

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

**INTERIM APPLICATION NO. 1847 OF 2022
IN
COMMERCIAL SUIT NO. 194 OF 2022**

Entrust Shipping Services Pvt. Ltd. & Ors. ... Applicants

Versus

Geodis Overseas Pvt. Ltd. & Ors. ... Defendants

Biju Joseph, i/b Lloyd & Johnson for applicant.

Ms. Sumedha Sawant, i/b. Nainesh Amin for
Defendant No. 1 in suit.

Mr. Sachin B. Maske for Defendant No. 4 in suit.

Mr. Ashish Agarkar for Defendant No. 5 & 6.

Mr. Suraj Gaikwad for Defendant No. 7.

CORAM : R.I. CHAGLA, J.

DATED : 11th JANUARY, 2023

ORDER :

1 Heard the learned Counsel for the parties. By this Interim Application the Applicants are seeking an order directing Defendant Nos.1, 2, 4, 5, 6 and 7 to re-deliver good condition 2x40' reefer containers, bearing Nos. ANCU7471081 and TSLU5927659, to the Plaintiff with immediate effect.

2 The Applicants have stated that the Defendants for reasons best known to them are keeping custody of the subject reefer containers

and using the same for carriage and storage of goods of their choice illegally and without authority apart from allowing the subject reefer containers to deteriorate in value without permitting the Applicants to carry out necessary repairs and maintenance. The Applicants have been repeatedly requesting for release of the said reefer containers from what it claims is the illegal custody and possession of the Defendants.

3 The Applicants have also averred in the Interim Application that they are suffering losses on account of lost based opportunity because of illegal holding of the said reefer_containers by the Defendant. The Plaintiff is not able to use the said reefer containers for future business. Accordingly, the present Interim Application has been filed.

4 There are replies filed by the respective Defendants which are on record wherein Defendant Nos. 5 & 6 have denied that they are illegally holding the said reefer containers of the Plaintiff. The Defendants have sought leave to file written statement and have taken out independent Interim Application for condonation of delay in filing written statement

5 The learned Counsel appearing for the Defendants state that they cannot object to the relief sought for being granted.

6 In the Commercial Suit No.194 of 2022, the Applicants / Plaintiffs have prayed for a decree against the Defendants for damages including future detention during *pendente lite*, till the date of hand over of empty possession of the said reefer containers to the Applicants / Plaintiffs. Thus, the Suit is with respect to the monetary claim of the Applicants / Plaintiffs. In prayer clause (c) mandatory injunction is sought directing the Defendants to re-deliver the said reefer containers in good condition to the Applicants / Plaintiffs.

7 Considering that there is no objection to relief prayed for in the Interim Application i.e. in terms of prayer clause (a) thereof being granted for re-delivery of said reefer containers to the Applicants / Plaintiffs, the same is granted.

8 Accordingly, the following order is passed.

(a) Defendant Nos. 1, 2, 3, 5, 6 & 7 are directed to re-deliver good condition 2x40' reefer containers, bearing Nos. ANCU7471081 and TSLU5927659, to the Plaintiffs within a period of two weeks from the date of uploading of this order.

9 Interim Application is accordingly disposed of.

10 At this stage the learned Advocate who appears for the

Intervenor viz. Sushant Balkrishna Ovhal seeks to intervene in the matter and states that Defendant No.7 is illegally using the documents of the Applicant / Intervenor. He has sought leave to file Interim Application to that effect.

11 Accordingly, leave is granted to the Applicant / Intervenor to file appropriate application. If the application is filed by the Applicant / Intervenor, the same shall be listed on 31.01.2023.

12 The Commercial Suit alongwith the interim Applications taken out by the Defendants shall also be listed on that date.

(R. I. CHAGLA, J.)