

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.12287 OF 2022

The Shipping Corporation of
India Ltd.

..... Petitioners

Vs.

Mr.Sam s/o K.J.Julius and Anr.

..... Respondents

Mr.Filji Frederick a/w Mr.Ali Kazmi a/w Mr.Vinay Kumar i/b M/s.FF
& Associates for the Petitioners

Mr.Navaneetha Krishnan T. for Respondent no.1

Ms.Naveena Kumai a/w Mr.Raju Mandal for Respondent no.2

**CORAM: S.V.GANGAPURWALA, ACJ &
S.G.CHAPALGAONKAR, J.**

DATED : DECEMBER 15, 2022

P.C.

1 The Petitioner is assailing the order passed by the shipping master awarding back wages to the tune of Rs.14 lacs and odd to the Respondents.

2 The learned Counsel for the Petitioners vehemently submits that in view of section 132 of the Master Shipping Act, 1958 the shipping master could not have entertained the dispute beyond Rs.5 lacs. The shipping master did not possess the Jurisdiction. The order passed by the shipping master as such is without jurisdiction.

3 The Petitioner relies upon the judgment of the learned single Judge of this court ***dated 05.07.2019 in Admiralty Suit No.12 of 2017 in the case of Jagdish Singh Bhadauria vs. Bharati - S and another.***

4 The learned counsel for the Respondents submits that the Respondents had approached the High Court at Kerala raising back wages by filing Case No.23 of 2018. The Petitioner herein raised objection that in view of section 132 of the Merchant Shipping Act, 1958, the remedy is provided for deciding the dispute by the shipping master. On the objection of the Petitioner, the matter was referred to the shipping master. The learned counsel submits that if the parties agreed to submit the dispute to shipping master, provision of section 132 (1) would apply.

5 We have considered the submissions canvassed by the learned counsel for the parties.

6 Reliance placed by the learned counsel for the Petitioners on the judgment of the learned single Judge of this court in Admiralty Suit No.12 of 2017 (Supra) would not be any avail to the Petitioner. The same would not enure to the benefit of the Petitioner. In

paragraph 16 of the said judgment learned single Judge had observed that under sub section (1)(b) of section 132 “in any other case, parties to the dispute may agree in writing to submit the dispute to the shipping master”. Admittedly, there is no such agreement either.

7 In the present case, the Petitioners raised an objection in a proceeding filed by the Respondents before the Kerala High Court that the shipping master is competent to decide the dispute between the parties. The matter by the Kerala High Court was referred to the shipping master. There cannot be any dispute with the proposition that the court by its order cannot bestow jurisdiction on the authority or the court that inherently lacks it and even if the court refers the matter to the authority without jurisdiction then the same would be an order *coram non judice*. However, in the present case, section 132 (1)(b) specifically provides that in any other case if both parties to the dispute agree in writing to submit the dispute to shipping master then he can entertain the dispute. The Petitioner raised an objection that the shipping master has to decide the matter. Relying upon the stand of the Petitioner herein the Kerala High Court remanded the matter to the shipping master. The parties submit to the jurisdiction of the shipping master during the

proceedings before the shipping master. The Petitioner does not raise any objection qua the jurisdiction of the shipping master and submits to the same.

8 It would appear that the parties agree to refer the dispute to the shipping master. Moreover, the Petitioner is a Government of India Undertaking. It is expected to be a model litigant. The Petitioner cannot probate or reprobate as far as judgment of the shipping master is concerned. No perversity has been pointed out on merits of the matter.

9 In light of the above, Writ Petition is dismissed. No costs.

10 The amount deposited by the Petitioners is allowed to be withdrawn by the Respondents.

(S.G.CHAPALGAONKAR, J.)

(ACTING CHIEF JUSTICE)