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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

O.S.A.(CAD) No.28 of 2021

Banque Cantonale De Geneve,
Office at Case Postale 2251,
1211 Geneve 2,
rep. By its Power of Attorney
V.Padmanabhan ...Appellant/Plaintiff in CS.96/2021

Vs

Owners and Parties interested in the
Vessel M.V.Polaris Galaxy,
having IMO 9339648, now lying at the outer
anchorage of the Port of Tuticorin,
Tuticorin 628 004, rep. By its Master.
...Respondent/Defendant in CS.96/2021

Prayer in O.S.A.(CAD).No.28/2021:

Appeal filed against the order dated 06.07.2021 in A.Nos.1025 and 1855 of 2021 in C.S.No.96 of 2021 and to direct the respondent to furnish a bank guarantee in compliance with the order dated 30.04.2021 i.e, with a provision for invocation of the guarantee in the event of non-renewal before the expiry thereof; and consequently, to prevent the sailing of the said vessel until a bank guarantee is executed as per the orders passed by this court.

Prayer in CS.96/2021:

(a) To order the arrest and sale of the vessel M V POLARIS GALAXY, having IMO 9339648, flying the flag of Liberia now lying at the outer anchorage of the Port of Tuticorin (V.O.Chidambaranar Port) within the jurisdiction of this Hon'ble Court along with her hull, gear, tackle, engines, machinery, bunkers, equipment, furniture, fixture and all other paraphernalia and appurtenances, presently lying at the port and harbor of Tuticorin (V.O.Chidambaranar Port) and direct the deposit of the sale proceeds in this Hon'ble Court towards satisfaction and by way of security towards the Plaintiffs claim.

(b) For an order and decree in favour of the Plaintiff and



against the Defendant for a sum of USD 6,705,357.38 equivalent to Rs.48,94,91,089/- (Rupees Forty Eight Crore, Ninety Four Lakh Ninety One Thousand and Eighty Nine only) (CALCULATED AT the current exchange rate of 1 USD = 73 INR), together with further interest at the rate of 12% per annum on the principal amount from the date of the institution of the suit till payment/realization, together with costs and poundage.

(c) for direction to the Defendant to pay the costs of the above suit and

(d) Pass such further or other orders as this Hon'ble Court may deem fit and render justice.

For the Appellant : Mr.Z.Bharucha,
for Mr.S.Raghunathan

For the Respondent : Mr.Amitava Majumdar,
for Ms.Deepika Murali

J U D G M E N T

(Delivered by the Hon'ble Chief Justice)

Since Mr.Z.Bharucha appearing for the plaintiff appellant accepts that the appropriate corrigendum has now been issued, the matter is closed. O.S.A.(CAD) No.28 of 2021 is disposed of by setting aside the order impugned.

2. A memorandum indicating that the corrigendum was executed to the satisfaction of the Registry, on September 1, 2021, has been filed by the respondent herein.

3. In view of the corrigendum issued and the bank guarantee now being renewed automatically, the affidavit dated July 5, 2020 filed on behalf of the respondent before the trial court need not be acted upon any further.

4. C.M.P.No.10350 of 2021 is closed. There will be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

tar



To:

The Sub Assistant Registrar,
Original Side,
High Court, Ch-104.

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+1 CC to M/s.Deepika Murali, Advocate, Sr.No. 44700.

O.S.A. (CAD) No.28 of 2021

RGN(CO)
LS(05/10/2021)