A.Nos.7706, 216 of 2019
in C.S.No.210 of 2019

C.V.KARTHIKEYAN J,

Mr.Bharat Bansodey has been examined in chief. Proof affidavit has been filed. He has also marked Exs.P1 to P58. The evidence has been recorded pursuant to the auction conducted of the Vessel MV SEA JAL ONE. She was lying at Tuticorin Port / V.O.Chidambaranar Port. M/s. St.Antony's Traders, Importers and Exporters having Office at Tuticorin had been declared as the successful bidder, by this Court. The Registry was directed to issue a sale certificate in favour of M/s.St.Antony's Traders and also a release order of the ship. It is understood that the Registry had issued necessary sale certificate.

2. However, when the matter was heard again today, Mr.K.Chandrasekaran learned counsel representing M/s.St.Antony's Traders had raised a grievance that though sale certificate had been issued by the Registry and served on the Port Authorities, in view of the fact that there was no specific directions from the Court that the said

ship MV SEA JAL ONE may accordingly be released to M/s.St.Antony's Traders, the Port Authorities have not physically handed over custody of the said ship and have placed reliance on a letter issued by them, wherein, they have claimed towards Port charges a sum of Rs.6,16,231/- + GST. This letter had been addressed by the Port Trust Authorities to M/s.Snow Shipping Company Limited, Tuticorin who are the agents of the owners of the Vessel.

3. It is contended by Mr.S.Vasudevan, learned counsel appearing for the Intervenors that the Port can raise this claim before this Court and an enquiry has to be conducted whether M/s.Snow Shipping had been allocated this sum by the owners of the Vessel and if that is the case then M/s.Snow Shipping can directly pay the amount to the Port Authorities.

4. It is also mentioned that a sum of Rs.1.59 lakhs has been spent towards the cost of the sale of the Vessel and also towards publication, the expenses incurred by the learned Advocate Commissioner, the expenses incurred in taking the bailiff to Tuticorin and also towards the Surveyor's report.

5. It is also stated that it is only be appropriate that these two amounts namely Rs.1.59 lakhs and Rs.6,16,231 + GST are set aside from the total sale consideration of Rs.38 lakhs and the balance amount can be apportioned between the claim raised by the plaintiff on the one hand, the first to 10th Intervenors on the other hand and the 11th Intervenor on yet another hand. It is represented that the sum of Rs.1.59 lakhs should be paid at the earliest since it represents sums of money which have already been incurred only pursuant to orders of this Court directing the sale of the Vessel.

6. The learned Advocate Commissioner Mr.Manoj Menon is requested to set aside a sum of Rs.1.59 lakhs expended towards expenses towards incurred for the sale of the Vessel and related charges. The learned Advocate Commissioner may also earmark a sum of Rs.6,16,231 + GST. This is crystallized to Rs.6.5 lakhs. The Advocate Commissioner may address a communication to the Port Trust Authorities stating that the amount has been earmarked and kept separately and that the Court awaits confirmation whether M/s.Snow

Shipping, Tuticorin has been paid that amount by the owners of the Vessel and after such confirmation, if it is found that the owners have not paid the amount, then the dues of the Port would be adjudicated by the Court. The learned Advocate Commissioner may also request the Port Authorities to also make a claim directly to the Court for the said amount.

7. In view of these arrangements, further direction is issued that pursuant to the sale certificate issued in favour of M/s.St.Antony's Traders, Tuticorin by the Registry, the Port Authorities at Tuticorin / V.O.Chidambaranar Port may immediately handover physical possession of the Vessel MV SEA JAL ONE to M/s.St.Antony's Traders. Their claim has been earmarked and kept separately by the Advocate Commissioner and they may lay a claim for that sum directly from the Court in terms of the order mentioned above, if they are not able to realise the amount from M/s.Snow Shipping and if there are materials to show that the owners of the Vessel have not paid that amount to their agent, M/s.Snow Shipping.

8. List the matter once again on 23.11.2020.

11.11.2020

rna

C.V.KARTHIKEYAN.J,
rna

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