

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ADMIRALTY AND VICE ADMIRALTY JURISDICTION

IN ITS COMMERCIAL DIVISION

JUDGE'S ORDER No. 178 OF 2019

IN

COMMERCIAL ADMIRALTY SUIT (Lodging) No. 62 of 2019.

Carlton Industrial Engineers

..Plaintiff.

Vs

Tug Shambavi (IMO) No. 9113769

..Defendant.

Mr. Prathmesh Kamath alongwith Mr.Mridul Sharma and Ms. Sarita Yadav i/by M/s. MS Legal Advocates for the plaintiff.

None for the defendant.

CORAM : B. P. COLABAWALLA, J.

DATED :- 25th September, 2019.

P.C. :-

1. Heard Mr. Kamath, the learned Advocate appearing on behalf of the plaintiff and also considered the averments and the documents annexed to the plaint. The claim in the present suit is for an amount of Rs.1.43 crores against the owner of the defendant vessel. Mr. Kamath brought to my attention the provision of Section 4 (1)(d) and 4 (1) (h) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (for short **"the Act"**). To show that the claim made in the present suit is a Maritime Claim, Mr. Kamath

brought to my attention to the TIME CHARTER PARTY annexed at **Exh.H** entered into between the plaintiff and the owners of the defendant vessel. He submitted that the claim in the present case clearly arises out of this TIME CHARTER PARTY.

2. After having heard Mr. Kamath, I find that a prima facie case for arrest of the defendant vessel is made out. I am satisfied that in the present case the claim is a Maritime Claim. The claim clearly arises out of the TIME CHARTER PARTY annexed at **Exh.H** to the claim and would therefore squarely fall within section 4 (1) (h) of the Act.

3. In these circumstances, the Judge's Order for arrest of the defendant vessel is signed separately. I have also seen the Caveat Register and there is no Caveat against arrest of the defendant vessel as per the endorsement made today at 12:16 PM by the Section Officer of the Execution Department, Prothonotary and Senior Master, High Court (O.S.), Bombay.

4. The plaintiff is at liberty to forward a copy of the communication from the Sheriff of Mumbai forwarding this order by

fax/email/hand delivery/RPAD to Port and Customs Authorities.

5. The undertaking of plaintiff's Advocate that the warrant of arrest will be served upon the vessel and all other concerned Authorities within a period of one week from today is accepted.

6. After execution of warrant of arrest, if the arrested vessel is not released by furnishing security or bail amount within 15 days, or an application for vacating order of arrest is not filed, or vessel is found abandoned by the person in-charge of the vessel or owner or is found unmanned, in such an event, on application made by the plaintiff, the office of Sheriff of Mumbai shall present Sheriff's report for auctioning vessel within seven days from the date of receiving communication from the plaintiff's Advocate or from the date of knowledge of abandonment of vessel.

7. All parties are directed to act on an ordinary copy of this order duly authenticated by the concerned Associate, Personal Assistant and/or Private Secretary of this Court.

(B.P. COLABAWALLA, J.)

Digitally signed
by Radhakishan
S. Ladda
Date:
2019.09.25
12:28:14 +0530