

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION
IN ITS COMMERCIAL DIVISION**

**COMMERCIAL NOTICE OF MOTION NO.2042 OF 2019
IN**

COMMERCIAL ADMIRALTY SUIT NO.6 OF 2019

Jotun India Private Limited

....Applicant/Plaintiff

Vs.

Halani 4 (IMO No.8304933) and Anr.

....Defendants

Mr. Arnab A. Ghosh for applicant/plaintiff.

Mr. Bernanrdo Reis i/b. Mr. Prashant Dingrani for defendants.

CORAM : K.R.SHRIRAM, J.

DATE : 7th FEBRUARY 2020

P.C.:

1 No affidavit in reply has been filed. The vessel was ordered to be arrested on 4th September 2018. No security has been furnished. Added to that, Mr. Reis states that there is a hole, which has developed in the vessel. All the more reason, the vessel has to be disposed forthwith.

2 In the circumstances, notice of motion is allowed and accordingly disposed in terms of prayer clauses – (a), (b), (c) and (d), which read as under :

(a) The Sheriff of Bombay be directed to have the defendant vessel M.V. Halani 4 be appraised by Surveyors M/s. Ericson and Richards, according to the true value thereof and upon such value having been certified in writing by the said surveyors, to sell the vessel by public auction free and clear of all existing liens, claims and encumbrances for the highest price that can be obtained for the vessel;

(b) The Sheriff of Bombay be directed to give public notice of the sale of the defendant vessel, M.V. Halani 4, by advertisement in the Public Notice column of "The Indian Express" at Mumbai and "Gujarat Samachar" at Gujarat

prior to the date fixed for sale;

(c) The Sheriff of Bombay be directed to require the buyer of the defendant vessel, M.V. Halani 4, at the auction to pay the purchase price by means of a banker's draft in favour of the Sheriff of Bombay, 15% of the amount of the bid to be paid within 96 (ninety six) hours of the sale and the balance of the purchase price within 14 (fourteen) days of the sale;

(d) The plaintiff above named be authorised to pay the fees of M/s. Ericson and Richards, Surveyors, for appraisal of the defendant vessel, M.V. Halani 4, and the costs of the said advertisement for sale, in the first instance, and that the Sheriff of Bombay be directed to reimburse the same to the plaintiff in full, firstly, out of the sale proceeds of the vessel.

3 In view of the above, Sheriff of Mumbai shall have the 1st defendant vessel M.V. Halani 4 appraised by independent valuers and the counsel suggests M/s. J.B.Boda Insurance and Surveyors and Loss Assessors Private Limited be appointed (instead of Ericson and Richards); to fix terms and conditions of sale; issue advertisement; and take all steps to complete the sale and make a report to this Court for confirmation of the sale as per the time line below :-

(a) M/s. J.B.Boda Insurance and Surveyors and Loss Assessors Private Limited is appointed to inspect the 1st defendant vessel M.V. Halani 4 and submit a valuation report indicating the price if the vessel was sold for scrapping/breaking and for trading;

On or before 20th February 2020 the report will be given in a sealed envelope and the same shall not be opened without leave of this Court;

The contents of the report shall also not be disclosed to anybody and will be kept confidential;

When I say anybody, it will include the owners of the vessel or plaintiff or even Sheriff of Mumbai or his deputy or staff in that office;

(b) Meeting of concerned Advocates and parties for settling terms and conditions of the auction sale and issue of public advertisement of auction in the newspapers, The Indian Express at Mumbai and Gujarat Samachar at Gujarat on 15th February 2020 at 3.30 P.M. in the office of the Sheriff of Mumbai;

(c) Inspection of defendant no.1-vessel by intending bidders from 17th February 2020 to 21st February 2020;

(d) Last date for submission of bids to the Sheriff of Mumbai will be 24th February 2020;

(e) Opening of bids and confirmation of the offer by the highest bidder by the Court at 3.00 P.M. on 25th February 2020.

4 Parties interested in bidding will give earnest money deposit of Rs.20,00,000/-.

5 The costs and expenses of the valuation, publication and sale as mentioned above shall be initially borne by plaintiff. Plaintiff shall deposit sum of Rs.5,00,000/- with the Sheriff of Mumbai or such further amount as Sheriff of Mumbai may seek in case of deficit towards the cost of inspection and valuation and the advertisement expenses, publication of sale notice etc. This amount shall be deposited by 12th February 2020. The expenses will be treated as Sheriff's expenses to rank first in order of priorities and shall be reimbursed immediately from the sale proceeds being deposited with the Sheriff of Mumbai.

6 Stand over to 25th February 2020 at 3.00 P.M.

(K.R. SHRIRAM, J.)