

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

**NOTICE OF MOTION (LODG.) NO. 826 OF 2018
IN
COMMERCIAL SUIT NO. 191 OF 2016**

ASMS Alamgir Ship Management &
Engineering Services Pvt. Ltd.

.. Applicant

In the matter between :

ASMS Alagir Ship Management &
Engineering Services Pvt. Ltd.

.. Plaintiff

Vs.

Owners & Parties Interested in
Ocean Fortune (IMO 9435662) & Ors.

..Defendants

Mr.Kazaan Shroff a/w. Ms. Priyanka Sinha and Ms. Krishma Shah i/b ANP Partners for plaintiff.

Mr.Vishal Mugalika a/w. N. Sumnani i/b Bhatt and Saldanha for defendants.

CORAM : K.R.SHRIRAM, J.

DATE : 13TH APRIL 2018

P.C.

1 Shri Shroff appearing for plaintiff states that after the Court took on record the evidence of PW-1 on 14th February 2018, it came to light that there were further documents which are relevant to plaintiff's claim. Shri Shroff seeks leave to file an additional affidavit of documents and additional affidavit in lieu of examination in chief. Shri Shroff also states that the cross-examination is yet to begin and therefore plaintiff will get ample opportunities to cross-examine defendants on evidence filed and to

be filed.

2 Shri Muglikar appearing for defendants strongly opposes the oral application and states that just because the cross-examination has not begun, does not mean that the Court will allow the parties to keep filing documents and evidence. Shri Muglikar states that in the earlier affidavit of documents, plaintiff has made a statement that these are the only documents and that they do not have any other documents.

3 Shri Shroff states that the additional affidavit of documents will contain all the documents and also the further evidence will be the last evidence being filed in examination in chief. Shri Shroff assures the Court that plaintiff will not seek any more indulgence. Shri Shroff further states that it was an error on the part of the advocates and a party should not be penalized for an error of the advocates.

4 Having considered the facts and circumstances of the case and in view of the candid confession of Shri Shroff, I am inclined to grant an indulgence and permit plaintiff to file additional affidavit of documents, additional evidence and additional compilation of documents. Whether the documents can be received in evidence will be decided at the appropriate stage. Affidavit of documents to be filed and copy served and also

inspection granted by 21st April 2018. Defendant to give their statement of admission and denial with reasons for denial on or before 26th April 2018. Additional affidavit in lieu of examination in chief, to be served on or before 1st May 2018.

5 Stand over to 4th May 2018 for marking of documents/receiving documents on record.

6 In view of the above, notice of motion No. 826 of 2018 stands disposed. Notwithstanding disposal of the notice of motion, all office objections to be removed and notice of motion to be numbered within two weeks from today.

(K.R. SHRIRAM, J.)