

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**COMPANY APPLICATION (L) NO.18 OF 2018
IN
COMPANY PETITION NO.756 OF 2014**

Phoenix ARC Pvt. Ltd. ... Applicant

In the matter between

Export Import Bank of India ... Petitioner

Versus

GOL Offshore Ltd (Through
the Official Liquidator) Respondent

....

Mr. Zubin Behram Kamdin a/w Ms. Aneesa Cheema i/b Verus, for
Applicant.

Mr. Smit H. Shah i/b Shrivastav & Co. for Pragati Marine Services Pvt. Ltd.
a/w Mr. A. K. Singh, Managing Director of Pragati Marine Services Pvt.
Ltd..

Krishnan Kumar Kohli of Ocean Sparkle Ltd. present.

.....

CORAM : S.C.GUPTE, J.

DATE : 14 MARCH 2018

P.C. :

1. This Company Application seeks direction to the Official Liquidator
for sale of the vessel by the name of MT Polaris. The Official Liquidator
files a reply.

2. By an order dated 14 February 2018, the Applicant was directed to
advertise the sale of the Suit Tug MT Polaris and simultaneously obtain a

valuation report. The valuation report has since been obtained from UBA Insurance Surveyor and Loss Assessors LLP. The valuation report estimates value of the Suit Tug in the region of INR 6 crores on as is where is basis. In response to advertisements issued pursuant to the order of 14 February 2018, two bidders have submitted their respective bids for the purchase of the Suit Tug. M/s. Ocean sparkle Limited have submitted their offer for the sum of INR 6.90 crores, whilst M/s. Pragati Marine Services Private Limited have submitted their offer for INR 6.81 crores. Since these offers were in close proximity in terms of the offer price, an open bidding was held in Court. Pursuant to the bidding, M/s. Pragati Marine Services Private Limited have submitted their final offer of INR 7.30 crores for Suit Tug. Since the offer submitted by M/s. Pragati Marine Services Private Limited is the highest and is well above the valuation made by the Valuers, the offer is accepted. M/s. Pragati Marine Services Private Limited have paid 10% of the offer amount to the Applicant. M/s. Pragati Marine Services Private Limited now offer to make the balance payment of their offer price now accepted by the Court within 15 days from today by depositing the same with the Official Liquidator. The EMD amount deposited with the Applicant will have to be made over to the Official Liquidator.

3. Accordingly, the Company Application is disposed of in terms of the following order:-

ORDER

- (i) The offer given by M/s. Pragati Marine Services Private Limited in Court today through Amarendra Kumar Singh, Managing Director of Pragati Marine Services Private Limited for purchase of the Suit Tug for the sum of Rs.7.30 crores, is accepted.
- (ii) The EMD amount of Rs.68.1 lacs deposited by M/s. Pragati Marine Services Private Limited with the Applicant herein shall be adjusted towards the purchase of the Suit Tug.
- (iii) The balance amount of Rs.6,61,99,000/- shall be deposited by M/s. Pragati Marine Services Private Limited with the Official Liquidator within a period of 15 days from today. The amount shall be deposited through RTGS to the following account of the Official Liquidator, namely, Acc. No.0062000100351097 of Punjab National Bank. Further details, if any, concerning this account may be obtained from the Liquidator's Office.
- (iv) Against deposit of the balance amount, the possession of the Suit Tug shall be made over by the Official Liquidator to M/s. Pragati Marine Services Private Limited on as is where is basis.

(v) In case the balance amount is not deposited by M/s. Pragati Marine Services Private Limited within the time provided as above, the sale sanctioned in their favour shall stand cancelled and the EMD amount deposited by them shall stand forfeited.

(vi) In the event of cancellation of the sale, the next best offer of M/s. Ocean Sparkle Limited for the sum of Rs.7.25 crores shall stand admitted and the sale shall likewise be concluded in favour of the M/s. Ocean Sparkle Limited after seeking appropriate direction from the Court.

(vii) In the event of the sale sanctioned in favour of M/s. Pragati Marine Services Private Limited going through in accordance with this order, the EMD deposited by M/s. Ocean Sparkle Limited in the sum of INR 69 lacs and which has since been deposited with the Bank in the form of Fixed Deposit receipt shall be refunded to them by the Applicant with accrued interest thereon.

(viii) The EMD of M/s. Pragati Marine Services Pvt. Ltd, received by the Applicant, shall be made over by them to the Official Liquidator after adjusting their expenses including the advertisement charges paid by them from out of the same.

(S.C.GUPTE, J.)