Sharayu Khot.

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

JUDGE'S ORDER NO. 128 OF 2024

IN

COMMERCIAL ADMIRALTY SUIT (L) NO. 27974 OF 2024

Oilmar DMCC …Plaintiff

Versus

M.V. Arabella (IMO NO. 9300594) …Defendant

Mr. Arnab Ghosh for the Plaintiff.

CORAM : R.I. CHAGLA J

DATE : 9 September 2024

ORDER :

1. Mentioned. Not on Board. Taken on Board.

1. The above Suit, along with Judge's Order, has been moved ex-parte after the circulation was granted. The urgent relief sought is the arrest of the Defendant Vessel as there is an apprehension that the owner of the Defendant vessel may sell the vessel or take it out of jurisdiction of this Court. According

SHARAYU PANDURANG KHOT

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to the Plaintiff, it has an irrefutable claim against the Defendant Vessel. If the Defendant Vessel is sold, the present proceedings will be rendered infructuous.

2. Coming to the brief facts, the present suit is for judgment and decree against the Defendant Vessel and the arrest, sequestration, condemnation and sale of the Defendant Vessel for securing and/or satisfying the Plaintiff's aggregate claim of USD 46,770.00 (United States Dollars Forty Six Thousand Seven Hundred and Seventy Only)along with interest calculated at the rate of 3% per month from the date of filing of the suit till the date of the decree and further interest at the same rate from the date of the decree till payment/realization. The claim in the Suit arises out of bunkers supplied to the Defendant Vessel as well as her sister vessels. The Defendant vessel has used and/or benefitted from the said supplies made by the Plaintiff. The Plaintiff has, however, only partly paid for the same. According to the Plaintiff, the representative of the Defendant vessel has wrongfully refused to clear the remaining amounts due to them on untenable grounds. The present Suit is to

recover the unpaid amounts for which the present suit is filed and the above Judge's Order has been taken out for arrest of the Defendant No.1 Vessel.

3. I have heard the learned counsel appearing on behalf of the Plaintiff and also considered the averments made in the Plaint. Perusing the Plaint and the annexures a *prima facie* case for arrest of the Defendant Vessel is made out. In the present case, *prima facie*, the claim in the Plaint is a maritime claim as defined in section 4(1)(l) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017.

4. In these circumstances, I find there is no doubt that there is a cause of action in favour of the Plaintiff and that the Defendant Vessel being at Jaigad port, Maharashtra which is within the admiralty jurisdiction of this Court. The Plaintiff has made out a *prima facie* case. The balance of convenience lies with the Plaintiff to whom, in my view, almost irreversible prejudice would be caused if reliefs were to be denied.

5. Advocate for the Plaintiff states that the Registry has

produced the Caveat Register, and there is no valid caveat against arrest with respect to the Defendant Vessel.

6. Accordingly, I order and direct the arrest of the Defendant Vessel, along with her hull, engines, gears, tackles, bunkers machinery, apparel, plant, furniture, fixtures, appurtenances and paraphernalia, plant and machinery at present at Jaigad port until the satisfaction of the Plaintiff's claim.

7. I have seen the Judge's Order and it seems to me to be in the proper form and with the appropriate contents. I accept the undertakings contained in the Judge's Order as undertakings to the Court. I therefore make an order in terms of the Judge's Order in the facts and circumstances of the present case and is signed separately.

8. The Plaintiff is at liberty to forward a copy of the communication from the office of the Sheriff of Mumbai along with a copy of this order by Fax/email/hand delivery/ RPAD to the Port and Customs authorities.

9. After service of this Order of arrest, if the arrested vessel is not released by furnishing security or bail amount within eight (8) weeks of service, or an application for vacating the order of arrest is not filed, or the vessel is found abandoned by the person in-charge of the vessel or owner, or is found unmanned, then, in such an event, on an application being made by the plaintiff, the office of the Sheriff of Mumbai shall present a Sheriff's report for auctioning the vessel within fourteen (14) days from the date of receiving communication from the Plaintiff's advocate or from the date of knowledge of abandonment of vessel.

10. The Plaintiff prays for the Warrant of arrest of the Defendant Vessel to be dispensed with, in view of the urgency. The said request is accepted.

11. All parties to act on an authenticated copy of this Order.

[R.I. CHAGLA J.]