

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ADMIRALTY AND VICE ADMIRALTY JURISDICTION**  
**INTERIM APPLICATION (L) NO. 30730 OF 2021**  
**IN**  
**COMMERCIAL ADMIRALTY SUIT NO. 36 OF 2018**  
**WITH**  
**SHERIFF'S REPORT NO. 05 OF 2022**

IDBI Bank Ltd. ... Applicant/Plaintiff  
vs.  
MV Malaviya Thirty Three ... Respondents/Defendants  
(IMO 7809118) and Ors.

**INTERIM APPLICATION NO. 218 OF 2022**  
**IN**  
**ADMIRALTY SUIT NO. 14 OF 2017**

Bharat Kumar Vithaldas Ved ... Applicant/Plaintiff  
vs.  
Malaviya Thirty Three ... Respondents/ Defendants  
IMO 7809118 and the Office  
Liquidator of GOL Offshore

Mr. Zarir Bharucha a/w. Mr. Rohaan Pajnijkar and Mr. Rishi Thakur i/b. ZBA  
for the Applicant/Plaintiff in COMAS/36/2018.

Mr. Vikrant D. Shetty for the Applicant / Plaintiff in ADMS/14/2017.

Mr. Prathamesh Kamat i/b. Ms. Sapna Rachure for Official Liquidator.

Ms. S. Priya for the Official Liquidator in ADMS/14/2017

Mr. Rohit Gupta for Defendant No. 9.

Mr. D. S. Chaudhari, Deputy Sheriff.

Mr. S. S. Toraskar, Master, C. S. Department.

RAJESHWARI  
RAMESH  
PILLAI

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RAJESHWARI  
RAMESH PILLAI  
Date: 2022.02.24  
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CORAM : A. K. MENON, J.

DATED : 22<sup>nd</sup> FEBRUARY, 2022

P.C. :

1. By this Interim Application the bank seeks priority in payment of a sum of Rs.1,33,39,70,859/- being the sale proceeds of defendant vessel as on 30<sup>th</sup> November, 2017. The suit came to be decreed on 15<sup>th</sup> December, 2021 and was kept pending for priorities to be decided. It is pursuant to the liberty reserved to the plaintiff under paragraph 12 of the order dated 15<sup>th</sup> December, 2021 that the present Interim Application has been filed.

2. In the Interim Application the plaintiff has disclosed that there are only three claims that have been received seeking a share of the sale proceeds. These are from crew members in Admiralty Suit no. 14 of 2017, the Kolkata Port Trust and a supplier of bunker to the defendant vessel. The claim from crew members in Admiralty Suit No. 14 of 2017 is in a sum of Rs.16,92,072/-. The crew claim gets first priority. The decree dated 25<sup>th</sup> July, 2019 is in a sum of Rs.15,82,000/- along with interest thereof @ 12% per annum. Mr. Shetty who appears for the plaintiff in Admiralty Suit no. 14 of 2017 states that he has instructions that his claim does not exceed Rs. 16,92,072/-. He accepts the computation as set out by the applicant bank who claims the priority over and above the applicant bank.

3. On behalf of the Kolkata Port Trust a sum of Rs. 78,56,138/- has been claimed. This claim was subject matter of Admiralty Suit no. 54 of 2018. The

suit had been filed after the Liquidator was appointed of the company GOL Offshore as a result of the suit having been filed post the order of liquidation, a number of claims were filed. As a result he now states that the suit is liable to be revived and has filed an Interim Application No. 1875 of 2021 which is still pending and will be taken up for hearing in due course. Learned counsel for the Kolkata Port Trust states that he has instructions to limit his claim to Rs. 78,56,138/-. The claim of the Kolkata Port Trust also ranks in priority above the claim of the bank.

4. The third claim is that of M/s. Birkat Hiring in Admiralty Suit No. 760 of 2017 in which plaintiffs claims a sum of Rs. 68,69,600/-. Mr. Bharucha states that with respect to claim of Birkat Hiring which is not listed and there was no claim for interest he has instructions to state that the amount if any, of the claimant will be brought back to the court, if so directed.

5. It is clarified/verified by the representative of the Sheriff of Mumbai that there are only three claims and no other claims. The Sheriff's Report No. 5 of 2022 seeks to place on record that notice inviting claims was published on two dates mentioned in prayer clause (a) and for leave to refund the sum of Rs. 33,344/- to the applicant/plaintiff. In view of the order passed today in Interim Application (L) No. 30730 of 2021 and Interim Application No.218 of 2022 this report is liable to be allowed.

6. In these circumstances a total sum of Rs.1,64,17,810/- is payable to these three claimants. In view of the aforesaid I am of the view that the Interim Applications are liable to be allowed. Accordingly, I pass the following order :

(i) Interim Application(L) No. 30730 of 2021 is made absolute in terms of prayer clause (a) subject to the clarification that a total sum of Rs.1,64,17,810/- shall be first kept aside and dealt with as follows :

(a) A sum of Rs. 16,92,072/- decreed in Admiralty Suit No. 14 of 2017 would have to be paid first. Accordingly Interim Application No. 218 of 2022 in Admiralty Suit No. 14 of 2017 is made absolute in terms of prayer clause (a).

(b) The Amounts of Rs. 78,56,138/- and Rs.68,69,600/- shall be kept aside for the purpose of securing amounts in Admiralty Suit No. 760 of 2017 and Admiralty Suit No. 54 of 2018.

(ii) Interim Application (L) No. 30730 of 2021 in Commercial Admiralty Suit No. 36 of 2018 and Interim Application No. 218 of 2022 in Admiralty Suit No. 14 of 2017 are disposed in the above terms.

(iii) It is clarified that the amounts kept aside in relation to the suit filed by Kolkata Port Trust being Admiralty Suit no. 54 of 2018 and

Admiralty Suit no. 760 of 2017 shall be subject to any further claims that the plaintiff / applicant herein make, if in the event of the plaintiffs' in those suits not succeeding in their suits.

(iv) Sheriff's Report No. 5 of 2022 is allowed in terms of prayer clause (b) and disposed in the above terms.

(v) List the Admiralty Suit No. 760 of 2017 and Interim Application No. 1875 of 2021 in Admiralty Suit No. 54 of 2018 on 2<sup>nd</sup> March, 2022.

(vi) Registry shall place before this court the total sum of sale proceeds available on the next date along with accrued interest.

**(A. K. MENON, J.)**