



**A.No.6121 of 2023
and
C.S.(Comm. Div.)No.282 of 2023**

WEB COPY

ABDUL QUDDHOSE.J.,

This suit has been filed under the Admiralty jurisdiction.

2. The plaintiff is a steamer agent, operating in Tuticorin as well as in other ports in India. The plaintiff acted as a steamer agent for a charterer in respect of the first defendant vessel. The first defendant vessel discharged cargo at the port of Tuticorin. The plaintiff also claims that they have completed the obligations of the charterer. At the time of arrival of the first defendant vessel, the plaintiff had declared themselves to the second defendant as the agents of the first defendant vessel.

3. According to the plaintiff, after completing the obligations of the charterer, the owners of the first defendant vessel have not appointed any new agent. Since an indemnity has been given by the plaintiff to the second defendant port trust that they shall be liable for the dues of the port trust, the second defendant has now raised demand from the plaintiff for non payment of the port dues and other statutory charges. A sum of Rs.1,14,18,708/- and



WEB COPY

another sum of Rs.9,99,639/- has been demanded by the second defendant from the plaintiff. According to the plaintiff, the owners of the first defendant vessel are not maintaining the first defendant vessel properly and the first defendant vessel is left in lurch. They have also contended that they are not liable to pay the dues of the second defendant as they have completed their contractual obligations with the charterer with whom they are having a contractual relationship. According to them, since no steamer agent has been appointed by the owners of the first defendant vessel, the second defendant has now made a claim against the plaintiff for which they are not liable.

4. Learned Senior Counsel appearing for the plaintiff also drew the attention of this Court to the e-mail sent by the second defendant on 09.11.2023 as well as on 10.11.2023 to the plaintiff demanding the aforementioned sums. Eventhough originally the suit was filed, seeking for recovery of money as well as seeking for indemnity, the learned senior counsel for the plaintiff has now made an endorsement in the Court bundle on instructions that the plaintiff is relinquishing the claim for recovery of money and is satisfied if the indemnity action is alone permitted to be taken.



WEB COPY

5. It is *prima facie* clear from the correspondence referred to supra that a sum of Rs.1,14,18,708/- has been demanded from the plaintiff by the second defendant towards additional berth hire charges and another sum of Rs.9,99,639/- has been demanded from the plaintiff towards shifting charges. In all put together, a sum of Rs.1,24,18,347/- has been demanded from the plaintiff. The plaintiff has also filed documents along with the plaint and has also made adequate averments in the plaint to substantiate the contention that they have completed the obligations of the charterer of the first defendant vessel viz., BainBridge Navigation DMCC.

6. Having completed the obligations of the charterer, this Court is of a *prima facie* view that the plaintiff cannot be made liable to pay the dues of the second defendant on account of the default committed by the owners of the first defendant vessel who have failed to maintain the vessel subsequent to the discharge of the contractual obligations of the plaintiff with the charterer who had earlier appointed the plaintiff as a steamer agent on arrival of the first defendant vessel at the port of Tuticorin.



WEB COPY

7. The learned senior counsel for the plaintiff also drew the attention of this Court to the Division Bench Judgment of the Bombay High Court in the case of ***MV Golden Pride Vs. GAC Shipping (India) Pvt. Ltd. and Others*** reported in ***2023 SCC Online Bom 967*** which has been rendered on identical facts. The Honourable Bombay High Court has held that arrest of the defendant vessel is maintainable for an indemnity action under the admiralty jurisdiction. In the aforesaid decision also, a steamer agent was the plaintiff. Applying Section 4 (1) (n) and (p) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017, the Bombay High Court held that the claim is a maritime claim and therefore, the plaintiff is entitled to institute an admiralty suit.

8. This Court has also perused and examined the aforesaid Judgment of the Bombay High Court. On a *prima facie* consideration, this Court also finds that in identical facts, the Bombay High Court had entertained the suit and had granted an order of arrest of a vessel. Since a *prima facie* case has been made out by the plaintiff and balance of convenience and irreparable hardship have been established, this Court is inclined to grant an order of



arrest as prayed for in A.No.6121 of 2023. Accordingly, there shall be an order of arrest of the first defendant vessel in A.No.6121 of 2023.

9. The learned counsel for the plaintiff is permitted to communicate the order of arrest of the first defendant vessel to the respondents / defendants privately through all modes of services including e-mail.

20.11.2023

ab

Note: Registry is directed to issue the warrant of arrest tomorrow (i.e., on 21.11.2023).



WEB COPY



ABDUL QUDDHOSE.J.,

ab

**A.No.6121 of 2023
and
C.S.(Comm. Div.)No.282 of 2023**

20.11.2023
(1/2)