

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL ADMIRALTY SUIT NO. (L) 4 OF 2017

Arambhan Hospitality Services Ltd

... Plaintiff

Vs.

m.v. Nand Saarthi

... Defendant

ALONG WITH

ADMIRALTY SUIT NO. 63 OF 2015

Accelerated Growth FZE

... Plaintiff

Vs.

DLB Nand Gaurav

... Defendant

Mr. Vishal Sheth, Advocate i/b Bimal Rajashekhar for the Plaintiffs in both suits.

Mr. Rahul Narichania, Senior Advocate a/w Mr. Prathamesh Kamat, Mr. Nivit Srivastava, Mr. Harsh Behany i/b Maniar Srivastava Associates for the Defendants in both suits.

CORAM : S. J. Kathawalla, J.

DATE : JANUARY 4, 2017

P.C.

Heard the learned Advocates for both the parties and the following order is passed.

1. It is agreed by and between the parties that the following principal amounts are due and payable by the owner of the Defendant vessels i.e. Essar Offshore Subsea Ltd. (“*EOSSL*”) or any party on behalf of EOSSL to the Plaintiffs:-

Accelerated Growth FZE: USD 365,666/-

(a) Arambhan Hospitality Services Ltd.

(Formerly Cawasji Behramji Catering

Services Ltd.): USD 108,679/-

(b) Arambhan Hospitality Services Ltd.

(Formerly Cawasji Behramji

Catering Services Ltd.): Rs.67,49,452/-

EOSSL shall pay the above principal amounts in accordance with this order.

2. EOSSL agrees to pay simple interest on the aforesaid principal amounts as below:
 - (i) 4% p.a. on USD currency claims listed in clause 1 above from 5th May 2015 till 4th January 2017. Accordingly, the interest payable by EOSSL under this clause aggregates:
 - (a) USD 24,444 on the claim of USD 365,666
 - (b) USD 7,265 on the claim of USD 108,679
 - (ii) 5% p.a. on USD currency claims listed in clause 1 above from 5th January 2017 onwards; and
 - (iii) 10% p.a. on Indian Rupee currency claims listed in clause 1 above from 5th May 2015 onwards.
3. In respect of amounts payable to the Plaintiff in Admiralty Suit No. 63 of 2015 viz. Accelerated Growth FZE, EOSSL is directed to make payments of such amounts to Mr. Vishal Sheth, Advocate, High Court, who represents the Plaintiffs viz. Arambhan Hospitality Services Ltd. and Accelerated Growth FZE., in the above two Suits. Such a payment will constitute a valid discharge

in favour of the Defendants viz. EOSSL. For avoidance of doubt it is clarified that claims made in USD currency will be paid in USD currency and the claims made in Indian Rupee currency will be paid in Indian Rupee currency:

- i. EOSSL undertake to pay within 4 bank working days from the date hereof, a sum of USD 108,679 to the Plaintiff in Comm. Admiralty Suit (L) No. 4 of 2017;
 - ii. The balance amounts of USD 365,666/- and Rs.67,49,452/- shall be paid by EOSSL in 12 equal installments of the principal outstanding amounts starting from 15th of February 2017, with each installment being paid on or before the 15th day of each month;
 - iii. The Plaintiff further undertakes to pay interest calculated on the aforesaid principal amounts on a reducing balance at the rates set out in Clause No. 2 above along with the last installment.
4. In the event of EOSSL making two defaults in payment of the installments, the Plaintiffs shall be entitled to *inter-alia* seek the

arrest of the Defendant vessels (i.e. m.v. Nand Saarthi and / or Nand Gaurav).

5. EOSSL undertakes to this Hon'ble Court that until all the above installments are paid by EOSSL in accordance with this order, EOSSL shall not sail the Defendant vessels (m.v. Nand Saarthi and Nand Gaurav) outside the Indian territorial waters without the prior leave of this Hon'ble Court. Also, no further encumbrances from today shall be created on the vessels m.v. Nand Saarthi and Nand Gaurav without the prior leave of this Hon'ble Court until the entire payment as mentioned aforesaid is made by EOSSL, nor will these vessels be alienated or transferred, without the prior leave of this Hon'ble Court.
6. Upon EOSSL making payment in accordance with this order, the Plaintiffs in the above suits shall have no claims against EOSSL (or any vessels owned / beneficially owned by EOSSL) in respect of the transactions which form the subject matter of the present suits. EOSSL confirms that it does not have any claim against the Plaintiffs.
7. Since no order of arrest is passed in the present Suit, no poundage is payable. However, since the order of arrest passed in Admiralty Suit

No.63 of 2015 hereby is vacated and the claim therein is settled EOSSL shall pay poundage to the Sheriff of Mumbai as per rules within a period of 8 weeks from today.

8. The parties are at liberty to apply to the Hon'ble court in case of any difficulty and/or clarification.
9. It is agreed by the parties that no reasons are required to be given by this Court in support of this order.
10. In light of the aforementioned terms, the Defendant vessels m.v. Nand Saarthi and Nand Gaurav both stand released from arrest immediately and are free to sail forthwith. Instrument of release is dispensed with.
11. The Ports, Customs and other concerned authorities shall act on the ordinary copy of the order duly authenticated by the Associate of this Hon'ble Court and ensure expeditious release of the vessel.
12. The Suits are accordingly disposed off in terms of this order. All interlocutory applications, if any, also accordingly stand disposed off. Caveat Nos. 51 and 52 of 2016 are discharged. Refund of court fees in both suits in favour of the Plaintiff and/or the Plaintiff's

Authorised Representative/Constituted Attorney, as per the rules.
Chamber Summons (L) Nos. 1 and 2 of 2017 in Caveat Nos. 51 and
52 of 2016 respectively are also disposed off.

(S.J. KATHAWALLA.J.)