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

COMPANY APPLICATION (L) NO.19 OF 2018
IN
COMPANY PETITION NO.756 OF 2014

Phoenix ARC Pvt. Ltd. … Applicant

<u>In the matter between:-</u>
Export Import Bank of India … Petitioner

Versus

GOL Offshore Ltd (Through the Official Liquidator) …. Defendant

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Mr. Zubin Behramkamdin a/w. Mr. Charles De Souza a/w Mr. Aneesa Cheema I/b Verus for the Applicant.
Mr. Mahendhar Aithe, Company Prosecutor for Official Liquidator present.
Mr. Rajiv Agarwal, Director of Tirupati Vessels Pvt. Ltd.
Mr. Surendra R. Mishra, Direcotr for Vedant Ship Management present.

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CORAM : S.C.GUPTE, J.

DATE : 28 MARCH 2018

<u>P.C.</u> :

1. As noted by an order dated 1 March 2018, the sale of the vessel Sangita owned by the company in liquidation was to be accomplished. Suitable directions were issued by the Court to that end. Potential buyers were given three weeks' time to respond to the advertisement published in response to the order for sale of the vessel MT Sangita. Two parties have come before the Court in response to the advertisement. M/s Tirupati Vessels (P) Limited have submitted offer for Rs.1.30 crores, whereas M/s Vedant Ship Management have submitted an offer for Rs.1.35 crores.

Since the offers are quite close, the parties are asked to bid in Court. After such bidding in Court, it transpires that offer of M/s. Vedant Ship Management for a sum of Rs.2.10 crores is the highest offer for purchase of the vessel. M/s. Tirupati Vessels (P) Limited do not match this offer. The Applicant has no objection to this offer being accepted. The representative of the Official Liquidator requests the Court to re-advertise the vessel for sale, since the highest price offered today is below the reserved price.

2. The reserved price is based on a valuation report, which estimates the value of the vessel in the region of Rs.3.25 crores. Though the value offered today is below the valuation submitted in the Court, it is not in dispute that the vessel is lying at PNV Anchorage of the Port in a very precarious condition. The vessel has already tilted substantially and the manning agency is even refusing to send its personnel on board the vessel. In the premises, it is imperative that the sale is accomplished as expeditiously as possible. Accordingly and considering that none of the stake holders present in the Court has any objection to completing the sale today as noted above, this court is of the view that no fruitful purpose may be served by re-advertising the sale of the vessel. In fact it is quite likely that even the value offered today may not be received, if the matter is delayed any further. In the premises, the offer of M/s Vedant Ship Management is accepted.

3. Accordingly, the sale of the vessel MT Sangita is confirmed in favour of M/s Vedant Ship Management for a sum of Rs.2.10 crores. M/s. Vedant Ship Management shall deposit the balance bid price within a period of 21 working days from today by direct credit to the account of the Official Liquidator, being Acc. No.0062000100351097 of Punjab National Bank

(IFSC Code:PUNB0006200) through RTGS. Against payment of the balance price as provided herein, the Official Liquidator shall forthwith hand over the possession of the Suit vessel MT Sangita to M/s. Vedant Ship Management and issue a sale certificate in their favour. It is clarified that the vessel is being sold to the M/s. Vedant Ship Management on ' as is where is' basis, but free from all encumbrances as clarified in the order dated 1 March 2018.

4. The amount to be deposited by M/s. Vedant Ship Management shall be invested by the Official Liquidator in a Fixed Deposit of a Nationalized Bank. No amount shall be disbursed without seeking appropriate orders from the Court. The charges of the vessel including all port charges up to date shall be to the Official Liquidator's account and shall be paid from out of the sale proceeds. It is clarified that all claims against the sale proceeds of the vessel including maritime liens and claims shall be considered by the Official Liquidator in accordance with the applicable law of priority of claims. The costs incurred by the Applicant towards the sale of the vessel including the advertisement charges and manning expenses shall be paid by the Official Liquidator from out of the sale proceeds. These shall be paid as liquidation expenses. Notice of any claim/s against the sale proceeds of the vessel shall be given by the Official Liquidator to the Applicant herein.

5. The charges receivable by the port authorities in respect of the vessel shall be recovered from the Official Liquidator. The Port authorities shall not hold up the delivery of the vessel to the purchaser for non-payment of these charges.

6. Certified copy is expedited. All parties to act in the meantime on a

copy of this order duly authenticated by the associate of the Court.

7. The company application is disposed of. All rights and contentions of the parties concerning the right to the sale proceeds are kept open. The Official Liquidator to present a report to this Court within eight weeks seeking directions for disbursement of sale proceeds and declaration of dividend with notice to the Applicant.

8. M/s. Vedant Ship Management are permitted to depute two representatives as crew members for manning the vessel. EMD received by the applicant to be deposited by it with the Official Liquidator through RTGS.

(S.C.GUPTE, J.)