

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.163 OF 2014

Coromandel International Ltd. ... **Appellant**

V/s.

M.V.Glory-I & Ors. ... **Respondents**

.....

Ms.Ridhi Nyati with Bimal Rajasekhar I/b. Ashwin Shanker,
Advocate for the Appellant.

Mr.Nandu Thorat, Advocate for the Respondent No.3.

....

**CORAM : ANOOP V. MOHTA J.
A.M.BADAR J.**

DATED :8th FEBRUARY 2017.

ORAL JUDGMENT : (PER ANOOP V. MOHTA J.)

1 The appellant, on instructions, expresses his willingness to withdraw the appeal if the issue with regard to the maintenance expenses to be characterized as sheriff's expenses to be decided during main trial uninfluenced, unaffected by the observations made in impugned order dated 24/10/2013 and 11/02/2014.

2 The appellant has filed this appeal against the orders dated 24/10/2013 and 11/02/2014. This Court on 06/02/2017

after hearing the appellant disposed of Appeal (St) No.313 of 2014 and Appeal No.164 of 2014 arising out of Admiralty Suits No.12 of 2011 and 33 of 2010.

3 Therefore, taking over all view of the matter and as though minutes of the order is placed on record for disposal of present appeal with above prayer, the other side is not cooperating for want of instructions. The request is again made to adjourn the matter for instructions. We have kept this matter today for disposal of the appeal. The minutes of order dated 07/02/2017 is already served to other side on 07/02/2017. The matters were already heard on 06/02/2017. For only disposal and to cut-short the reasons, the matter is listed today. Therefore, there is no case for adjournment made out by respondent No.3 (mortgagee bank).

4 After considering the earlier orders so passed and the submissions so made here and as the suit itself is ready for trial, the appellant has filed its original documents and ready with its witnesses to prove the payments which were made including for supply arrangements to the vessel during the period of arrest after its owner had abandoned it. Even otherwise, it is necessary for them to prove the same. The observations, therefore, so made in the impugned orders would definitely affect the appellant's rights to claim the said expenses as sheriff's expenses. Therefore, to give opportunity, by keeping all points open, in this regard, including

the observations, so made by the learned Single Judge rejecting such claim, we see that case is made out by the appellant to dispose of this appeal by keeping all the contentions open.

5 The related observations, even if made, shall not affect the merits of the claim so raised during trial. The learned Admiralty Judge to hear the issues and pass order uninfluenced by the observations made in the impugned orders dated 24/10/2013 and 11/02/2014. In view of this, the learned counsel appearing for the appellant not pressing the appeal.

6 The appeal is accordingly disposed of.

7 The cross-objections are also disposed of for the above reasons accordingly.

8 No costs.

(A.M.BADAR J.)

(ANOOP V. MOHTA J.)