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A.No. 5477 of 2022
IN
C.S.(Comm. Div). No. 234 of 2022

C.V.KARTHIKEYAN, J.

Mention was made seeking permission to move the applications in this Suit as 'Lunch Motion'.

2. Permission was granted.

3. The plaintiff Monjasa Pte Ltd., a limited company registered at Singapore and represented by its Authorised Representative, had filed the present suit taking advantage of Order XLII, Rules 1, 2 and 3 of the Original Side Rules read with relevant provisions of the Commercial Courts Act, 2015 seeking a Judgment and Decree directing arrest and sale of the Vessel MV T12 APPLE, having IMO No. 9172595 now lying in the outer Anchorage of the Chennai Port and awaiting berth, consequent to supply of VLSFO RMG380 0.50% fuel to the said vessel when she had berthed at Malaysia. The total quantity supplied by the plaintiff was 269,4370 Mts and the amount under USD was 179.714,48. The plaintiff has claimed an equivalent sum of Rs.1,63,26,620/- at the current exchange rate of 1 USD = INR 81.75 together with interest at 18% per annum.



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4. The fact that the fuel was supplied can be neither be denied nor disputed. Documents to that extent, namely an invoice has been filed along with the plaint. There were further correspondences between the plaintiff and the defendant by the plaintiff demanding payment and the defendant trying to delay the payment giving various reasons. As on date, though the payment was to be paid within 21 days, the defendant had not honoured that particular commitment. It is under those circumstances that the plaintiff has filed the suit and as an interim measure has sought arrest and sale of the said vessel.

5. Learned counsel Ms. Deepika Murali for the plaintiff had stated that to her knowledge the vessel has a very short stay at Chennai Port and would leave a few hours and therefore urge that urgent order of arrest be passed. The learned counsel also pointed out that there was a resolution clause of disputes in the agreement that the matter should be referred to arbitration but at the same time also pointed out the prerogative of the plaintiff to seek an order of arrest of the vessel in case, there is default in payment towards the fuel supplied. As a matter of fact there has just not been a default but the entire amount has not been paid towards the supply of the fuel, necessitating the plaintiff to file the suit.



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6. In view of the fact that there has been supply of fuel but there has been no payment made towards the supply and there has been concerted efforts by the defendant to protract and delay the payment and it is also evident that the defendant is in financial trouble, since the bank accounts, even according to the defendant have also been frozen, I hold that the balance of convenience is in favour of the plaintiff and that more loss would be suffered by the plaintiff if an order of arrest is not made.

7. In view of these reasons, I hold that there shall be an order of arrest of the vessel MV T 12 APPLE, flying the flag of Panama, now lying at the outer anchorage of Chennai Port.

8. The necessary process of arrest to be paid. Registry is directed to communicate to the Port Authorities this particular order to arrest the vessel MV T 12 APPLE.

C.V.KARTHIKEYAN, J.



9. Issue notice to the respondent through Court and also privately returnable by 06.12.2022.

10. Call the matter once again on 06.12.2022.

29.11.2022

Index:Yes/No
Internet:Yes/No
vsg

Note:

Registry is directed to issue order copy today (29.11.2022).

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