

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.4 OF 2020

Sudip Bhattacharya	
Liquidator of Tag Offshore Limited	..Applicant
In the matter of	
Angre Port Private Ltd.	..Plaintiff
Vs.	
TAG 15 (IMO 9705550)	..Defendant

Mr. Prathamesh Kamat a/w Ms Pooja Tidke, Ms Krushi Barfiwala, Mr. Ryan Mendes and Mr. Yas Bajaj i/b Parinam Law Associates for Plaintiff
Mr. Prashant Pratap, Senior Advocate a/w Mr. Dhruvad Vaghani i/b Economic Laws Practice for Defendant/Applicant in IA/1/2020

CORAM : K.R.SHRIRAM, J.
DATE : 29th JANUARY 2020

PC. :

1 Prayer sought in this application are as under:

“(a) Recall of the said order dated January 20, 2020.

(b) In the alternative, recall and /or modify the said order dated January 20, 2020 and permit the sale of the defendant vessel by way of electronic auction to be conducted by the applicant as per the provisions of the Code and Liquidation Process Regulations without prejudice to the rights and contentions of the parties and in view of the facts and circumstances and exigencies of the sale.

(c) Permit the sale proceeds to be deposited with the applicant entirely without prejudice to the rights and contentions of the parties and in view of the facts and circumstances and exigencies of the sale and subsequent from the order of this Hon’ble Court.

(d) for costs; and

(e) for such further and other reliefs which the Hon’ble Court may deem fit and proper in the circumstances of the case be allowed.”

2 After considering the averments in the application and after hearing Mr. Pratap and Mr. Kamat, the following order by consent and without prejudice to the rights and contentions of the parties as pro-tem arrangement, is passed:-

(a) Applicant shall go ahead with the sale of defendant vessel, even though the vessel will be under arrest.

(b) The vessel will be sold only for trading purpose in view of the averments in the application for minimum price of Rs.5.25 crores.

(c) Upon the bid by buyer being accepted by the liquidator, within one working day, the liquidator shall transfer Rs. 2 crores, which is the EMD for the vessel, to the Prothonotary and Senior Master, High Court, Bombay, under advise to plaintiff's advocates.

(d) The balance amount upto maximum of Rs.3.25 crores, the buyer of the vessel shall pay to the Prothonotary and Senior Master under advise to the liquidator and plaintiff's advocates and upon that amount being deposited with the Prothonotary and Senior Master, the buyer will be discharged of his obligation to the extent of that amount of Rs.3.25 crores towards consideration for defendant vessel. The balance of the sale proceeds of defendant vessel, if any, to be paid to the liquidator.

(e) Upon deposit of Rs.5.25 crores with Prothonotary and Senior Master, the liquidator may issue bill of sale for defendant vessel, subject to other terms and conditions that the liquidator has fixed being met by the

buyer.

(f) Upon this Rs.5.25 crores being deposited, the order of arrest shall stand vacated and the vessel shall be released, subject to any caveat against release pending in this court.

(g) Upon receiving these amounts, the Prothonotary and Senior Master shall invest the same in a fixed deposit with a Nationalised Bank, initially for one year and to be renewed year to year unless otherwise ordered.

3 Mr. Pratap says that liquidator of owners of defendant vessel will file vakalatnama on behalf of defendant and seeks leave to add liquidator as defendant no.2. Mr. Kamat, since it is a request by liquidator, has no objection. The details of liquidator to be provided to plaintiff's advocates by 3-2-2020 and the amendment to the cause title to be carried out and copy of the amended plaint to be served on advocates for liquidator by 7-2-2020. Upon amendment being carried out and the amended plaint being served, Mr. Pratap says service of writ of summons is waived. Since this is a commercial admiralty suit, defendants are put to notice that 30 days period to file the written statement will commence on the day the amended plaint is served on liquidator. This applies to defendant vessel also.

4 Interim application accordingly stands disposed, with liberty to apply including for holding the order of arrest as wrongful and return all security.

(K.R. SHRIRAM, J.)