

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION
INTERIM APPLICATION NO. 1410 OF 2022
IN
ADMIRALTY SUIT NO. 3 OF 2021

Arjun Subbiah ... Applicant/Plaintiff
vs.
Sale Proceeds of MV Golden ... Respondent/Defendant
Pride

Mr. Rishi Murarka for the Applicant / Plaintiff.
Mr. Kunal Gaikwad for the Defendant.

CORAM : A. K. MENON, J.
DATED : 21st JUNE, 2022

P.C. :

1. The suit seeks a decree in a sum of Rs. 2,90,146.30 toward the dues of the plaintiff who claims as a crew member on the vessel. A direction is also sought to the Prothonotary and Senior Master to pay his dues from the sale proceeds of the vessel. The interim application is filed seeking a decree on admission to the extent of the suit claim.

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2. My attention is invited to the particulars of claim at Exhibit J which includes legal cost of Rs. 75,000/-to which the defendant's Advocate has objected. On the other hand the learned Advocate for the defendant submits that the matter is likely to be settled. I am of the view that in the absence of written statement no further time ought to be granted. Time was granted on 19th April, 2022 to file a reply to the interim application. There is no reply on record and there is no written statement despite an order dated 22nd March, 2022 granting time upto 22nd April, 2022 in the suit. The Interim Application has therefore been taken up for hearing

3. Mr. Murarka has pointed out that the applicant was the 4th Officer on the defendant vessel between 9th April, 2018 and 18th June, 2020. He has relied upon a copy of the passport evidencing his boarding and disembarking from the vessel. The vessel is said to have been arrested on 24th August, 2020. Since the sale proceeds are stated to be lying with the Prothonotary and Senior Master and in the absence of written statement there is no real defence to the claim. The learned counsel for the plaintiff has pointed out that in a similar matter, being COMAS/49/2021 this court has decreed the suit in favour of the plaintiffs therein who was yet another crew member inter alia on the basis of admission contained in WhatsApp communication which are annexed to the plaint. In that suit also defendant had sought to defend the claim on the basis of written statement filed by an individual.

4. The service agreements in the instant case are seen to be annexed at Exhibit F1 to F3 and are seen to be executed by one Golden Star Marine (FZE). Which has not defended the suit. There is no defence to the suit claim. The amounts due are virtually admitted save and except the amount of legal costs. Having considered the submissions at the bar I am of the view that the plaintiff is entitled to a judgment and decree. Accordingly the averment in the plaint being undisputed I pass the following order :

(i) Suit is decreed in terms of prayer clause (a) except legal costs shall be restricted to an amount of Rs. 30,000/-. Accordingly there will be a decree in a sum of Rs.2,45,146.30/- with further interest on Rs.1,83,500/- @ 6% p.a. from date of suit till payment / realisation

(ii) The Prothonotary and Senior Master to release the decretal sum out of the sale proceeds of the Defendant Vessel towards satisfaction of the decree passed in the applicant's favour.

(ii) Suit is disposed in the above terms.

(A. K. MENON, J.)