

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY AND ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO.1 OF 2020
IN
INTERIM APPLICATION NO.1 OF 2019
IN
COMMERCIAL ADMIRALTY SUIT (L) NO.51 OF 2019**

Global Tanker FZE ..Applicant/Purchaser

In the matter between

Samson Maritime Limited ..Plaintiff

Vs.

M.T. NU Shi Nalini (IMO 9619608) & Anr ..Defendants

Ms Bharti Narichania i/b Vibha Jurisconsult & Co. for Applicant in IA/1/2020

Mr. Kamal Kandiyal – Proprietor of M/s Global Tankers FZE/applicant present

Mr. Vishal Sheth i/b Mr. Bimal Rajasekhar for Defendant nos.1 and 2 in COMAS/52/2019 and COMASL/51/2019

Mr. A. M. Vernekar for Defendant No.3

Ms Tripti Sharma i/b Bose and Mitra and Co. for Defendant no.3 in COMAS/52/2019

Ms Perna Verma i/b M/s. Ganesh & Co. for Plaintiff in COMAS/80/2019

Mr. Satish D. Chitgopikar, Deputy Sheriff of Mumbai present

CORAM : K.R.SHRIRAM, J.

DATE : 24th JANUARY 2020

PC.:

1 Not on board. Upon mentioning taken on board.

2 Applicant is the successful bidder of defendant no.1 vessel in the auction, as recorded in order dated 3-1-2020. Ms Narichania for applicant states that the sole proprietor / owner of applicant, Mr. Kamal Singh Gaje Singh Kandiyal is present in court and identifies him. Photocopy

of Adharcard is also tendered and is taken on record and marked “X” for identification. Mr. Kandiyal also tendered photocopy of passport, which is taken on record and marked “X-1” for identification. Ms Narichania on instructions from Mr. Kandiyal states that applicant requires one and last final extension to make the payment of balance amount of Rs.11.50 crores. The court agreed to consider the request on the following conditions:-

(a) That the amount of Rs.11.50 crores will be paid on or before 3-2-2020, and when I say paid, the amount shall be credited to the account of Sheriff of Mumbai on or before 3-2-2020.

(b) Interest @18% p.a. on the balance amount of Rs.11.50 crores, shall also be paid and credited alongwith Rs.11.50 crores.

(c) Cost of Rs.10,000/- each, shall be paid to Mr. Vernekar for defendant no.3 and Mr. Bimal Rajasekhar for defendant nos.1 and 2 and this amount shall also be paid on or before 3-2-2020.

(d) Failure to pay the amounts as mentioned above will expose applicant to criminal contempt proceedings for interference with administration of justice, apart from the amount of Rs.2 crores EMD paid being forfeited and when the vessel is resold, if there is any deficit, that deficit shall also be recovered from applicant together with cost of recovery.

3 Ms Narichania on instructions from Mr. Kandiyal agreed to these conditions unconditionally. Mr. Kandiyal also personally agreed to these conditions.

4 Mr. Vernekar appearing for defendant no.3-the Mormugao Port, says he has no objection for these conditions being accepted, but makes it clear that from today, all the port charges shall be paid by applicant and the vessel shall remain in the port at the risk as to cost, charges and consequences of applicant. Ms Narichania, on instructions from Mr. Kandiyal agreeable to this. Mr. Kandiyal also says he is agreeable to this. Mr. Sheth appearing for defendant nos.1 and 2 leaves it to the court.

5 In the circumstances, time to deposit the balance amount of Rs.11.50 crores, subject to the conditions mentioned above, extended upto and including 3-2-2020.

6 The amount of EMD deposited by applicant shall be transferred, after deducting the Sheriff's expenses, to the Prothonotary and Senior Master. Prothonotary and Senior Master shall invest the same in a Fixed Deposit in a nationalised bank for one year, to be renewed from year to year, unless otherwise ordered.

7 Interim application accordingly disposed.

(K.R. SHRIRAM, J.)