

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

**JUDGES ORDER NO. 23 OF 2022
IN
COMM ADMIRALTY SUIT (L) NO. 10641 OF 2022**

Polygreen International DMCC ...Plaintiff
Versus
MT Pamboor 2 (IMO:9914852) ...Defendant

Mr. Aditya Krishnamurthy, a/w Pulkit Dhawan, i/b Bose &
Mitra & Co., for the Plaintiff.

CORAM: N. J. JAMADAR, J.

DATED : 1st APRIL, 2022

Order:-

1. This suit seeks urgent relief of the arrest of defendant no.1 vessel MT PAMBOOR 2 (IMO:9914852), an oil product tanker ship, registered as a River Sea Vessel (Type-II) at the port of Mumbai, under the Merchant Shipping Act, 1958, together with her hull, tackle, engines, gears, plant, machinery, articles, things, apparel, equipment, paraphernalia and all other appurtenances, presently at the Port and Harbour of Mumbai, within the territorial waters of the India, in view of the maritime claim of the plaintiff in the sum of US\$ 1,416,293 for the salvage services rendered by the plaintiff.

2. A Judges Order is taken out by the plaintiff for an urgent order of arrest.

3. It is the case of the plaintiff that defendant no.2 Shiny Shipping and Logistics Private Limited (“Shiny Shipping”) a company incorporated under the Companies Act, 1956, is the registered owner of defendant no.1 MT PAMBOOR 2. Defendant no.2 Shiny Shipping, is a 100% holding company of M/s. Tresta Trading Ltd. (“Tresta Trading”) a Mauritius based company. The said M/s. Tresta Trading owns MT Tresta Star bearing IMO No.9869629 (“MT Tresta Star”).

4. MV Tresta Star ran aground on 3rd February, 2022 during Tropical Cyclone Batsiri and a salvage agreement was executed in Lloyd’s Standard Form of Salvage Agreement to salvage the vessel Tresta. The plaintiff rendered the services and bill in the sum of US\$ 1,391,261.48 million was raised. A notice was issued to the Solicitors of the defendants on 31st March, 2022. The plaintiff is, thus, constrained to institute this suit for maritime claim in the sum of US\$ 1,416,293 along with interest at the rate of 4.5% p.a. If defendant no.1 vessel sails out of the territorial waters of India, the plaintiff would be left in the lurch. Hence this motion for urgent order of arrest of defendant no.1.

5. I have heard Mr. Krishnamurthy, the learned Counsel for the plaintiff. Perused the material on record.

6. The claim of the plaintiff that the plaintiff had rendered salvage services to Tresta Star finds *prima facie* support in the Preliminary Refloating Plan (Exhibit-J) and the Salvage Agreement (Exhibit-G) executed between the plaintiff and Tresta Trading Ltd. The plaintiff has placed on record daily progress reports at Exhibit-I-1 to I-14, which lend *prima facie* credence to the claim of the plaintiff. Under Clause (i) of sub-section (1) of Section 4 of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 ("the Admiralty Act, 2017"), salvage services constitute a maritime claim.

7. The question which warrants consideration is the jural relationship between defendant no.2 and Tresta to which the salvage services were rendered. The learned Counsel for the plaintiff submitted that the fact that Tresta Star is owned by Tresta Trading Ltd. is substantiated by the Equasis - Ship Folder (Exhibit-F), which indicates that Tresta Trading Ltd. is the registered owner of the said ship. The learned Counsel further banked upon a statement containing 'salient features of the financial statement of subsidiaries/associate companies/joint ventures' (Annexure-I Form AOC-I) furnished under

Companies (Accounts) Rules, 2014, to lend support to the submission that defendant no.2 holds 100% shares of Tresta Trading Ltd. This statement, *prima facie*, show that defendant no.2 holds 100% shares in its subsidiary, Tresta Trading Ltd.

8. Under Section 5(2) of the Admiralty Act, 2017, the court may also order arrest of any other vessel for the purpose of providing security against a maritime claim, in lieu of the vessel against which a maritime claim has been made under the Act.

9. The Registry has confirmed that no caveat against the arrest of defendant no.1 is entered in the Caveat Register.

10. In the light of the aforesaid facts, I am satisfied that a *prima facie* case for arrest of defendant no.1 vessel is made out.

11. Hence, the following order:

: O R D E R :

- (i) I order the arrest of defendant no.1 Vessel MT PAMBOOR 2 (IMO:9914852) lying and being with Admiralty Jurisdiction of this Court along with her hull, tackle, engines, gears, plant, machinery, articles, things, apparel, equipment, paraphernalia and all other appurtenances, presently at the Port and Harbour of Mumbai.

- (ii) The undertaking of the plaintiff dated 1st April, 2022, is accepted.
- (iii) The Judge's Order for arrest of defendant no.1 vessel is signed separately.
- (iv) The undertaking of plaintiff's advocate that the warrant of arrest will be served upon the vessel within a period of two weeks from today by e-mail or fax or hand delivery is accepted.
- (v) After service of warrant of arrest, if the arrested vessel is not released by furnishing security or bail amount within 45 days, or an application for vacating order of arrest is not filed, or the vessel is found abandoned by the person in-charge of the vessel or owner or is found unmanned, then, in such an event, on an application being made by plaintiff, the office of Sheriff of Mumbai shall present a Sheriff's report for auctioning the vessel within seven days from the date of receiving communication from plaintiff's advocate or from the date of knowledge of abandonment of vessel.
- (vi) Plaintiff is at liberty to forward a copy of the communication from the Sheriff of Mumbai

forwarding this order by fax / e-mail / hand
delivery / RPAD to all the concerned Authorities.

- (vii) All parties are directed to act on an ordinary copy of
this order duly authenticated by the concerned
Associate of this Court.

SANTOSH
SUBHASH
KULKARNI

Digitally signed by
SANTOSH SUBHASH
KULKARNI
Date: 2022.04.01
20:20:46 +0530

[N. J. JAMADAR, J.]