

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

**COMMERCIAL CHAMBER SUMMONS NO.672 OF 2018
IN
COMMERCIAL ADMIRALTY SUIT NO.33 OF 2018**

Darya Shipping Private LimitedApplicant/Plaintiff

Vs.

LPG Maharshi Bhardwaj and Ors.Defendants

Mr. Prathamesh Kamat a/w. Ms. Prapti Kedia I/b. Khare Legal Chambers for applicant/plaintiff.

Mr. Atul Jain appeared in person on behalf of Mr. Sanjeev Maheshwari – defendant no.3.

Mr. Ashwin Shanker a/w. Ms. Shweta Sadanandan for Mortgagee Banks – defendant nos.4 to 10.

CORAM : K.R.SHRIRAM, J.

DATE : 25th JULY, 2018

P.C.:

1 At the outset, Mr. Kamat, counsel for applicant seeks leave to amend prayer clause – (a) of the chamber summons by deleting the words ***“to implead defendant nos.1a, 1b, 1c, 1d, 1e, 1f, respectively”*** and after the words ***“Schedule-I”*** add ***“upto Schedule-IV”***. Mr. Kamat also seeks leave to delete prayer clause – (b).

2 Leave to amend granted. Amendment to be carried out forthwith.

3 Mr. Shanker points out that (a) plaintiff will have to pay separate court fees for plaintiff's claim against each of the vessel because technically plaintiff should have filed a separate suit against each of the

vessel and (b) the suit against m.v. Vamadeva in any event, is not maintainable. Mr. Shanker states that there are various other defences which defendants have, therefore, the Court may allow the amendment application keeping open defendants' rights and contentions to raise all the defences in the additional written statement.

4 Therefore, keeping open the rights and contentions of the parties, chamber summons is allowed and accordingly disposed in terms of prayer clause – (a).

5 Amendment to be carried out and copy of the amended plaint to be served within two weeks from today.

6 Additional written statement to be filed and copy served within four weeks thereafter.

7 Mr. Shanker waives service of writ of summons for defendant nos.4 to 10.

8 The undertaking of plaintiff to pay such sum as additional Court fees within one week of any order being passed to that effect is accepted.

9 A copy of this order be sent to the Taxing Master, High Court, Bombay, who will look into the issue and pass appropriate orders within four weeks from today.

10 So far as defendant nos.1,2 and 3 are concerned, the advocates who were appearing earlier have taken discharge. One Mr. Atul Jain is present in Court and states that he is the partner of defendant no.3 – Mr. Sanjeev Maheshwari. Defendant nos.1,2 and 3 having appeared earlier need not be served writ of summons.

11 Mr. Kamat states that he will serve defendant no.3 copy of the amended plaint for defendant no.3 and also as representative of defendant nos.1 and 2 and also to newly added defendants.

12 Therefore, defendant no.3 for himself and for defendant nos.1, 2 and newly added defendants shall file written statement and serve a copy thereof within four weeks of receiving a copy of the amended plaint, failing which the suit will proceed ex-parte against them.

Gauri
Amit
Gaekwad

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(K.R. SHRIRAM, J.)