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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 23rd DAY OF NOVEMBER 2021

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.S. No.265 of 2020

and

A. Nos.2553 & 2572 of 2020

C.S. No.265 of 2020:-

and

A.No.2553 of 2020:-

Wajilam Exports (Singapore) Pte Ltd.,
a company incorporated under the laws of
Singapore having its registered office at 10
Ansol Road, #27-14, International Plaza,
Singapore-079903, rep. by Power of Attorney Agent,
Mr.NK.Prem Kumar,
residing at Sri Sivamaya Illam,
43/238, Kilpauk Garden Road,
Kilpauk, Chennai-600 010.

... Plaintiff/Applicant

-Versus-

Owners and Parties interested in the Vessel
MV EAGLE, having IMO No.9227869,
now lying at the outer anchorage of the
Port of Tuticorin (V.O.Chidambaranar Port),
Tuticorin-628 004
rep. herein by its Master

... Defendant/Respondent

Civil Suit praying that this Hon'ble Court be pleased to pass a

Judgement and decree:-

<https://hcservices.ecourts.gov.in/hcservices/>

a) To order the arrest and sale of the vessel MV Eagle having IMO



No.9227869 flying the flag of Panama, registered in panama and now lying at the Tuticorin anchorage 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 harbour 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 plaintiff's claim.

(*) The plaintiff is therefore, seeking a judgment and decree against the defendant in Sum US 55982.59 equivalent to (INR 4111641.32 @ Rs.73.44 per USD) and in the event of the failure of the defendant to pay the said sum to direct the payment of the said sum of the plaintiff from out of the sale proceeds to be deposited in this Hon'ble Court.

b) For a declaration that the exercise of lien by the Owners of the Defendant vessel on the cargo on board the said vessel as done by thier communications addressed to the Plaintiff, either by themselves or through their Solicitors and Counsel including the one dated 29th September '20 addressed to the Chairman and others of the V O Chidambaranar Port Trust in unlawful and illegal and to consequently direct the Defendant, their men, agents, and servants including the Master of the vessel M V EAGLE to

berth the said vessel for the purpose of discharging the entire cargo of 1656



timber logs on board the said vessel unconditionally at Tuticorin;

(*) (c) For a judgment and decree against the defendant directing the defendant to pay the plaintiff a sum of USD 55982.59 equivalent to (INR 4111641.32 @ Rs.73.44 per USD) or any other sum that may be found due and payable by the defendant to the plaintiff together with interest @ 18% p.a. from the date of the plaint until such payment is made and in the event or the failure on the part of the defendant to pay such sum for a direction to pay such sum out of the sale proceeds of the vessel as prayer (a) above.

(d) For direction to the Defendant to pay the costs of the above suit.

(*) Amended as per order dated

24.11.2020 in A.No.2554/2020

A. No.2553 of 2020

Application praying that this Hon'ble Court be pleased to direct the Respondent to deposit a sum of US \$ 55,982,59 equivalent to (INR 4111641.32 @ Rs.73.44 per USD) in an interest free Fixed Deposit Account with any Schedule Commercial Bank having a Branch in Chennai in the name of the Registrar General of Madras High Court to the credit of "C.S.(Comm) No.265 of 2020 or to secure the claim of the Applicant in the

said sum of US \$ 55.982.59 equivalent to (INR 4111641.32 @ Rs.73.44 per



USD) by furnishing a Bank Guarantee for the said sum in favour of the Registrar General of this Honble Court through a Schedule Commercial Bank having its Branch in Chennai.

A. No.2572 of 2020:-

Owners and Parties interested in the Vessel
MV EAGLE, having IMO No.9227869,
now lying at the outer anchorage of the
Port of Tuticorin (V.O.Chidambaranar Port),
Tuticorin-628 004
rep. herein by its Master

... Applicant/Defendant

-Versus-

Wajilam Exports (Singapore) Pte Ltd.,
a company incorporated under the laws of
Singapore having its registered office at 10
Ansol Road, #27-14, International Plaza,
Singapore-079903, rep. by Power of Attorney Agent,
Mr.NK.Prem Kumar,

... Respondent/Plaintiff

Application praying that this Hon'ble Court be pleased to direct the Respondent (Original Plaintiff) to produce before this Hon'ble Court the Import General Manifest (IGM) No.2261876 dated 8th September 2020 which the Respondent (Original Plaintiff) have through their agents at the Tuticorin Port i.e M/s.Imperial Shipping Pvt Ltd filed with the Tuticorin Custom Authorities.

This Civil Suit along with these applications coming on this day

before this court for hearing in the presence of Mr.S.Raghunathan,



Advocate for the Plaintiff in C.S.No.265 of 2020 and for the applicant in A.No.2553 of 2020 and for the respondent in A.No.2572 of 2020 and Mr.Amitava Majumdar for Ms.Deepika Menali, Advocates for the defendant in C.S.No.265 of 2020 and for the respondent in 2553 of 2020 and for the applicant in A.No.2572 of 2020 and upon reading the plaint filed in C.S.No.265 of 2020 and the Judge's Summons and the affidavit of N K Prem Kumar filed A.No.2553 of 2020 and the Judges Summons and the affidavit of Anil Shamrao Jadhav filed in A.No.2572 of 2020 and the order dated 12.03.2021 made in A.Nos.2571 & 3162 of 2020 in C.S.No.265 of 2020, and the learned counsel for the plaintiff as well as the learned counsel for the defendant having submitted that subsequent to the order dated 12.03.2021 passed in A.No.2571 of 2020, the arbitration has been initiated and it is in progress and no arbitral award has been passed till date and further submitted that no useful purpose will be served if the suit is still kept pending however, the respective amounts kept in Fixed Deposits by the respective parties will have to be retained by the Registrar General of this Court till the arbitral award is passed and depending upon its outcome, the payment out of the said sum can be decided by this Court later, and this Court having observed that since no further order can be passed by this Court with regard to the merits of the respective claims, this Court deems it fit to close the suit, and



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That since Fixed Deposits for the amounts mentioned in the memo annexed hereto have been taken by the respective parties, drawn on the respective banks, drawn in favour of the Registrar General, High Court of Madras and are also earning interest, the Fixed Deposits shall be retained by the Registrar General until further orders to be passed depending upon the outcome of the arbitration between the parties.

2) That depending upon the outcome of the arbitration between the parties, any of the parties who are successful in arbitration, are at liberty to approach this Court, seeking for return of Fixed Deposits standing in the name of the Registrar General, High Court of Madras or for payment out of the money which are in the form of Fixed Deposits standing in the name of Registrar General, High Court of Madras.

3) That the suit in C.S.No.265 of 2020 do stand closed.

4) That these A.Nos.2553 & 2572 of 2020 do stand closed.

(MEMO)



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10.12.2021

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C.S. No.265 of 2020
and
A. Nos.2553 & 2572 of 2020

ORDER

DATED : 23.11.2021

THE HON'BLE MR.JUSTICE
ABDUL QUDDHOSE

FOR APPROVAL: 07.02.2022

APPROVED ON: 10.02.2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS****DATED :23.11.2021****CORAM:****THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE****C.S.No.265 of 2020**
and Application Nos.2553 and 2572 of 2020

Owners and Parties interested
In the Vessel M.V.EAGLE
having IMO No.9227869, now lying at the
outer anchorage of the Port of Tuticorin
V.O.Chidambaranar Port Trust, Tuticorin 628004
Represented herein by its Master

.. Plaintiff

vs

Wajilam Exports (Singapore) Pte Ltd., a Company
incorporated under the laws of Singapore having its
registered office at 10 Ansol Road,
#27-14 International Plaza, Singapore 079903,
Represented by Power of Attorney Agent
Mr.NK.Prem Kumar residing at Sri Sivamaya Illam,
43/238 Kilpauk Garden Road, Kilpauk, Chennai - 600010

...Defendant

Civil Suit filed under Order XLII, Rule 1,2 and 3 of Original Side
Rules read with Order VII Rule 1 of Civil Procedure Code and the
provisions of the Commercial Courts Act, 2015.

For Plaintiff : Mr.S.Raghunathan
For Defendant : Mr.Amitava Majumdar
for Ms.Deepika Menali

**JUDGMENT**

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A Memo has been filed by the plaintiff today i.e., 23.11.2021 stating as follows:

a) Pursuant to the order dated 12.03.2021 passed by this Court in A.No.2571 of 2020, filed by the respondent/defendant under Section 45 of the Arbitration and Conciliation Act, 1996, parties have been referred to arbitration.

b) During the pendency of the suit the plaintiff herein has deposited the rupee equivalent of US \$262,297 in a Fixed Deposit with the Chennai Main Branch of ICICI Bank in the name of the Registrar General, High Court, Madras to secure the alleged claim of the defendant pursuant to the order passed by this Court on 06.11.2020 in Application No.2346 of 2020.

c) The defendant has also deposited the rupee equivalent of US \$ 56,000 with Kotak Mahindra



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Bank on 19.10.2020 in a Fixed Deposit in the name of the Registrar General of this Court to secure the claim of the plaintiff.

d) Both the deposits have been made by the respective parties without prejudice to their contentions and subject to the decision of the Arbitral Tribunal.

e) In view of the fact that the claims of both the parties have been referred to Arbitration by the order of this Court dated 12.03.2021 in A.No.2571 of 2020, it is prayed by the plaintiff that the suit may be closed.

2. Learned counsel for the plaintiff as well as the learned counsel for the defendant submit that subsequent to the order dated 12.03.2021 passed in A.No.2571 of 2020, the arbitration has been initiated and it is in progress and no arbitral award has been passed till date and further submit that no useful purpose will be served if the suit is still kept pending.



3. However, the respective amounts kept in Fixed Deposits by the respective parties will have to be retained by the Registrar (General) of this Court till the arbitral award is passed and depending upon its outcome, the payment out of the said sum can be decided by this Court later.

4. In the result, the following directions are issued by this Court:-

a) Since Fixed Deposits for the aforementioned amounts have been taken by the respective parties, drawn on the respective banks, drawn in favour of the Registrar General, High Court of Madras and are also earning interest, the Fixed Deposits shall be retained by the Registrar General until further orders to be passed depending upon the outcome of the arbitration between the parties.

b) Since no further order can be passed by this Court with regard to the merits of the respective claims, this Court deems it fit to close the suit.

c) Depending upon the outcome of the



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arbitration between the parties, any of the parties who are successful in arbitration, are at liberty to approach this Court, seeking for return of Fixed Deposits standing in the name of the Registrar (General), High Court of Madras or for payment out of the money which are in the form of Fixed Deposits standing in the name of Registrar (General), High Court of Madras.

5. In terms of the aforementioned directions, this Civil Suit is closed.
Consequently, A Nos.2553 and 2572 of 2020 are closed.

Sd./-A.Q.J
23.11.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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