

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE-ADMIRALTY JURISDICTION
[COMMERCIAL DIVISION]

INTERIM APPLICATION NO.2832 OF 2021
IN
COMMERCIAL ADMIRALTY SUIT NO.49 OF 2021

Dhirajlal Gorakhnath Shingade .. Applicant-Plaintiff

Vs.

Sale Proceeds of M.V. Golden Pride .. Defendant

Mr. Rishi Murarka for the Applicant-Plaintiff.

Mr. Kunal Gaikwad for the Defendant.

CORAM : A. K. MENON, J.

DATE : 7TH JUNE, 2022.

P.C. :

1. By this IA, the applicant-plaintiff, claiming as a crew member, who has served on the defendant-vessel, seeks judgment in a sum of Rs.6,17,050/- along with interest @ 12% p.a. from the date of filing of the suit till payment or realization. The claim is based on multiple agreements of service styled as Service Agreements. These are to be found at Exhibit-E to the plaint and dated 8th January 2019, 8th June 2019, 8th November 2019 and 8th April 2020 respectively. All these Service Agreements have been signed by the representative of the Human Resource Department of Golden Star Marine (FZE).

2. A written statement has been filed on record, which is declared by one Mohammed Raees Khan, a resident of Bangalore. Admittedly, the owner of the vessel

has not signed these service agreements because these are signed by Golden Star Marine (FZE) – a Sharjah based entity – who was the employer.

3. It is the case of the plaintiff that his dues have not been paid, as set out in the Particulars of Claim annexed at Exhibit-H to the plaint. Interest is claimed @ 12% p.a. On behalf of the plaintiff, learned counsel relies upon various admissions of liability to pay these dues containing WhatsApp chats, copy of which is annexed at Exhibit-G to the plaint. There is also a demand and final reminder dated 25th July 2020 addressed to the owner. The plaintiff has thus demanded his outstanding salary as of July 2020. There is no response to this letter of demand. It is contended that despite several requests, reminders and assurances contained in the replies received by the plaintiff from the owner, to which my attention has been drawn, no amounts have been paid. Repeatedly, the owner of the defendant-vessel is seen to have acknowledged liability but has failed and neglected to remit the amounts and it is on that basis that the plaintiff today seeks summary judgment.

4. On behalf of the defendant, the application is opposed on the basis that the service agreements have not been signed by the signatory to the written statement; however admittedly, the signatory to the written statement is a company based in Sharjah and signed by the HR Executive of that company. The denial is nothing but a plain denial, bereft of any merit. During hearing of the application, I had called upon learned Advocate for the defendant to justify the denial, to which the response is that the plaintiff was indeed a crew member but had not served on the vessel continuously. He has served on the vessel with breaks. I called upon learned Advocate

for the defendant to justify the breaks since there is an admission that he was a crew member. The learned Advocate is unable to specify any of the dates on which the plaintiff joined duty, when he disembarked and when he joined back on duty after such break or breaks. There is nothing whatsoever on record to indicate that the plaintiff's case cannot be believed on account of the documents relied upon by the defendant showing that the plaintiff had not served on board vessel at the material time.

5. My attention has been invited by Mr. Gaikwad to the written statement filed and in that written statement, the defendant had relied upon documents that have been relied upon in support of the defendant's case; however, the written statement does not annex any such document. No reference is made to any document in support of the defence raised and indeed nothing has been produced today at the hearing of this IA. The written statement contains a Statement of Truth, in which paras 1 to 12 are said to be acknowledged by the deponent, however para 13, which is crucial as to the veracity of the documents relied upon, is stated to be made on the basis of the legal advice. Strangely, the statement of truth continues to state that there is no false statement or any material or document on record. This is clear indication of the fact that there is apparently suppression of the truth despite a statement of truth having been affirmed by the deponent. There is no merit whatsoever in the defence. In these circumstances, I find no reason to decline the reliefs sought in the IA. The defence is moonshine, lacks merit and deserves to be rejected and accordingly I pass the following order :-

- (i) Interim Application is allowed in terms of prayer clause (b).
- (ii) Admiralty Registrar is directed to list all the matters pertaining to vessel – M.V. Golden Pride after two weeks for determining order of priority.
- (iii) IA is disposed in the above terms.

(A.K. MENON, J.)