

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Monday, the Eighth day of April Two Thousand Nineteen

PRESENT

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HON'BLE MR JUSTICE V.BHAVANI SUBBAROYAN

CMP.No.6591 of 2019

in OSA.No.347 of 2018

1 COSMOS CO - OPERATIVE BANK [PETITIONER]
LTD, NO.269/270 SHANIWARPETH PUNE - 411 030,
HAVING ITS REGIONAL OFFICE AT, NO.36/1,
MARUNIKETAN, D.L.VAIDYA ROAD, DADAR WEST,
MUMBAI - 400 028.

Vs

1 PRATIBHA SHIPPING COMPANY LTD., [RESPONDENTS]
IN LIQUIDATION, THE VESSEL M.T.PRATIBHA CAUVERY,
PRESENTLY BERTHED AT THE PORT OF CHENNAI
AND IS REPRESENTED HEREIN BY ITS MASTER

2 MR.SHANMUGAM RAJASEKAR,
NO.39, SALANGARA STREET, PARANGIPETTAI POST,
TAMIL NADU, REP.BY HIS POWER AGENT
MR.R.VETRIVEL.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to release the sum of Rs.15,00,00,000/- (Rupees Fifteen Crores Only) in favour of the Petitioner from and out of the court deposit in C.S.No.89/2013 in this matter and thus render justice.(in CMP.No.6591/2019)

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.AR.L.SUNDARESAN, Senior Counsel for M/S.NVS AND ASSOCIATES, Advocate for the petitioner and of M/S.V.PRAKASH, Senior Counsel for MRS.SHUBARANJANI ANANTH, Advocate for the first respondent and of MR.S.VASUDEVAN, Advocate for the second respondent the court made the following order:-

(Order of the Court was made by T.S.SIVAGNANAM,J)

We have heard Mr.AR.L.Sundaresan, learned Senior Counsel representing on behalf of M/s.NVS and Associates, counsel for the petitioner viz., The Cosmos Co-operative Bank Ltd., Mr.V.Prakash, learned Senior Counsel for Mrs.Shubaranjani Ananth, learned counsel for the first respondent and Mr.S.Vasudevan, learned counsel appearing for the second respondent.

2.This application has been filed praying for a direction to release/transfer the sum of Rs.15,00,00,000/- (Rupees Fifteen Crores only) in favour of the petitioner Co-operative Bank from and out of the money deposited to the credit of C.S.No.89 of 2013 with the Indian Bank, High Court Branch. The learned Senior Counsel appearing on behalf of the petitioner would vehemently contend that the petitioner is a Co-operative Bank at Mumbai and they have an award against the first respondent Company which is presently under liquidation and the money which is now held in deposit in Indian Bank may be deposited with the petitioner/Co-operative Bank and the petitioner/Co-operative Bank will abide by any orders and directions which this Court may pass.

3.The prayer sought for is opposed by the learned Senior Counsel appearing for the first respondent by submitting that the question to be decided in the main appeal is as to whether permission from the Company Court of the High Court of Bombay is required to be obtained for considering the reliefs sought for before this Court in its admiralty jurisdiction and the learned Single Bench has held that no such permission is required. The learned Senior Counsel further submitted that there is an order passed by the learned Single Bench of High Court of Bombay which states that permission should be obtained.

4.Mr.S.Vasudevan, learned counsel appearing for the second respondent would submit that he appears for the workman who have priority in the matter of receiving the payment, after which the salvager of the vessel has to be settled and only later, the petitioner bank's claim can be considered.

5.At this juncture, we cannot adjudicate the merits of the main appeal which has to be heard in full. Considering the fact that the deposit is held in the Indian Bank, High Court Branch, we are of the view that it should remain with the Indian Bank, High Court Branch to the credit of the suit, so as to facilitate directions that may be issued by this Court while deciding the main appeal.

6.For the above reasons, the prayer sought for by the petitioner cannot be acceded to and accordingly, the Civil Miscellaneous Petition is dismissed.

-sd/-
08/04/2019

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SUB ASST. REGISTRAR,
ORIGINAL SIDE, HIGH COURT,
CHENNAI-104.

2 THE MANAGER,
THE INDIAN BANK,
HIGH COURT BRANCH,
CHENNAI.

3 THE SECTION OFFICER,
ACCOUNTS SECTION,
HIGH COURT, CHENNAI.

C.C. to M/S.NVS AND ASSOCIATES Advocate Sr.No.5062

C.C. to MRS.SHUBARANJANI ANANTH, Advocate Sr.No.5215

C.C. to MR.S.VASUDEVAN, Advocate on payment of necessary charges

Order

in

सत्यमेव जयते CMP.6591/2019

in

OSA.347/2018

Date :08/04/2019

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