

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION
IN ITS COMMERCIAL DIVISION
INTERIM APPLICATION NO.4417 OF 2022
IN
COMM. ADMIRALTY SUIT NO.58 OF 2021**

Aeromarine Pvt. Ltd. ... Applicant/Plaintiff
versus
Sale Proceeds of MV Karnika (IMO No.8521220)
and Ors. ... Defendants

Mr. Mohit Bharadwaj i/by for Plaintiff.
Ms. Siddha Pamecha with Mr. Shailesh Prajapati i/by Dua Associates for Respondent
No.3.

CORAM: N.J.JAMADAR, J.

DATE: 29th NOVEMBER, 2022

P.C.:

1. This is an application for summary judgment under Order XIII A of the Code of Civil Procedure, 1908. The Plaintiff is a Company registered under the Companies Act, 1956. The Plaintiff is engaged in the business of providing services to ships and ship owners. M.V.Karnika - Defendant No.1 Vessel was lying at V-1 Anchorage, Port of Mumbai. Jalesh Cruises Mauritius Ltd. (Jalesh) - Defendant No.2, was the registered owner of Defendant No.1 Vessel. Zee Media Corporation Ltd. (Zee Media) - Essel Group, was the beneficial owner of Defendant No.1 Vessel. Waterways Leisure Tourism Pvt. Ltd. (Waterways) - Defendant No.4 was the assignee of interest of Defendant No.3 in the Defendant No.1 Vessel.

2. Pursuant to an order dated 7th October, 2021 in Interim Application (L) No.3962 of 2020, Defendant No.1 Vessel was ordered to be sold for USD 11,650,00.
3. During the period April 2019 to February 2020, the Plaintiff had supplied necessities for the operation and /or maintenance of Defendant No.1 Vessel. Bills were raised by the Plaintiff for the said supplies. Defendant Nos.1 to 3 committed defaults amidst sporadic payment. The last payment was received on 12 December 2019. An amount of Rs.6,23,869/- remained outstanding. Hence the Suit.
4. The Applicant/Plaintiff has taken out this Application for summary judgment asserting, inter alia, that the claim of the Plaintiff represents an admitted liability and there is no real prospect of successfully defending the Suit. An Affidavit of service on Defendant Nos.2 to 4 has been filed.
5. I have heard the learned Counsel for the Applicant/Plaintiff and the learned Counsel for Defendant No.3.
6. The claim of the Plaintiff about supply of the essentials to M.V.Karnika is evidenced by the invoices raised by the Plaintiff during the period 25 November 2019 to 28 February 2020 along with the corresponding delivery notes (Exhibit C collectively). The invoices contain the description of the goods supplied. The delivery notes also evidence the supply of various items to Defendant No.1 Vessel. The Debtors Ledger (Exhibit D) maintained by the Plaintiff contains the entries of the amount debited to the account of, and received from, Jalesh leaving the outstanding

balance of Rs.6,04,980.27.

5. It would be contextually relevant to note that in a communication addressed on 30 June, 2020 on behalf of Jalesh, the liability was clearly acknowledged in as much as time was sought to clear the outstanding amount on account of the situation which arose due to Covid-19 Pandemic. Thus there is an admission of liability which further fortifies the claim of the Plaintiff, evidenced by the documents of unimpeachable character. In the circumstances, I do not find that there is any real prospect of the Defendants successfully defending the Suit. Nor there is any other compelling reason not to dispose of the claim without recording oral evidence. Hence the following order :

ORDER

- (i) The Interim Application stands allowed.
- (ii) There shall be a summary judgment and decree in favour of the Plaintiff and against the sale proceeds of M.V.Karnika and Defendant Nos.2 to 4 jointly and severally in the sum of Rs.623,869/- along with further interest @ 9% p.a. on the sum of Rs.6,04,980/- from the date of institution of the Suit till payment and/or realization.
- (iii) The Defendants shall pay costs of the Suit quantified at Rs.50,000/-.
- (iv) The Suit stands decreed in the above terms.

(v) Drawn up decree dispensed with.

(N.J.JAMADAR, J.)