

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

IN ITS COMMERCIAL DIVISION

INTERIM APPLICATION NO. 686 OF 2025

IN

COMMERCIAL ADMIRALTY SUIT NO. 1 OF 2024

The Board of Jawaharlal Nehru Port Authority ... Applicant

In the matter between :

The Board of Jawaharlal Nehru Port Authority ... Plaintiff

Versus

Sale Proceeds of Tag Navya (IMO 8819081) and another... Defendants

AND

COMMERCIAL ADMIRALTY SUIT NO. 1 OF 2024

The Board of Jawaharlal Nehru Port Authority ... Plaintiff

Versus

Sale Proceeds of Tag Navya (IMO 8819081) and another... Defendants

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Ms. Krushi Barfiwala alongwith Ms. Rima Desai, Mr. Shlok Bodas and Mr. Divyanshu Gupta instructed by Parinam Law Associates, Advocate for the Plaintiff.

Mr. Pranjit Bhattacharya (through VC) alongwith Ms. Divya Dave and Mr. Avdhoot Prabhu, Advocate for the Applicant in IAL-10984-2025/Defendant No.2.

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CORAM : ABHAY AHUJA, J.

DATE : 25 APRIL 2025

PC. :

1. Ms. Barfiwala learned Counsel, appears for the Applicant/Plaintiff and submits that this Interim Application seeks a Summary Judgment in the matter.

2. On 7th March 2025, Mr. Bhattacharya appeared for the Defendant No.2 and had sought time to file reply to this Interim Application.

3. Today, when this Application is called out, Mr. Bhattacharya submits that he has no objection if the Interim Application is allowed in as much as this Court has on 22nd November 2022 in Commercial Admiralty Suit No.85 of 2021 in the matter of MV Tag Navya (IMO No.8819081) already determined priority of claims and that the Defendant No.2 is ranked at third priority, whereas the Applicant/Plaintiff is ranked at 2nd priority. This Court's attention is drawn to paragraph 16 of the said order which indicates that the predecessor viz. assignor of the debt viz. IDBI Bank Ltd. is at serial No.8 and ranked at third priority whereas the Interim Applicant/Plaintiff is at serial No.7 and ranked at second priority.

4. The learned Counsel for the Applicant/Plaintiff submits that the Application seeks Summary Judgment against the sale proceeds of the Defendant-Vessel for a sum of Rs.3,77,55,397/- inclusive of penal interest at the rate of 16.75% till 30th April 2021 together with further interest at the same rate from 01.05.2021 till the date of payment and realization thereof. It is submitted that the port authority has a maritime lien against the sale proceeds of the vessel viz. MV Navya (the

“Vessel”). That the Applicant/Plaintiff has a claim arising out port charges/facilities including pilotage charges, penal berth, hire charges, tug assistance charges etc. and therefore, a Commercial Admiralty Suit (L) No. 17795 of 2022 (which is now Commercial Admiralty Suit No.1 of 2024) was filed, asserting its claim over the Vessel for maritime claim for recovery of statutory charges due and payable to it against the Vessel. It is submitted that the Vessel was anchored at its port during period 7th February 2019 to 19th October 2020 and was arrested by order dated 2nd April 2019 in Admiralty Suit (L) No.36 of 2019. That during the order for arrest, the Vessel was anchored in the Plaintiff’s port waters. That in compliance of the arrest order, the vessel was arrested by the Plaintiff and remained at anchorage of the Plaintiff-Port.

5. Thereafter, the Vessel was sold pursuant to the order passed by this Court dated 30th September 2020 for a sum of USD 2.412 million to one M/s. Talent Mile Limited and the sale proceeds had been deposited by the purchaser with the Prothonotary & Senior Master of this Court.

6. It is submitted that corporate insolvency resolution proceeding (“CIRP”) was initiated against the owner of the vessel viz. Tag Offshore Limited under the Insolvency and Bankruptcy Code, 2016 (“IBC”). It has been submitted that owner of the Vessel has been

ordered to be liquidated.

7. It is submitted that pursuant to the sale of the Vessel, the Vessel was tugged away from the Plaintiff Port on 19th October 2020.

8. Ms. Barfiwala, learned Counsel, appearing for the Applicant/Plaintiff has drawn this Court's attention to Exhibit-F which is the particulars of claim of port dues, pilotage, berth hire charges from 7th February 2019 to 31st May 2019 and then from 31st May 2019 to 26th September 2019 and thereafter, from 27th September 2019 to 4th October 2020, Mbpt Dues, pilot cancellation, penal berth hire charges, tug assistance for Tag Navya charges as well as penal interest charges all totalling to Rs.3,77,55,397/- as on 23rd April 2019. It is observed from the said particulars of claim that there is a transaction deposit lying with the Applicant-Plaintiff of Rs.42,11,842/- as on 23rd April 2019.

9. Upon a query with respect to the said deposit to the learned Counsel appearing for the Applicant/Plaintiff, this Court is informed that any excess beyond the decretal amount will be returned/refunded to the liquidator of the ship owner.

10. The correspondence annexed to the Plaint indicates that despite requests and reminders from the Plaintiff/Port Authority to remove the Vessel from the Port no steps had been taken until 19th

October 2020 when the Vessel was tugged away. It is observed from the particulars of claim that the Port Authority has claimed only till 4th October 2020 although the penal interest charges for non-payment are obviously beyond that period.

11. It is also noted from order dated 22nd November 2022 in Commercial Admiralty Suit No.85 of 2021 determining the priority of claims that the dues of the Port Authority fall under Section 10(1)(a) r/w. Section 9(1)(d) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (the “Admiralty Act”) and the maritime claim having a maritime lien against the sale proceeds of the Vessel viz. Tag Navya.

12. The learned Counsel appearing for the Defendant No.2 has also conveyed no objection to the allowing of this Application as the priority ranking of the Defendant No.2 is below that of the Plaintiff/Applicant who is ranked at priority No.2.

13. Accordingly, having heard the learned Counsel, and also having perused the documents annexed to the Plaint and also considering the above, I am satisfied that the conditions of the Order XIII-A of the Code of Civil Procedure, 1908 (the “CPC”) as applicable to commercial disputes are met and there is no real prospect of any one successfully defending the claim nor is there any other compelling

reason why the claim of the Plaintiff/Applicant should not be allowed before recording of oral evidence.

14. Accordingly, the Applicant/Plaintiff is entitled to a Summary Judgment under Order XIII-A of the CPC.

15. However, since there is a transaction deposit of Rs.42,11,842/- with respect to Tag Navya lying with the Plaintiff, the Application be allowed, subject to adjustment / less the said amount.

16. Subject to the above adjustment, the Interim Application is allowed and disposed in terms of prayer clause (a), which reads thus :

(a) a summary judgment under Order XIII A and/or decree on admission under Order XII Rule 6 of the Civil Procedure Code, 1908 be passed in favour of the Applicant/Plaintiff against the sale proceeds of the Vessel in the sum of Rs.3,77,55,397/- (Rupees Three crore seventy seven lakh fifty five thousand three hundred and ninety seven only) inclusive of penal interest at the rate of 16.75% till 30.04.2021 alongwith further penal interest charged from 01.05.2021 @ 16.75% p.a. till realization thereof.

17. Further, subject to the above adjustment, let there be a decree and order in favour of the Plaintiff in terms of prayer clauses (a) and (b) to the Plaint, which read thus :

(a) That the Hon'ble Court be pleased to pass an order and decree in favour of the Plaintiff against the sale proceeds of Vessel in the sum of Rs.3,77,55,397/- inclusive of penal interest at the rate of 16.75% till 30.04.2021 as per the Particulars of Claim annexed hereto, together with interest @ 16.75% p.a. from 01.05.2021 till the date of payment and realization thereof as per the Particulars of Claim at Exhibit F to the Plaint and/or such future sums as may be determined.

(b) For an order and declaration that a sum of Rs.3,77,55,397/- inclusive of penal interest at the rate of 16.75% till 30.04.2021 as per the Particulars of Claim annexed hereto, together with interest @16.75% p.a. from 01.05.2021 till the date of payment and realization thereof is due and payable to the Plaintiff from the sale proceeds of the Vessel.

18. In the light of the order passed in this application, the Suit itself has been summarily disposed of. The Applicant is however at liberty to take out an application in the disposed of Suit for the purpose of pay out as priorities have already been decided by order dated 22nd November 2022 in Interim Application (L) No. 25181 of 2022 in Commercial Admiralty Suit No.85 of 2021 and connected matters.

19. Drawn up decree is not dispensed with.

(ABHAY AHUJA, J.)