

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION
IN ITS COMMERCIAL DIVISION**

**COMMERCIAL NOTICE OF MOTION NO.123 OF 2017
IN
COMMERCIAL SUIT NO.314 OF 2016**

Harmony Innovation Shipping Limited Applicant/Plaintiff

Vs.

Cargo of 57080 MT of Indonesian Steam
Coal and Ors. Defendants

**WITH
COMMERCIAL NOTICE OF MOTION NO.1149 OF 2018
IN
COMMERCIAL SUIT NO.314 OF 2016**

Rattan India Power Limited Applicant

IN THE MATTER BETWEEN :

Harmony Innovation Shipping Limited Plaintiff

Vs.

Cargo of 57080 MT of Indonesian Steam
Coal and Ors. Defendants

Mr. Vishal Sheth a/w. Mr. Ashwin Shanker, Mr. Bimal Rajasekhar and
Ms. Ridhi Nyati I/b. Mr. Ashwin Shanker for plaintiff and applicant in
NMCD/123/2017.

Ms. Gaurangi Patil for Abhay Manudhane, Liquidator appointed for
defendant no.3 (Gupta Coal Limited).

Mr. Ankit Tripathi a/w. Mr. Shubham Mittal I/b. FF and Associates for
defendant no.5 and for applicant in NMCD/1149/2018.

**CORAM : K.R.SHRIRAM, J.
DATE : 25th JULY, 2018**

P.C.:

COMMERCIAL NOTICE OF MOTION NO.123 OF 2017

1 At the outset, all counsel suggest, without prejudice to their
respective rights and contentions, that the cargo of Indonesian Steam Coal,

which is lying at Dharamatar Port Maharashtra that was discharged from the vessel m.v. Common Venture, be sold and the sale proceeds be deposited with the Prothonotary and Senior Master, High Court, Bombay.

2 The cargo was discharged from the vessel m.v. Common Venture pursuant to the consent terms dated 5th May 2016 which was taken on record pursuant to order dated 5th May 2016. Clause 2 of the consent terms provide “*Gupta Coal India Private Limited undertake to discharge the entire cargo forthwith, and to store the coal cargo at their sole cost and risk, under Orders of this Court*”.

3 Gupta Coal India Private Limited has been ordered to be liquidated by NCLT, Mumbai and Official Liquidator has already been appointed.

4 Ms. Patil, counsel for Official Liquidator states that she has to take instructions whether Official Liquidator will be in a position to sell the cargo or the Dharamatar Port authorities may be permitted to sell the cargo. Mr. Sheth states that if Dharamatar Port authorities have to sell, it might take time and suggests that the Court Receiver of this Court be appointed to sell the cargo.

5 Mr. Tripathi states that he will also seek instructions whether his clients, viz., Rattan India Power Limited - defendant no.5, without prejudice to their rights and contentions that the cargo belongs to them, will

be inclined to buy this cargo at the current market price.

6 To enable the parties to seek instructions, stand over to
27th July 2018 at 3.00 p.m. for directions.

COMMERCIAL NOTICE OF MOTION NO.1149 OF 2018

1 Mr. Tripathi, counsel for applicant seeks leave to withdraw this
notice of motion with liberty to file fresh notice of motion since
circumstances have changed after the notice of motion was filed.

2 Notice of motion allowed to be withdrawn with the liberty as
prayed for and accordingly disposed.

Gauri
Amit
Gaekwad

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signed by
Gauri Amit
Gaekwad
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(K.R. SHRIRAM, J.)