

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION
IN ITS COMMERCIAL DIVISION
INTERIM APPLICATION NO.1155 OF 2020
IN
COMM. ADMIRALTY SUIT NO.5 OF 2019**

Shipping Corporation of India Ltd. and Jagson International Ltd. and Anr.	...	Applicant
<i>Versus</i>		
Shipping Corporation of India	...	Defendant

Mr. Yashesh Kamdar with Ms. Ankita Mishra i/by Tuli and Co., for Plaintiff No.2.
Mr. Prathamesh Kamath with ms. N. Sumnani i/by Bhatt and Saldanha, for
Applicant/Org. Defendant.

CORAM: N.J.JAMADAR, J.

DATE: 2nd AUGUST, 2022

P.C.:

1. Heard the learned Counsel for the Applicant/Defendant and the learned Counsel for the Plaintiff.
2. The learned Counsel for the Applicant submits that since the Application is governed by Section 352A of the Marine Shipping Act, 1958 before it suffered amendment, at this stage, without discharging the initial burden envisaged by Section 352A of the Act, the Application cannot be proceeded with. Thus, the learned Counsel for the Applicant seeks not to press the Application at this stage and prays that the Application may be ordered to be considered along with the Suit.

3. The learned Counsel for the Plaintiff, on the other hand, submits that the Application may be disposed of with liberty to the Applicant in the event the Applicant succeeds in discharging evidentiary burden.
4. The Counsels are in unison on the point that, at this juncture, the Application cannot be considered as it is governed by unamended Section 352A of the Marine Shipping Act, 1958.
5. Relegating this Application for being decided along with the Suit would cause prejudice to none of the parties. Hence, the Application be considered alongwith the Suit.

(N.J.JAMADAR, J.)