

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION**

INTERIM APPLICATION NO.1875 OF 2021

IN

ADMIRALTY SUIT NO.54 OF 2018

Kolkata Port Trust

.. Applicant / Plaintiff

v/s.

Sale Proceeds of Tug Birsingha & Anr.

.. Defendants

Mr. Rohit Gupta i/b. Narayan Awate for the plaintiff.

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

CORAM : A. K. MENON, J.

DATED : 8TH MARCH, 2022.

P.C. :

1. By this IA, the applicant original plaintiff seeks recall of order dated 11th November, 2019 passed in the above suit allowing the suit to be withdrawn with liberty to file a fresh suit after obtaining leave of the company court. Today Mr. Gupta states that his clients wish to proceed only against the sale proceeds.
2. Mr. Kamat who appears for defendant no.2 herein states that the applicant cannot proceed against the 2nd defendant in personam

but if the claim is restricted to the sale proceeds, he submits to the orders of the court. My attention is drawn to the order dated 22nd February, 2022 and 1st March, 2022 passed in Commercial Admiralty Suit nos.14 of 2017 and 36 of 2018 in which the amount claimed has been secured in this court as part of the sale proceeds to be invested as directed therein.

3. Mr. Gupta today states, on instructions, that the claim no.11063 of 2019 against the company in liquidation is not being pressed. He seeks to withdraw that claim. In view thereof, statement can proceed against the sale proceeds.

4. Accordingly, I pass the following order;

(i) IA is made absolute in terms of prayer clause (a).

(ii) Suit is restored to file. The claim no.11063 of 2019 filed before the Official Liquidator against defendant no.2 (in Liquidation) stands withdrawn.

(iii) Authenticated copy of this order shall be served upon the office of the Official Liquidator within two weeks from today.

(iv) IA is disposed in the above terms.

(A. K. MENON, J.)