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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

COMMERCIAL APPEAL NO. 17 OF 2020

in

ADMIRALTY SUIT NO. 26 OF 2015

with

INTERIM APPLICATION NO. 1014 OF 2019

with

NOTICE OF MOTION NO. 45 OF 2017

in

COMMERCIAL APPEAL NO. 17 OF 2020

Joplin Overseas Investment Ltd.

... Appellant

V/s.

Bank of Sharjah and Ors.

... Respondents

with

APPEAL NO. 178 OF 2017

in

CHAMBER SUMMONS NO. 197 OF 2016

Joplin Overseas Investment Ltd.

... Appellant

V/s.

Ganesh Singh and Ors.

... Respondents

with

CHAMBER SUMMONS NO. 1113 OF 2017

in

APPEAL NO. 178 OF 2017

Joplin Overseas Investment Ltd.

... Applicant/Appellant

V/s.

Ganesh Singh and Ors.

... Respondents

AND

Bank of Sharjah

... Intervener

with
NOTICE OF MOTION NO. 86 OF 2018
in
APPEAL NO. 178 OF 2017

Joplin Overseas Investment Ltd. ... Applicant/Appellant
V/s.
Ganesh Singh and Ors. ... Respondents

Mr. Prashant Pratap, Senior Advocate a/w. Mr. Ruchir Goeneka i/b.
Bose & Mitra & Co. for the Appellant in COMAP 178/17

Mr. V.K. Ramabhadran, Senior Advocate a/w. Shrushti Relekar i/b.
India Law Alliance for the Respondent No.2 in COMAP 17/2020
and for Respondent No.9 in COMAP 178/17

Dr. Birendra Saraf, Senior Advocate i/b. Abhimanyu Singh for the
Respondent No.1 in COMAP 17/2020

Mr. Shyam Kapadia a/w. Akshay Udeshi i/b. M/s. Sanjay Udeshi &
Co. for the Plaintiff in Admiralty Suit No. 129/17

Mr. Dhruva Gandhi i/b. Parth H. Zaveri for Respondent Nos. 1 – 8
in Appeal No. 178/17 and for Confirming Party (Foreign Crew
Members)

Mr. Ranjit D. Shinde for Confirming Party (Ashit Shipping Services
Pvt. Ltd.) in COMAP 17/20

Ms. Priyanka Patel for the Plaintiff in ADMS No.8/16

***CORAM : NITIN JAMDAR &
C.V. BHADANG, JJ.***

DATE : 30 MARCH 2021

P.C. :-

The learned Counsel for the parties have circulated the Consent Terms. The Consent Terms have given the background of the dispute. The events leading to the tendering of the Consent Terms, as stated in terms are as under :-

“1. The vessel M.V. Meem, Respondent No.2 in Commercial Appeal No. 17 of 2020 and Respondent No.9 in Appeal No.178 of 2017 was arrested at the instance of various parties who had filed Admiralty Suits in the Bombay High Court and also in the Gujarat High Court.

2. By an order dated 25 February 2015 the Hon’ble Supreme Court of India directed that the suits pending against the said vessel M.V. Meem in the Gujarat High Court be transferred to the Bombay High Court.

3. The vessel M.V. Meem was sold by public auction by the Bombay High Court by an order dated 22 April 2015 in Notice of Motion (L) No.2024 of 2014 in Admiralty Suit (L) No. 747 of 2014 filed at the instance of Bank of Sharjah, Respondent No.1 in Commercial Appeal No.17 of 2020, at a price of Rs.9.75 Crores.

4. By an order dated 11 December 2015 the net sale proceeds aggregating to Rs.9,43,91,717.00 were directed to be deposited with the Prothonotary & Senior Master, High Court, Bombay and to be invested in a fixed deposit with a Nationalised Bank, initially for a period of six months.

5. A Public Notice dated 30 January 2017 was published by the Sheriff of Mumbai inviting claims to be

filed against the sale proceeds of the vessel M.V. Meem on or before the expiration of 90 days i.e. 29 April 2017 and priorities not to be determined until the expiration of the 90 day period.

6. Several of the suit claims were settled and the only pending suits were as follows :

- (a) Admiralty Suit No.26 of 2015 filed by Bank of Sharjah*
- (b) Admiralty Suit (L) No.506 of 2015 filed by Joplin Overseas Investments Ltd.*
- (c) Admiralty Suit No. 129 of 2017 filed by Navamosa Navigation S.A.*
- (d) Commercial Admiralty Suit No.312 of 2016 filed by foreign crew members on board the vessel M.V. Meem.*
- (e) Admiralty Suit No. 61 of 2015 filed by Indian crew members on board the vessel M.V. Meem*
- (f) Admiralty Suit No.8 of 2016 filed by Gujarat Maritime Board.*

7. Bank of Sharjah obtained a consent decree dated 30 January 2017 in respect of their suit claim as mortgagee of the vessel in Admiralty Suit No.26 of 2015.

8. Navamosa Navigation S.A. obtained a consent decree dated 28 June 2018 in respect of their suit claim in Admiralty Suit No. 129 of 2017.

9. The remaining suits of Joplin Overseas Investments Ltd., the foreign crew members, the Indian members and Gujarat Maritime Board are pending.

10. As the sale proceed of the vessel M.V. Meem are considerably less than the various suit claims and the decrees obtained by both Bank of Sharjah as well as

Navamosa Navigation S.A. are under challenge and since it will take several years for all claims to be finally adjudicated and priorities determined, parties have after extensive negotiations arrived at a settlement to record the amounts which each party will be entitled to receive from the sale proceeds of the vessel M.V. Meem in full and final settlement of their claims and/or decrees obtained by them. A copy of the Settlement Agreement dated 18 March 2021 executed by various parties who have claims against the sale proceeds of the vessel M.V. Meem is annexed hereto and marked as Exhibit A.

11. By an order dated 11 March 2021 passed in these Appeals it was recorded that the parties have arrived at a commercial settlement in respect of their claims against the sale proceeds of the Respondent vessel M.V. Meem and the amounts to be distributed in accordance with the terms proposed by the parties but the physical distribution to take place only after the parties approach the Court with consent terms.

2. The learned Counsel for the parties state that the Commercial Appeal No. 17 of 2020 arise from the decree passed in the Admiralty Suit No.26 of 2015. Commercial Appeal No. 178 of 2017 is filed from the order passed in the Chamber Summons No. 197 of 2016 arising from Suit No. 61 of 2015.

3. On 11 March 2021, following order came to be passed by the Division Bench of this Court :-

“Commercial Appeal No.178 of 2017 challenges an order by a learned Single Judge on a chamber summons

taken out in the admiralty suit, passed on 30 November 2016, whereas Commercial Appeal No.17 of 2020 challenges a decree passed in Admiralty Suit No.26 of 2015 at the instance of Respondent No.1 on 30 January 2017. Appeal No.17 of 2020 was disposed of as not surviving by result of dismissal of notice of motion seeking leave to appeal, by an order of Division Bench of this Court passed on 15 November 2019. By consent of Counsel, the order of dismissal is recalled and set aside and the appeal is restored to file.

2. Parties to commercial appeals have arrived at a settlement and seek disposal of both appeals in terms of the following order. It is accordingly ordered as follows:-

(i) The amount of sale proceeds of the Respondent vessel (Respondent No.2 in Commercial Appeal No.17 of 2020 and Respondent No.9 Commercial Appeal No.178 of 2017), which are today held in fixed deposit in the name of Registrar (Original Side)/Prothonotary And Senior Master, High Court, Bombay, shall be distributed between the parties after encashing the fixed deposit and after setting apart the amount claimed against the sale proceeds by Gujarat Maritime Board. Such distribution shall be in accordance with the consent terms to be submitted by the parties;

(ii) After distribution of the amounts in accordance with the terms proposed by the parties, final orders shall be passed in the commercial appeals. Prothonotary & Senior Master is, accordingly, directed to encash the fixed deposit receipts as noted by a learned Single Judge of this Court in his order dated 7 September 2020 and distribute the sale proceeds in accordance with the consent terms to be submitted by the parties;

(iii) The parties shall submit their respective pan cards (copies) (through their Indian agents) to the Prothonotary and Senior Master to enable him to deduct an appropriate TDS;

(iv) The physical distribution of the amounts shall take place only after the parties approach this Court with consent terms;

(v) Interim Application No.1014 of 2019 and Notice of Motion in Commercial Appeal No.45 of 2017 (seeking leave to appeal) are disposed of.”

4. It was pointed out to the learned Counsel for the parties that the Consent Terms can only be in the Appeals pending before us, the learned Counsel for the parties submitted that the present Appeals can be disposed of by the Consent Terms tendered and in respect of the other pending Suits (excluding Suit No.61 of 2015), the parties will make appropriate request to the learned Admiralty Judge before whom the Suits are pending. As regards the Admiralty Suit No.61 of 2015, though it is pending before the learned Admiralty Judge, it can be disposed of in view of the Consent Terms so tendered, since the Appeal from the interim order is pending before us.

5. Accordingly, the Consent Terms are taken on record and marked 'X', subject to identification of signatures and other compliance to be examined by the Registry.

6. The Appeals are accordingly disposed of in terms of the Consent Terms tendered, subject to identification of signatures and other compliance to be examined by the Registry. The decree in Admiralty Suit No.26 of 2015 shall stand modified accordingly. Admiralty Suit No. 61 of 2015 stand decreed in terms of the Consent Terms which have been tendered before us. We take note that the Gujarat Maritime Board, one of the parties in the Suits, has not signed the Consent Terms. Legal consequences of this fact would follow.

7. As regards the other pending Suits on the subject matter are concerned, liberty to the parties to move the learned Admiralty Judge for disposal of the Suits in view of the understanding arrived at. If so required, the Registry will place the original Consent Terms signed by the parties before the learned Admiralty Judge.

8. The learned Counsel for the Plaintiff - Navamosa Navigation S.A. in Admiralty Suit No. 129 of 2017 states that this Suit has been decreed and in view of the Consent Terms, this Plaintiff will approach the learned Admiralty Judge with necessary application. It is open to do so.

9. All pending Interim Applications stand disposed of accordingly.

C.V. BHADANG, J.

NITIN JAMDAR, J.