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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION
IN ITS COMMERCIAL JURISDICTION

INTERIM APPLICATION NO.3907 OF 2023
IN
COM ADMIRALTY SUIT NO.8 OF 2024

Capt. Gavin Sequeira and 36 Ors.

...Applicants /
Plaintiffs

Versus

M.V. Malaviya Thirty Six

...Defendants

Ruchir Goenka with Sneha Goud, Akshat Golia i/b Bose and Mitra &
Co. for the Plaintiff Nos.1 to 37.

CORAM : R.I. CHAGLA J.
DATE : 29TH APRIL, 2024.

ORDER :

1. Heard the learned Counsel for the Applicants.
2. This application is preferred seeking directions to the Sheriff of Mumbai to publish notice inviting claims against the sale proceeds of the vessel MV Malaviya 36 ('**Defendant Vessel**') under Rules 1087 and 1088 of the Bombay High Court (Original Side) Rules, 1980. In regard to the said application, the Ld. Counsel for the

Applicants submitted the below facts:

(a) Applicants No. 1 to 36 are crew members who had served onboard the Defendant Vessel and the Plaintiff No. 37 is the erstwhile Protection and Indemnity Insurers. The Defendant Vessel was owned by M/s GOL Offshore Pvt Ltd.

(b) The Applicants filed the instant Commercial Admiralty Suit being COMAS 8 of 2024 for enforcement of their maritime lien under the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 over the Defendant vessel and/or sale proceeds for a sum of about INR 5,57,75,683 along with interest thereon.

(c) The Applicants obtained an order of arrest against the vessel *vide* order dated 17th January 2019.

(d) By way of order dated 11th February 2019 and 21st February 2019 in OLR No. 30 of 2019 in Company Petition No. 756 of 2014, the vessel was sold in favour of M/s PVR Ship Breeding Company for INR 8,50,00,000. The sale proceeds are currently lying with the Official Liquidator, High Court of Bombay.

(e) The Applicants preferred IA 1819 of 2021 seeking summary judgment which came to be partially allowed by this Court by its order dated 21st June 2022, whereby a sum of INR 3,46,49,157 as admitted by the Official Liquidator as per the affidavit dated 04th March 2022 came to be decreed along with interest at the rate of 6% per annum till the date of winding up being 4th December 2017.

3. In view of the provisions contained in Rule 1088 of the Bombay High Court Rules, 1980, the Court on an application of any party, who has a claim against the sale proceeds may direct the Sheriff to send for publication a notice in accordance with Rule 1087. It is trite the arrest and sale of a vessel in an admiralty action ensures for the benefit of all the creditors and claimants. Hence, the application stands allowed.

4. The Sheriff is directed to publish a notice in conformity with the provisions contained in Rule 1087(e) of the Rules, 1980, inviting the claims against the sale proceeds of the defendant vessel. The notice shall specify that any person having a claim against the ship or the proceeds of the sale thereof shall file a suit to prove his claim within a period of 90 days from the date of publication of the

notice. The notice shall also specify that the order of priority of claims against the sale proceeds will not be determined till the expiry of the said period of 90 days.

5. The Applicant shall bear the costs of the publication of the notice which shall be treated as the Sheriff's expenses.

6. Application stands disposed.

[R.I. CHAGLA J.]