

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION
INTERIM APPLICATION NO.1 OF 2020
IN
COMMERCIAL ADMIRALTY SUIT (L) NO.62 OF 2019**

Carlton Industrial Engineer

..Plaintiff

Vs.

TUG Shambavi (IMO No. 9113769)

..Defendant

20th February 2020-

Mr. Prathamesh Kamat a/w Ms Mridul Sharma i/b M.S. Legal for Plaintiff
Ms Karishni Khanna a/w Ms Kunjita Shah i/b Khare Legal Chamber for
Defendant / Applicant

Mr. Deepak Kewaliya, Authorised Representative of Applicant / Defendant

Mr. Vinod Trivedi, POA holder for Plaintiff

21st February 2020

Ms Sarita Yadav i/b M. S. Legal for Plaintiff

Ms Karishni Khanna a/w Ms Kunjita Shah i/b Khare Legal Chamber for
Defendant / Applicant

Mr. Deepak Kewaliya, Authorised Representative of Applicant / Defendant

Mr. Vinod Trivedi, POA holder for Plaintiff

CORAM : K.R.SHRIRAM, J.

DATE : 20th FEBRUARY 2020 /

21st FEBRUARY 2020

P.C. :

1 At the outset, Ms Khanna seeks leave to amend the cause title of the application and tenders draft amendment. Draft amendment is taken on record and marked "X-1" for identification. Leave granted. Amendment to be carried out by 21-2-2020.

2 Prayer clauses (a) to (d) of the application read as under:

(a) That this Hon'ble Court be pass an order and decree in the sum of Rs.1,43,92,622/- along with further interest on the principal sum of Rs.1,43,92,622/- at 18% per annum from the filing of the suit till payment and/or realisation thereof and for costs and poundage as set out in the particulars of claim at Exhibit "T" hereto.

(b) That Defendant vessel along with her hull, tackle, machinery, engines, paraphernalia and all her appurtenant be ordered to be arrested, condemned and sold by and under the orders and directions of this Hon'ble Court and the net sale proceeds thereof be ordered to be paid to the plaintiff in satisfaction of the plaintiff's claim in the suit together with interest, costs and sheriff's poundage as set out in the particulars of claim at Exhibit T hereto.

(c) That pending the hearing and final disposal of the suit, this Hon'ble Court be pleased to order the arrest, detention and condemnation and sale of defendant vessel by and under the order and directions of this Hon'ble Court and the net sale proceeds thereof be applied towards satisfaction of the plaintiff in the suit together with interest and costs and sheriff's poundage.

(d) For ad-interim relief in terms of prayer (c) above.

3 Mr. Kamat, counsel appearing for plaintiff says that plaintiff, reserving their rights and contentions, have no objection to the court referring the dispute to arbitration, but the security given by defendant shall remain invested with the Prothonotary and Senior Master, High Court, Bombay. Ms Khanna has no objection. Ms Khanna on instructions says that

security can remain with the Prothonotary and Senior Master, but the Prothonotary and Senior Master should be directed to invest the amount in a fixed deposit, so that the amount does not remain idle.

If not invested, the Prothonotary and Senior Master shall immediately take steps to invest the amount of security furnished by defendant in the suit in fixed deposit with a nationalised bank for a period of one year, to be renewed year after year, unless otherwise ordered.

4 In the circumstances, the following order is passed by consent but without prejudice to the rights and contentions of both parties:-

(i) Dr. Abhinav Chandrachud, an Advocate practicing in this court is appointed as sole arbitrator, to arbitrate on all disputes, including claim and counter claim if any, arising out of or in connection with or relating to, a Supply Time 2005 (as amended) Time Charter Party dated 12-4-2019. Joint request by parties is taken on record and marked X for identification.

(ii) The security given by applicant as owners of defendant vessel, shall remain as noted above, invested by the Prothonotary and Senior Master, to the credit of the arbitral proceedings.

(iii) Plaintiff will be at liberty to execute the award, if any, against this amount deposited with and invested by the Prothonotary and Senior Master.

(iv) Fees, expenses and administrative expenses of the arbitrator, shall be shared equally between the parties and the same shall be subject to cost in the arbitral proceedings. Parties are at liberty to press for cost in the suit as well as in this application, as cost in the arbitral proceedings.

(v) The arbitrator shall file his disclosure as required under Section 11(8) read with Section 12(1), as amended, of the Arbitration and Conciliation Act, 1996, directly with the parties.

(vi) Parties are at liberty to make any application, as advised, before the learned arbitrator, who shall dispose the same in accordance with law.

(vii) The arbitrator may treat a copy of the plaint as statement of claim filed by plaintiff.

(viii) The parties shall, subject to sole arbitrator's convenience, attend first preliminary meeting on 5-3-2020 at 5.30 p.m.

5 Interim application accordingly stands disposed.

6 Suit also accordingly stands stayed.

21st February 2020

7 The writings marked X and X-1 above, were submitted today.

For ease of reference, joint request by parties ("X"- above) is scanned and reproduced herein:

IN THE HIGH COURT OF JUDICATURE
AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION
IN ITS COMMERCIAL DIVISION
INTERM APPLICATION NO. 1 of 2020
IN
COMMERCIAL ADMIRALTY SUIT NO. (L) 62 of 2019
A.K. SHIP MANAGEMENT & SERVICES ... Applicant
In the matter of:
Carlton Industrial Engineers ... Plaintiff
v/s
Tug Shambavi (IMO No. 9113769) ... Defendant
We hereby jointly request that
Mr. Abhinav Chandrasekar, Adv be
appointed as a Sole Arbitrator to
adjudicate the dispute.
Dated this 20th day of Feb 2020.

For Plaintiff [CA of Plaintiff]
Adv for the Plaintiff
For Applicant
For Defendant
Adv for the Applicant / Def

(K.R. SHRIRAM, J.)