

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN  
Civil Suit No.21 of 2018

M/s.Legend Maritime Private Ltd.,  
12/9, Krishnan Koil Street,  
Phase-1, 6<sup>th</sup> Floor,  
Seaview Towers,  
Chennai 600 001,  
rep. By its Director, R.Saravanan

... Plaintiff

vs.

Owners and parties interested in the  
Vessel HOPPER BARGE SRIMANGUESH II,  
presently lying at the Port of Chennai and  
is represented by the Master

... Defendant

Plaint filed under Order XLII Rule 1, 2 and 3 of the O.S. Rules read with  
Order VII Rule 1 of Code of Civil Procedure.

For Plaintiff : Mr.S.Vasudevan

For Defendant : Mr.R.Chandramohan

For Auction Purchaser : Mr.H.Imthiaz Ahamed

For Advocate Commissioner : Mr.M.R.Uma Vijayan

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JUDGMENT

This Civil Suit has been filed by the Plaintiff seeking for the following  
reliefs:

(a) for a sum of Rs.48,47,075/- (Rupees Forty Eight Lakhs Forty Seven Thousand and Seventy Five only) together with interest @ 18% per annum from the date of this Plaint till the date of realization in full;

(b) for arrest and sale of the Defendant Vessel HOPPER BARGE SRIMANGUESH II in as is where is condition, presently in Indian waters at the Port of Chennai, Tamil Nadu, India.

(c) for a direction to adjust the sale proceeds of the Defendant Vessel HOPPER BARGE SRIMANGUESH II against the suit claim;

(d) for costs of this Suit;

2. Today, when the matter is taken up for hearing, Mr.S.Vasudevan, learned counsel for the Plaintiff, Mr.R.Chandramohan, learned counsel appearing for the Defendant and Mr.H.Imthiaz Ahamed, learned counsel appearing for the Auction Purchaser submitted that the parties have agreed to settle the matter out of Court and they have made an endorsement as regards the terms of settlement, in the connected Application, to the following effect:

“By consent, both the Plaintiff and the Defendant agree that out of a sum of Rs.53,37,103/- being the balance sale price of the Vessel, a sum of **Rs.23,75,000/- (Rupees Twenty Three Lakhs Seventy Five Thousand)** only be paid in the name of the Plaintiff i.e. “Legend Maritime Private Ltd.” and a

sum of **Rs.27,12,103/- (Rupees Twenty Seven Lakhs Twelve Thousand One Hundred and Three only)** only be paid in the name of the owner of the Defendant Vessel viz. **M/s.Precision Dredging, Vascoda Gama, Goa** and further, a sum of **Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only)** be paid in the name of Auction Purchaser viz. **Eastern Navigation Pvt. Ltd., Calcutta.**”

3. In view of the above terms of settlement, learned counsel for the Plaintiff has made an endorsement in the Plaint to the following effect:

“This Suit may be dismissed as settled out of Court and refund of full Court fee may be ordered in the name of the Plaintiff.”

4. Recording the endorsements made by the learned counsel for the parties, this Court directs the learned Advocate Commissioner to issue cheques in favour of (i) the Plaintiff **“M/s.Legend Maritime Private Ltd.”** (ii) owner of the Defendant Vessel viz. **“M/s.Precision Dredging, Vascoda Gama, Goa”** and (iii) Auction Purchaser viz. **“Eastern Navigation Pvt. Ltd., Calcutta”**, respectively, for the amount specified in the terms of settlement recorded above, within a period of two days from the date of receipt of a copy of this order.

5. The Plaintiff and the Defendant shall together pay a sum of Rs.50,000/- (Rupees Fifty Thousand only) as additional remuneration to the learned Advocate Commissioner, i.e. each party shall pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand only). It is further made clear that once the cheques are issued to the parties, the learned Advocate Commissioner shall close the Bank Account created for the purpose of this Suit and surrender the Cheque Book to the concerned Bank.

6. Recording the terms of settlement arrived at between the parties as extracted supra, **this Civil Suit is dismissed as settled out of Court.** No costs. Refund of Full Court Fee to the Plaintiff, as permissible under Rules, is ordered.

16.04.2019

Index : Yes/No  
Speaking Order : Yes/No

**Note to Registry:**

Issue copy of this order on or before 23.04.2019.

(aeb)

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S.VAIDYANATHAN,J.

(aeb)



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