

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

JUDGES ORDER NO.81 OF 2018

IN

ADMIRALTY SUIT NO.14 OF 2018

Piranha Shipping Private LimitedPlaintiff

Vs.

S.B. Sanskruti and Ors.Defendants

Mr. Abhishek Khare a/w. Ms. Prapti Kedia i/b. Khare Legal Chambers for plaintiff.

Mr. Ishwar Nankani a/w. Mr. Lavesb Nankani and Ms. Janaki Garde i/b. Nankani and Associates for defendants.

CORAM : K.R.SHRIRAM, J.

DATE : 17th APRIL, 2018

PC.:

1 Plaintiff has moved for arrest of defendant no.1 and defendant no.2 vessels for non payment of their dues. It is the case of plaintiff that defendant no.3 issued a work contract to plaintiff under which plaintiff was to maintain 1st and 2nd defendant vessel. According to plaintiff, plaintiff having performed its obligations under the contract, has not been paid for various services. The statement of outstanding payment is at paragraph 9 of the plaint.

2 Defendant no.1 and defendant no.2 are owned by defendant no.3, who is a board constituted by the Government of Maharashtra under the Maharashtra Maritime Board Act, 1996. The only averment in the plaint as to why the order of arrest is required is in paragraph 18 and that is, if and

when plaintiff succeeds in the matter, it will be impossible to execute any decree or award against defendant no.3 and the present suit will be rendered infructuous. Defendant no.3, against whom the claim lies, is a statutory board formed under the Maharashtra Maritime Board Act. Therefore, I do not see any reason why it will be impossible to execute any award or decree against defendant no.3. Simply making a bald averment in the plaint will not suffice.

3 Mr. Nankani, counsel for defendants states that plaintiff have committed breaches of the contract and infact defendant no.3 has terminated the contract of plaintiff and has a counter claim. Mr. Nankani further states that the invoices raised are also disputed. Mr. Nankani states that the contract also provides for arbitration.

4 In the circumstances, the order of arrest refused.

5 Mr. Nankani waives service of writ of summons and states that defendants will take further steps to even challenge the jurisdiction of this Court in view of the arbitration agreement.

6 Judges' order accordingly stands disposed.

(K.R. SHRIRAM, J.)