel was sold pursuant to various orders passed by this Court for

Rs.53,75,00,000/-. The plaintiff is seeking a decree against the sale proceeds of this vessel along with the sale proceeds of the other defendant vessels.

3 Rule 949 of the Bombay High Court (OS), Rules reads as under :-

***949 Interveners** – (1) Where property against which a suit in rem is brought is under arrest or money representing the proceeds of sale of that property is in Court, a person who has interest in that property or money but who is not a defendant to the suit may, with the leave of the Judge, intervene in the suit.*

(2) An application for the grant of leave under this rule may be made ex-parte by affidavit showing the interest of the applicant in the property against which the suit is brought or in the money in Court.

(3) A person to whom leave is granted to intervene in a suit shall file an appearance in person or a Vakalatnama therein within the period specified in the order granting leave. On filing such appearance or Vakalatnama, the intervener shall be treated as if he were a defendant in the suit.

(4) The Judge may order that a person to whom he grants leave to intervene in a suit, shall, within such period as may be specified in the order, serve on every other party to the suit such pleading as may be so specified.

Heard the counsels and also considered the affidavit in support. The applicant, in my view, certainly has an interest in the sale proceeds of defendant no.3-vessel.

4 In the circumstances, the applicant should be granted leave to intervene in this suit. The chamber summons is, therefore, allowed in terms

of prayer clause (a) and accordingly disposed.

5 The plaint and connected proceedings be amended within two weeks from today and the amended copy of the plaint to be served within one week thereafter on all parties. Should the applicant wish to file written statement, the same to be filed and copy served within one week of receiving the amended copy of the plaint. The applicant also waives service of writ of summons. The applicant to file Vakalatnama in the suit within two weeks.

(K.R. SHRIRAM, J.)