

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE-ADMIRALTY JURISDICTION
[COMMERCIAL DIVISION]

INTERIM APPLICATION NO.2142 OF 2021
IN
COMMERCIAL ADMIRALTY SUIT NO.26 OF 2021

Integr8 Fuels Inc. .. Applicant-Plaintiff

Vs.

Sale Proceeds of M.V. Karnika (IMO No.8521220) & Anr. .. Defendants

Mr. Prathamesh Kamat, with Mr. Jitin Jose and Mr. Yash Aiyya, i/by Mr. Harsh Pratap,
for the Applicant-Plaintiff.

None for the Defendants.

CORAM : A. K. MENON, J.

DATE : 7TH JUNE, 2022.

P.C. :

1. None appears for defendant no.2. The defendant no.1-vessel has already been sold. The sale proceeds are said to be lying with the Prothonotary and Senior Master.
2. The application now filed by the plaintiff seeks summary judgment, under Order XIII-A, read with Order XII Rule 6 of the Civil Procedure Code, 1908, on the basis of a claim that a sum of USD 532,965.07 is said to be due as of 11th December 2020, together with interest @ 2% p.a. on USD 532,965.07, compounded monthly from 12th December 2020 till the date of decree and till payment or realization.
3. Defendant no.2 is absent on call, though served. Affidavit-of-service dated 24th

March 2022 is on record. That indicates that the IA and the Suit papers have been served upon the defendant no.2 by e-mail. Mr. Kamat states that e-mail has not bounced back. Statement is accepted. Mr. Kamat submits that supply of bunker is not in dispute. In fact, the defendant no.2 has, vide a communication dated 26th December 2019 in the form of Bunker Delivery Note and Receipt bearing BDR No. 2464, acknowledged receipt of the supplies through Master/Chief Engineer of defendant no.1. Vide an e-mail dated 9th April 2020, sent at 04:50 hours to the plaintiff, the 2nd defendant's President and CEO has acknowledged liability and sought further time since they have not received their funding. The liability is therefore seen to be undisputed.

4. The defendant no.1-vessel has already been sold. The defendant no.2 is a company incorporated in Mauritius. The sale proceeds of the 1st defendant-vessel are presently lying in court. The record indicates that the defendants were obliged to make payment of the suit invoice no.IF77006 dated 6th January 2020, a copy of which is annexed at Exhibit-C to the plaint, for a sum of USD 402,322.90 and interest claimed on the aforesaid principal sum @ 2% p.a., compounded monthly. In view of the payment terms incorporated in the aforesaid invoice, apparently there is no dispute to the rate of interest and liability to pay since the correspondence prior to filing of the suit does not indicate any such defence since the 2nd defendant has also not filed any written statement.

5. In these circumstances, considering the acknowledgment of liability, I am of the view that there is no real defence to the claim of the plaintiff and, in my view, this

is a fit case for granting summary judgment by allowing the present IA. Accordingly,

I pass the following order :-

- (i) Interim Application is allowed in terms of prayer clauses (a) and (b).
- (ii) Claim of the plaintiff to the extent of USD 532,965.07, as per Particulars of Claim, a copy of which is annexed at Exhibit-N to the plaint, is allowed.
- (iii) Interim Application is disposed in the above terms.

(A.K. MENON, J.)