

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION
IN ITS COMMERCIAL DIVISION
ADMIRALTY SUIT NO.37 OF 2021**

The Board of Mumbai Port Authority,
a body constituted under the provisions of the
Major Port Authorities and having their
Office at Vijay Deep, Shoorji Vallabhdas
Marg, Ballard Estate, Fort, Mumbai – 400 001 ... PLAINTIFF

Versus

Sale Proceeds of Vessel M.V.PFS Brave,
Presently lying in this Hon'ble Court with
the Prothonotary and Senior Master and all
persons interested in the said Vessel ... DEFENDANT

Ms. Sneha Pandey i/by Motiwala and Co., for Plaintiff.
None for Defendants.

CORAM: N.J.JAMADAR, J.

DATE: 26th JULY, 2022

JUDGMENT :

1. This Commercial Admiralty Suit is instituted for recovery of a sum of Rs.1,59,731/- along with interest @ 15% p.a. on the principal sum of Rs.1,11,902/- from the date of institution of the Suit till payment and/or realization against the sale proceeds of the Vessel M.V.PFS Brave.
2. The Plaintiff is a statutory body constituted under the provisions of the Major Port Authorities Act, 2021. Its predecessor in title – the Board of Trustees of the Port of Mumbai, were the owners of the Docks, Harbour and Port facilities at the

Port of Mumbai. The Plaintiff renders various services to the Vessels coming to the Port of Mumbai.

3. M.V.PFS Brave, owned by PFS Shipping India Limited, had availed the services at the Plaintiff's port. Eventually, the Vessel – M.V.PFS Brave came to be sold by the order of this Court on 4th July, 2018 in Admiralty Suit No.24 of 2018. The sale proceeds of Rs.5,50,00,000/- have been deposited in this Court. The Plaintiff raised bills for anchorages, port and pilotage services rendered to the said Vessel prior to its sale, aggregating to Rs.1,11,902/-. The Plaintiff also addressed notices to the Owner, Master and Agent of the said Vessel to pay the statutory dues in Form No.I on 6th July, 2018. It was followed by another notice dated 17th July, 2018 in Form No.II. However, the statutory dues of the Plaintiff remained outstanding. Hence, this Suit along with interest and further interest @ 15% p.a. from the date of the suit till realization.

4. Since the owner of the Vessel could not be served despite efforts, the Plaintiff was permitted to serve the Defendant by way of substituted service in the nature of paper publication. Eventually, the owner of Defendant Vessel was served by paper publication. An affidavit of service dated 18th March, 2022 came to be filed. Thus, the Suit came to be posted for passing Ex-parte Decree against the Defendant.

5. The Plaintiff has examined three witnesses namely Sandesh Kumar (P.W.1), Assistant Harbour Master, Marine Department; Mr. Hemant Rama More,

(P.W.2) Administrative Officer; and Mr. Rajendra R. Walinjar (P.W.3), Sr. Administrative Officer, Port Trust of Mumbai. They have filed Affidavits in lieu of examination-in-chief. The Plaintiff has also tendered documents in support of the claim. They are marked as Exhibits P1/2 to P1/6, P2/2 to P2/5 and P3/2. The Plaintiff's claim that it had rendered services to the Defendant Vessel is substantiated by the Marine Invoice Finalized Report (Exhibits P/2/2, P/2/3 and P/3/2) and certified true copy of SOR (Exhibits P/2/4 and P/2/5). The claims of the witnesses that the notices were addressed to the Master and Agent of the Vessel, also find support in the Notices dated 6th July, 2018 (Exhibit P/1/3) and 17th July, 2018 (Exhibit P/1/4). The evidence of the Plaintiff's witnesses has gone unchallenged.

6. The claim of the Plaintiff appears a maritime claim covered by Section 4(1)(k) and (n) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017. This claim constitutes a maritime lien under Section 9(1)(d) of the said Act. The Plaintiff is, thus, entitled to a decree. Hence, the following order :

ORDER

(i) The Suit stands decreed for a sum of Rs.1,59,731/- along with further interest @ 15% p.a. on the sum of Rs.1,11,902/- from the date of the Suit till payment against the sale proceeds of Vessel – M.V.PFS Brave.

(ii) Decree be drawn accordingly.

(iii) The Plaintiff is also entitled to recover the costs of this Suit from the Defendant.

(N.J.JAMADAR, J.)