

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**SANTOSH
SUBHASH
KULKARNI**

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**SHERIFF'S REPORT NO. 52 OF 2022
IN
INTERIM APPLICATION (L) NO. 23786 OF 2022
IN
COMM ADMIRALTY SUIT (L) NO. 18896 OF 2022**

Kroll Trustee Services Ltd.

...Applicant/
Plaintiff

Versus

M. V. AEON (IMO No.95476818)

...Defendant

Mr. Shyam Kapadia, a/w Ms. Pabitra Dutta, Ayosh Shetty and
Raghvendra Desai, i/b Bose and Mitra and Co., for the
Plaintiff.

Ms. Prashanti Patel, i/b Mulla and Mulla and Craigie Blunt
and Caroe, for the Defendant.

Mr. Kshitij Shah, i/b Dhaval Vassonji & Asso., for Seven
Islands Shipping Limited.

Mr. Balaji Harish Iyer, Longnor Shipping Ltd.

Ms. Apurva Mehta (Phonerkar), for Kukkis Tradking &
Consultancy FZE LLP.

Mr. Oliver Burno D'Souza, for Tristar Maritime.

Mr. Sourabh Kumar Tripathy for Splendour Marine PTE Ltd.

Mr. Sujay Kewalramani, for Knowledge Marine & Engineering
Works Ltd.

Mr. Arif Masani, a/w Aliraz Bhavanagary, for Lucky Steel.

Mr. Rahul Bhargava, Seros Shipping Pvt. Ltd.

Ms. Pinak Bhagwat, a/w Ms. Shruti Salian, i/b Phoenix Legal,
for Petrochem General Management S.A.

Ms. Gauri Tyagi, i/b Crawford Bayley & Co., for the Plaintiff in
COMAS/35/2022 and COMAS/39/2022.

Mr. D. S. Chaudhary, Dy. Sheriff, present.

CORAM: N. J. JAMADAR, J.

DATED : 30th AUGUST, 2022

ORDER:-

1. The defendant – vessel MV AEON (IMO No.95476818) was arrested pursuant to an order passed by this Court on 20th June, 2022.
2. By a subsequent order dated 5th August, 2022 in Sheriff's Report No.44 of 2022, the defendant – vessel was ordered to be sold in an auction sale. M/s. Ericson and Richards Surveyors Pvt. Ltd. came to be appointed to carry out the valuation of the defendant – vessel. The Sheriff was allowed to conduct the auction sale in accordance with the schedule of auction sale annexed at Exhibit-D to the said report.
3. Pursuant to aforesaid order and directions, the Sheriff has obtained the valuation report from M/s. Ericson and Richards Surveyors Pvt. Ltd.. The report indicates that the Sheriff has received 14 bids for 'trading purpose' and two bids for 'scraping', along with the predetermined EMD. Two of the bidders have submitted their bids without EMD as enlisted in the list Exhibit-G to the report.
4. During the course of the hearing of this Sheriff's Report, a request was made by the Counsels for those bidders namely Last Voyage DMCC and Aethon Marine Ventures to allow them to participate in the eventual auction, as the amount of EMD

was in the process of getting remitted/credited. To preserve the integrity of the auction process, the request of those bidders was rejected.

5. The bids submitted by each of the 14 bidders, in a sealed envelope, were opened in the Court. After opening bids, the bidders were apprised the value of each of the bids. Longnor Shipping Limited's bid i.e. US\$ 11550000 equivalent to Rs.92,08,81,500/- at the conversion rate of Rs.79.73 per US\$, was the highest. The bidders were then given the option to enhance the bids in the lot of Rs.50,00,000/- over the highest bid of Rs.92,08,81,500/-.

6. Initially Seven Islands Shipping Limited, one of the bidders, enhanced the bid amount by Rs.50,00,000/-. After a process of lengthy bidding, in open Court, Seven Islands Shipping Limited gave the offer of Rs.103,67,06,200/-. At this stage, on behalf of Longnor Shipping Limited, who was competing with Seven Islands Shipping Limited, a statement was made that Longnor Shipping Limited does not wish to enhance the bid anymore.

7. Seven Islands Shipping Limited thus gave the highest bid at Rs.103,67,06,200/-.

8. I have perused the valuation report of M/s. Ericson and Richards Surveyors Pvt. Ltd. In the opinion of the valuer, the trading value of the defendant – vessel is Rs.72,86,14,500/- and scrap value Rs.23,83,29,873/-. The offer of Seven Islands Shipping Limited is substantially higher than the trading value of the defendant – vessel assessed by the valuer.

9. I am satisfied that the highest bid of Rs.103,67,06,200/- is a fair and optimum price for the defendant – vessel.

10. Mr. Kapadia, the learned Counsel for the plaintiff, in Commercial Admiralty Suit No.18896 of 2022, submits that the plaintiff has no objection if the highest bid of Seven Islands Shipping Limited is accepted.

11. The learned Counsel for the registered owner of the defendant – vessel, also states that she has no objection if the bid of the highest bidder is accepted by the Court.

12. I am, therefore, inclined to accept the bid of Seven Islands Shipping Limited.

13. Seven Islands Shipping Limited has deposited EMD of Rs.1 Crore with the office of Sheriff. The balance amount of Rs.102,67,06,200/- be deposited by Seven Islands Shipping Limited with the office of Sheriff of Mumbai on or before 14th September, 2022.

14. It is made clear that if the aforesaid balance amount is not paid and/or deposited with the office of Sheriff, within the aforesaid period, the sale shall stand cancelled and the earnest deposit shall stand forfeited. In that event, the Sheriff shall move a fresh report for re-auctioning the defendant – vessel.

15. Upon the receipt of the entire sale consideration, the Prothonotary and Senior Master / Admiralty Registrar of this Court will issue a Bill of Sale to Seven Islands Shipping Limited (and no one else). No nominees will be mentioned in the Bill of Sale. The Bill of Sale shall also specify that the vessel shall be permitted for trading.

16. After the sale of the defendant – vessel is confirmed in favour of Seven Islands Shipping Limited, the defendant – vessel shall be handed over to Seven Islands Shipping Limited, free from all encumbrances. Needless to clarify that this is subject to entire sale consideration being received by the office of Sheriff, Mumbai, within the aforesaid stipulated period.

17. The Sheriff shall communicate to the Port, Customs and other Authorities informing them about the sale of the defendant – vessel pursuant to this order.

18. The earnest money deposited by rest of the bidders shall be returned to them by the Sheriff within a period of two weeks from today.

19. The Sheriff is permitted to make payment of Rs.3,21,550/- to M/s. Ericson and Richards Surveyors Pvt. Ltd. towards valuation costs of the defendant – vessel for the amount deposited by the plaintiff.

20. The Sheriff is also permitted to make the payment of Rs.2,00,656/- to M/s. Eureka Advertisement Agency towards advertisement costs from the amount deposited by the plaintiff.

21. The Sheriff is also permitted to make payment of Rs.18,61,155/- to M/s. International Marine Store Suppliers for providing spares on the board the defendant – vessel.

22. The Sheriff's Report also indicates that the Sheriff has received communication from the Master of the defendant – vessel making grievance about the non-payment of the wages of the crew members, who are permitted to be repatriated.

23. The learned Counsel for the plaintiff submits that the plaintiff, without prejudice to its rights and contentions, is willing to pay two months wages for the entire crew (21), on board the defendant – vessel.

24. In view of the aforesaid statement and willingness shown by the plaintiff, the plaintiff shall put the Sheriff with the funds to meet the payment of wages of the crew, for two months, as per the requisition of Sheriff.

25. Sheriff is at liberty to pay the crew wages, in US\$ or Pakistani Rupee, as may be necessary.

26. The amount which is to be paid by the plaintiff towards the wages of the crew shall be treated as Sheriff's expenses and paid out in terms of Clause (g) of paragraph 18 of the order on Sheriff's Report No.44 of 2022.

27. The Sheriff's Report No.52 of 2022 accordingly stands disposed.

[N. J. JAMADAR, J.]