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1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 5TH DAY OF MARCH, 2021

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

C.S.No. 222 of 2009

Golden Harvest Shipping Services Co. Ltd.,

No.1405, Yixian Road,

Shanghai 200 439

P.R.China

Represented by its Power Agent

Mr.Stanislaus Samuel

having office at

New No.32, Old No.16, First Floor,

Erra Balu Chetty Street,

Chennai 600001.

... Plaintiff

Vs.

Owners and Parties interested in the Vessel

MV SUPRAMAX VIVI

now lying at the Port of Chennai

Tamil Nadu

Rep. by its Master.

... Defendant

Civil Suit praying this Hon'ble Court be pleased to pass a judgment and decree against the defendant:-

(a) For a sum of US \$ 75,958.56 equivalent to Rs.38,73,887/- calculated as per the prevailing exchange rate at 1 US\$ = INR 51/- Indian

Rupees together with interest at the rate of 24% p.a. from the date of this



to the exchange rate prevailing on the date of the Judgment whichever is higher.

b. For arrest and sale of the Defendant Vessel MV SUPRAMAX VIVI, in as is where is condition, presently in Indian Waters at Port of Chennai, Tamil Nadu.

c. For a direction to adjust the sale proceeds of the Defendant Vessel MV SUPRAMAX VIVI against the suit claim as well as for actual cost of repatriation with interest and costs.

d. And for costs of this suit.

This suit coming on this day before this court for hearing in the presence of Mr.S.Vasudevan, Advocate for the plaintiff herein and Mr.S.Ragunathan, Advocate for the defendant herein and upon reading the plaint filed herein and the Joint memorandum of Compromise signed by the plaintiff and the defendant with their respective advocates and the said advocates for the parties hereto praying this court to pass a decree in terms of joint memorandum of compromise morefully set out in the schedule hereunder, it is interms thereof ordered and decreed as follows:-

That the parties hereto, state that a sum of Rs.38,73,887/- (Rupees Thirty Eight Lakhs Seventy Three Thousand Eight Hundred and Eighty Seven only) towards the Suit claim and a sum of Rs.1,00,000/- (Rupees One Lakh only) towards costs of the suit have been deposited by the Defendant



pursuant to a common order dated 17.08.2009 in Application No. 1038 of 2009 and Application No. 1581 of 2009 in C.S.No.222 of 2009, passed by this Hon'ble Court, together with the accrued interest thereon with the Ashok Nagar Branch of Indian Bank.

2. That the Registrar General of this Court, be and is hereby directed to discharge the Fixed Deposit Receipt lying to the credit of the above suit and further direct the Registrar General to pay the Settlement amount of the Rupee equivalent of US Dollar 28,000/-, as it stands on the date of the said Order, in the name of Mr.S.VASUDEVAN, Counsel for Plaintiff herein.

3. That the payment of United States Dollars 28,000/- at the Exchange Rate prevailing on the day on which the Settlement is recorded by an Order of the Court, from and out of the Security amount shall be paid to the Suppliers, free of Bank Charges, in full and final settlement of the Supplier's claim (Plaintiff) and the respective disputes (the Settlement sum).

4. That the Counsel for Plaintiff shall, on receipt of the funds from Court, pay the same after deducting the expenses of Chartered Accountant for obtaining the Certificate of remittance and after deducting TDS and Bank Charges and at the prevailing Exchange Rate on the date of transfer, through his Bankers M/s.Bank of Baroda, International Business Branch, Chennai 600 001 to the Plaintiff's Account, the details of which is as



HSBC (HONGKONG) LTD

OCEAN CENTRE BRANCH, KOWLOON, HONGKONG

Account No.053 - 151726 - 838

BENEFICIARY: GOLDEN HARVEST SHIPPING
SERVICE CO. LTD

SWIFT: HSBCHKHHHKH

5. That the balance of the amounts lying with the Indian Bank, Ashok Nagar Branch, after paying the Plaintiff, in a manner set out in Clause 2 supra shall be paid to M/s.James Mackintosh, with which Company, the Power of Attorney Agent of the Defendant Mr.Murali Rao is employed, and which Company shall on receipt of the same transfer the funds to the Account designated by the Defendant, the details of which as follows:-

Beneficiary's Name: CHAIN SPIRIT MARITIME
ENTERPRISES INC.

Beneficiary's Bank: BERENBERG BANK, NEUER
JUNGFERNSTIEG 20203545 HAMBURG / GERMANY

SWIFT BIC: BEGODEHH

Account currency : USD

Account number : 05-26604-004

IBAN : DE22 2012 0000 0526 6040 04.

6. That the payment of the sum in rupee equivalent of US Dollar 28,000 to the Plaintiff, at the exchange rate prevalent on the date of passing of an order by this Hon'ble Court on this Joint Memorandum of



in the above suit.

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7. That neither party shall have any claim against each other upon the respective being paid the respective amount as per the terms of this Memorandum either in relation to the said Suit of any amount in relation thereof, whatsoever.

8. That the terms and conditions herein contained herein shall be final and binding as between the Parties herein.

9. That a certificate under section 69 of Tamil Nadu Court Fees and Suit Valuation Act, 1955, do issue herein, out of and under the seal of this court, in favour of Golden Harvest Shipping Service Co. Ltd., P.R.China Represented by its Power Agent Mr.Stanislaus Samue, the Plaintiff herein, authorising them, to receive from the Pay and Accounts Office, High Court, Madras, a sum of Rs.42,270/- (Rupees Forty Two Thousand Two Hundred and Seventy Only) being the entire Court fee paid on the plaint by the Plaintiff herein.

10. That there shall be no order as to costs of this suit.

(Schedule – MOC)



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6

C.S. No.222 of 2009

DECREE

DATED : 05.03.2021

THE HON'BLE MR.JUSTICE
C.V.KARTHIKEYAN

FOR APPROVAL: 11.05.2022

APPROVED ON: 12.05.2022



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7

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05.03.2021**

CORAM:

THE HON'BLE JUSTICE **C.V.KARTHIKEYAN**

C.S.No.222 of 2009

Golden Harvest Shipping Service Co. Ltd.,
No.1405 Yixian Road, Shanghai 200439,
P.R.China Represented by its Power Agent
Mr.Stanislaus Samuel having office at
New No.32, Old No.16, First Floor
Erra Balu Chetty Street
Chennai 600 001.

... Plaintiff

..Vs..

Owners and Parties interested in the Vessel
MV SUPRAMAX VIVI
now lying at the Port of Chennai,
Tamil Nadu, Represented by its Master.

... Defendant

PRAYER : Plaint filed under and Order XLII Rule 1, 2 and 3 of the
Original Side Rules read with Order VII Rule 1 of CPC, prayed for a
Judgment and Decree:-

(a) For a sum of US Dollars 75,958.56 equivalent to Rs.38,73,887/-
calculated as per the prevailing exchange rate at 1 US Dollars = INR 51/-
Indian Rupees together with interest at the rate of 24% p.a from the date of
this Plaint till date of realization or such higher sum of Indian Rupees



equivalent to the exchange rate prevailing on the date of the Judgment
whichever is higher.

(b) For arrest and sale of the Defendant Vessel MV SUPRAMAX VIVI, in as is where is condition, presently in Indian Waters at Port of Chennai, Tamil Nadu.

(c) For a direction to adjust the sale proceeds of the Defendant Vessel MV SUPRAMAX VIVI against the suit claim as well as for actual cost of repatriation with interest and costs.

(d) For costs of this Suit.

For Plaintiff : M/s.S.Vasudevan

For Defendant : M/s.S.Ragunathan

J U D G M E N T

Heard the learned counsel for the plaintiff and Ms.Sharanya Vaidhiyanthan, learned counsel for the defendant.



2. Very appreciably the parties had entered into the Memorandum of

Compromise assisted and guided by the learned counsels. The

Memorandum of Compromise envisages as follows:

**"NOW THEREFORE THIS JOINT MEMORANDUM
OF COMPROMISE (JMOC) WITNESSETH AS
FOLLOWS:**

1. The Parties herein state that a sum of Rs.38,73,887/- (Rupees Thirty Eight Lakhs Seventy Three Thousand Eight Hundred and Eighty Seven only) towards the Suit claim and a sum of Rs.1,00,000/- (Rupees One Lakh only) towards costs of the suit have been deposited by the Defendant pursuant to a common order dated 17.08.2009 in Application No. 1038 of 2009 and Application No. 1581 of 2009 in C.S.No.222 of 2009, passed by this Hon'ble Court, together with the accrued interest thereon with the Ashok Nagar Branch of Indian Bank.

2. It is submitted that this Hon'ble Court may be pleased to direct the Registrar General to discharge the Fixed Deposit Receipt lying to the credit of the above suit and further direct the Registrar General to pay the Settlement amount of the Rupee equivalent of US Dollar 28,000/-, as it stands on the date of the said Order, in the name of Mr.S.VASUDEVAN, Counsel for Plaintiff.



3. *The payment of United States Dollars 28,000/- at the Exchange Rate prevailing on the day on which the Settlement is recorded by an Order of the Court, from and out of the Security amount shall be paid to be Suppliers, free of Bank Charges, in full and final settlement of the Supplier's claim (Plaintiff) and the respective disputes (the Settlement sum).*

4. *The Counsel for Plaintiff shall, on receipt of the funds from Court, pay the same after deducting the expenses of Chartered Accountant for obtaining the Certificate of remittance and after deducting TDS and Bank Charges and at the prevailing Exchange Rate on the date of transfer, through his Bankers M/s. Bank of Baroda, International Business Branch, Chennai 600 001 to the Plaintiff's Account, the details of which is as follows:-*

HSBC (HONGKONG) LTD

OCEAN CENTRE BRANCH, KOWLOON, HONGKONG

Account No.053 - 151726 - 838

*BENEFICIARY: GOLDEN HARVEST SHIPPING
SERVICE CO. LTD*

SWIFT: HSBCHKHHHKH

5. *The balance of the amounts lying with the Indian Bank, Ashok Nagar Branch, after paying the Plaintiff, in a manner set out in Clause 2 supra shall be paid to M/s. James Mackintosh, with which Company, the Power*



of Attorney Agent of the Defendant Mr.Murali Rao is employed, and which Company shall on receipt of the same transfer the funds to the Account designated by the Defendant, the details of which as follows:-

Beneficiary's Name: CHAIN SPIRIT MARITIME ENTERPRISES INC.

Beneficiary's Bank: BERENBERG BANK, NEUER JUNGFERNSTIEG 20203545 HAMBURG / GERMANY

SWIFT BIC: BEGODEHH

Account currency : USD

Account number : 05-26604-004

IBAN : DE22 2012 0000 0526 6040 04

6. The payment of the sum in rupee equivalent of US Dollar 28,000 to the Plaintiff, at the exchange rate prevalent on the date of passing of an order by this Hon'ble Court on this Joint Memorandum of Compromise, shall be in full and final settlement of the all the Plaintiff's claim in the above suit.

7. Neither party will have any claim against each other upon the respective being paid the respective amount as per the terms of this Memorandum either in relation to the said Suit of any amount in relation thereof, whatsoever.

8. The terms and conditions herein contained herein



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shall be final and binding as between the Parties herein.

9. The Plaintiff prays that consequent to the settlement of the above Suit, the Plaintiff may be granted refund of the appropriate amount of Court Fee paid on the Plaint and a direction in relation to the same may be passed by this Hon'ble Court.

10. The Parties shall bear their respective costs.

Dated at Chennai this the 22nd day of December 2020."

3. In view of the same, suit is decreed in accordance with the terms of Memorandum of Compromise. No order as to costs. The Memorandum of Compromise dated 22.12.2020 shall form part of the decree.

Sd./-C.V.K.J.

05/03/2021

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.