

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY AND ORIGINAL CIVIL JURISDICTION
COMMERCIAL ADMIRALTY SUIT NO.30 OF 2013**

Cygnus Petroleum FZE ..Plaintiff
Vs.
M. T. Pratibha Bheema, (IMO No.9000558) ..Defendant

Mr. Prashant Pratap, Senior Advocate i/b Mr. Nishaan Shetty and Mr. Nitesh Bhutekar for Plaintiff

Mr. Prathamesh Kamat i/b Ms Sapna Rachure for Defendant No.2 (In liquidation)

**CORAM : K.R.SHRIRAM, J.
DATE : 7th NOVEMBER 2019**

P.C.:

1 Plaintiff is a company incorporated under the relevant laws of United Arab Emirates. Plaintiff carries on the business as operators of vessels and providing bunkers, provisions, spares to vessels for its operation management and maintenance.

2 Pursuant to various contracts / arrangements entered into with Pratibha Shipping Company Ltd. (In Liquidation,) plaintiff had rendered various services to the vessel owned by the company in liquidation and as commercial operator incurred various expenses and costs towards operation and maintenance of the vessel owned by the company in liquidation from December 2011 till the date of filing the suit. As part of the services rendered, plaintiff also supplied bunkers, provisions, spares, man power, cash to master, paints, fresh waters, port charges etc., to four vessels namely M.T. Pratibha Tapi, M. T. Pratibha Chandrabhaga, M.T. Pratibha Bheema and

M. T. Pratibha Koyna. M. T. Pratibha Bheema is defendant in the suit. As plaintiff's claims were not settled, plaintiff filed suit claiming a sum of US\$ 2,632,780.02. Plaintiff did not move for arrest of defendant no.1 vessel because the said vessel was arrested in another suit, sold and sale proceeds were deposited with the Prothonotary and Senior Master, High Court, Bombay. Defendant filed a written statement dated 24-1-2014. Issues were settled on 24-3-2014. Thereafter, plaintiff led evidence of one witness, one Mr. Dinkar Jha.

3 In the meanwhile, by an order dated 17-6-2014, the official liquidator of this court was appointed as a provisional liquidator of the company in liquidation. Leave to prosecute the suit was granted by the company court vide its order dated 10-8-2016 and the liquidator was brought on record.

4 Defendant did not wish to lead any evidence as recorded in the order dated 10-7-2018.

5 The suit was listed today for final hearing. Mr. Kamat counsel appearing for the official liquidator of the company in liquidation, in fairness submitted that official liquidator with the assistance of the counsel has considered the claim of plaintiff by examining in detail the pleadings, evidence on record and the documents produced by plaintiff. Mr. Kamat submits that as against claim of US\$ 2,632,780.02, a sum of US\$ 2,620,677.76 is certainly payable to plaintiff. Mr. Kamat states that

liquidator is not satisfied regarding the claim of US\$ 12102.36. Therefore, Mr. Kamat states that court can grant decree to plaintiff in the sum of US\$ 2,620,677.76.

6 Mr. Pratap, Senior Advocate appearing for plaintiff on instructions states that plaintiff is ready and willing to agree to a decree on admission of US\$ 2,620,677.76 and plaintiff will not press for the balance amount of US\$ 12102.36.

7 As regards interest, the rate of interest claimed is 12% p.a. from the date of the suit till payment / realisation. In my view, interest @ 6% p.a. will be a reasonable rate and therefore, interest on the admitted amount of US\$ 2,620,677.76, is granted from the date of filing of the suit till winding up of the company in liquidation, i.e. 28-7-2014. In my view, plaintiff shall be also entitled to cost in the sum of Rs.2,00,000/-. Suit decreed accordingly.

8 It is clarified that payment of decretal amount by the official liquidator will be subject to provisions of the Companies Act 1956.

9 Drawn up decree dispensed with.

10 All to act on authenticated copy of this order.

(K.R. SHRIRAM, J.)