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C.S.No.769 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2023

C O R A M

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.S.No.769 of 2017

and

O.A.No.984 of 2017

and

A.Nos.6117 and 6118 of 2017

Kybele Ltd.,
198, Old Bakery Street,
Valletta VLT 1455, Malta
Represented by its Power of Attorney Holder,
Mr.Anil Shamrao Jadhav
residing at 147/151 Dr.M.G.Mahimtura Marg,
3rd Kumbharwada, 2nd Floor, Room No.9,
Girgaon, Mumbai – 400 004.

.. Plaintiff

-Vs.-

1. Owners and Parties interested in the cargo
of 7,759.93 MT of raw cashew nuts in bags
currently laden on board the Vessel
MV KIBELE (IMO No.:9217797) presently
anchored at the Port of Tuticorin represented by
The Master of MV KIBELE
2. St.John Freight Systems Belgium BVBA
Italiciei 189, Ground Floor,
2000 Anterpen, Belgium
and carrying on business in India through its
Indian group company/agent



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alter ego St.John Freight Systems Ltd.,
a company incorporated under the
Companies Act, 1956 having its registered office
at C-98, Sipcot Industrial Complex,
Harbour Express Road, Tuticorin – 628 008
and its logistic headquarters
7th Floor, Khivraj Complex II,
No.480 Anna Salai, Nandanam,
Chennai – 600 035.

3. ACME Commodities Private Ltd,
No.10 (Plot No.17), Perumal Nagar,
1st Street, Nanganallur, Chennai – 600 061
4. St. Gregories Cashew Industries
A sole proprietorship concern having its
Office at Thekkumpuram Puthoor,
PO Kottarakara, Puthoor, Kerala 691 507.
5. St.Marys Cashew Factory,
A sole proprietorship concern having its
Office at Puthoor P.O., Kottarakara,
Kollam, Kerala 691 507
6. St.Annes Cashew Industries,
A sole proprietorship concern having its
Office at Thekkumpuram Puthoor,
PO Kottarakara, Puthoor, Kerala 691 507
7. SAS Trading Company,
A sole proprietorship concern having its
Office at VGP Tower, XXVI/1111/312A,
Kottamukku, Kollam, Kerala – 691 013.
8. Mangalath cashews
A sole proprietorship concern having its
Office Cherikkonam Kannanallor P.O,
Kollam – 691 576



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9. Board of Trustees of the V.O.Chidambaranar Post Trust,
Thoothukudi,
Tamil Nadu – 628 004.

.. Defendants

PRAYER:Civil Suit is filed under order XLII Rules 1, 2, 3, 8 & 9 O.S.
Rules, read with Order VII Rule 1 of CPC, praying for:-

(a) for a sum of USD 421,637 together with its interest @ 8% p.a.
calculated at 1 US \$ = 65.35 or such other high rate as may be applicable on
the date of decree from the date hereof till payment in full;

(b) arrest and sale of the 1st Defendant cargo of 7,759.93 MT of raw
cashew nuts in bags currently laden on board the Vessel MV KIBELE (IMO
No.9217797), presently at the Tuticorin Post, after discharging the same
under the lien of the Plaintiff;

(c) adjust the sale proceeds against the amount due to the Plaintiff
towards its claim in prayer (a) above.

(d) Costs of the suit.

For plaintiff : Mr.K.Mukund Rao

For Defendants : Ms.Sharanya Vaidhyanathan &
Mr.S.Raghunathan for D2



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JUDGMENT

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Both the counsels in unison would submit that the dispute, which is the subject matter of the admiralty suit, was referred to arbitration and thereafter, an arbitral award has also been passed. However, the learned counsel for the plaintiff submits that he is having the difficulty in getting instructions from his client. No amount is also deposited by the defendants or by the plaintiff to the credit of the suit. Since the arbitral award has also already been passed pertaining to the very same dispute, which is the subject matter of the admiralty suit, this Court is of the considered view that nothing survives for the further adjudication in this suit. After recording the fact that the arbitral award has already been passed pertaining to the very same subject matter of the suit, this suit is closed. Consequently, connected applications are also closed.

17.10.2023

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ABDUL QUDDHOSE,J.

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