

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE-ADMIRALTY JURISDICTION
ADMIRALTY SUIT NO. 53 OF 2015**

The Board of Trustees of the Port of Mumbai ...Plaintiff

V/s.

M.V. Kamal XXXI & Ors ...Defendants

Mr. Ajai Fernandes a/w. Ms. Sneha Pandey I/b. Motiwalla and Co. for Plaintiff.

CORAM : S.C. GUPTE, J.

DATE : 07 MARCH, 2018.

P.C. :-

1. Heard learned counsel for the Plaintiff. The Defendants are absent though served.
2. Defendant No.1 vessel was under arrest by an order passed in this suit. By an order dated 22 March 2016, the arrest was vacated and the vessel was released against the payment by the Applicant (Applicant for release of the vessel-M/s. Zala and Company) of a sum of Rs. 1,72,500/-, in addition to the amount of Rs. 2,50,000/- paid to the Plaintiff as recorded in that order. There is no written statement in the admiralty suit. The suit was transferred to the list of

undefended suits and it is placed for exparte decree today.

3. Learned counsel for the Plaintiff tenders two compilations of documents. The first, referred to as compilation of documents, contains 24 documents in support of the Plaintiff's claim in the suit. The second, referred to as additional compilation of documents, contains one document. Affidavit of documents is also tendered along with these compilations. Besides these, the Plaintiff tenders affidavit in lieu of oral evidence of their first witness, Captain Arun Kumar. This affidavit is dated 20 February 2018. The affidavit is taken on record as examination in chief of Captain Arun Kumar (PW-1). Based on the deposition of PW-1, the documents at serial nos. 1 to 24 of the compilation of documents and the document listed at serial no. 1 of the additional compilation of documents are taken on record and marked as Exhibits P-1 to P-24 and P-25.

4. The Plaintiff's claim arises out of port dues/pilotage dues/anchorage dues totaling Rs. 2,94,113/- as per the bills raised by the Marine Department of the Plaintiff for the work of execution of capital dredging for the Plaintiff's proposed Offshore Container Terminal and OCT Project. This work was awarded to the 3rd Defendant. For the purposes of carrying out this work, several vessels were brought by the 3rd Defendant within the port limits. The suit

claim of dues arises out of the existence of 1st Defendant vessel within the port limits after the termination of the contract. The documentary evidence produced by the Plaintiff includes various applications and correspondence as well as bills issued by the Marine Department of the Plaintiff and requisite forms/notices issued by the Plaintiff under various Statutory provisions to the owners of the vessel as well as the vessel itself.

5. Based on the oral and documentary evidence led by the Plaintiff, the Plaintiff's case for recovery of the port dues detailed in the bills referred to above has been proved. There is nothing placed on record by the Defendants to counter the Plaintiff's case.

6. Accordingly, there will be decree in terms of prayer clause (a).

(S.C. GUPTE, J.)