

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

COMMERCIAL ADMIRALTY SUIT NO. 36 OF 2024

James Joseph ... Plaintiff
Vs
Sale Proceeds of MV Tag Navya (IMO No. 8819081) ... Defendant

Mr. Ranit Basu alongwith Ms. Maitri Malde, Advocate for the Plaintiff.
 Mr. James Joseph- Plaintiff/ Witness present.

CORAM : ABHAY AHUJA, J.
DATE : 11th JULY 2025

P.C. :

1. Today, this matter has been listed for marking of balance documents of the Plaintiff's witness.

2. When the matter is called out, Plaintiff, Mr. James Joseph, the affiant of the affidavit in lieu of examination-in-chief dated 21st March 2025 is present and has stepped into the witness box and has been administered oath once again by the learned Associate of this Court.

PW-1 :

Name : James Joseph
 Occupation : Master
 Address : 4B, Mountfort Apartments, St. Joseph Junction, Near Collectorate's Office, Kottayam, Kerala – 686001.

Till yesterday the affidavit in lieu of examination-in-chief along with two other documents were marked till Exhibit P-1/3. Today this Court proceeds to consider documents from serial no. 3 onwards in the compilation of documents dated 21st March, 2025.

Further examination-in-chief of Mr. James Joseph – PW-1 on S.A. :

3. The document at serial No.3 is the original time sheet dated 9th January, 2019.

4. The Plaintiff's witness had stated in paragraph 7 of his affidavit that the duration of his service was also recorded in the time sheet, which is provided by the ship owner-company and which documented the number of days he served as Master of the vessel. It has been stated that the said time sheet was acknowledged and verified by Mr. Arjun Singh, who succeeded the witness as the master of the vessel.

5 Since the signature of Mr. Arjun Singh, has already been recorded to be matched with respect to the earlier document Exhibited as P-1/2 by this Court, the document at serial no. 3 is marked as **Exhibit P-1/4**.

6. The document at serial no. 4 is the original letter dated 10th January, 2019 issued by the ship owner-company certifying that the witness has worked with the ship owner-company in their Tanker Division and has sailed as Master on the vessel stated therein.

7. The witness has stated that he had requested the company to issue a letter recording his period of service for the purpose of renewal of his licence and that the company has issued the said letter addressed to the Mercantile Marine Department. The letter bears the company's stamp and the signature of the authorised signatory, Mr. Baldev Singh Saddal and the Plaintiff's signature.

8. This Court has already examined the stamp of the ship owner-company with respect to the document marked at Exhibit P-1/3. Accordingly, this document at serial no. 4 is marked as **Exhibit P-1/5**.

9. The document at serial no.5 of the compilation is a photocopy of the continuous discharge certificate cum seafarer's identity document ("CDC").

10. Mr. Basu, learned Counsel for the Plaintiff has submitted that since the original CDC is required by the Plaintiff's witness, as he is still eligible to serve as a Master, the original CDC has not been annexed to the compilation.

11. Mr. Basu tenders the original CDC to the Court. The learned Associate of this Court has compared the original CDC with copy of the document at serial no. 5 and confirms that the copy is identical to the original CDC tendered to this Court today.

12. Mr. Basu, learned Counsel for the Plaintiff requested that since the Plaintiff may need the CDC for taking up service, as he is still eligible to take up the service as Master, the original CDC be returned with an undertaking to the Court to bring it back as and when the matter is listed and the same be exhibited after comparing the same with the copy which has been compared by the learned Associate of the Court today.

13. The original CDC tendered to this Court is marked as **Exhibit P-1/6**.

14. The original CDC be returned to the Plaintiff's witness upon furnishing an undertaking to this Court that it will be produced before this Court as and when the matter is listed or as and when the said document is required. The said original will be accepted only once it is compared with the photocopy listed at serial no. 5 of the compilation of documents.

15. Coming to the document at serial no.6, the same is a photocopy along with typed English translation of the notice published by the Sheriff of Mumbai in the Free Press Journal on 22nd December, 2020, calling upon the persons to lodge their claims within 90 days from the date of publication.

16. The Plaintiff has stated in paragraph 11 of his affidavit, that he is not in possession of the original of the newspaper and cannot obtain or produce it in a reasonable time.

17. Mr. Basu has drawn this Court's attention to an order of this Court dated 22nd November, 2022, in Interim Application (L) No.25181 of 2022 in Commercial Admiralty Suit No. 85 of 2021 and other connected matters and in particular to paragraphs 5 and 6 to submit

that the reference to the very same public notice has been made in the paragraph 6 and that this Court may also take judicial note of the same as the factum of the publication has not been denied.

18. The witness has submitted that he is unable to give the original of the newspaper and cannot obtain or produce it in a reasonable time, however, the reference to the same can be seen in paragraph 6 of the order dated 22nd November, 2022.

19. In my view, the document at serial no. 6 can be considered as a secondary evidence under Section 60(c) of the Bhartiya Sakshya Adhiniyam, 2023 and marked as **Exhibit P-1/7**.

20. The marking of documents having been concluded and there being no necessity of cross-examination, as the Suit is against the sale proceeds of the vessel in question, the witness is discharged for the day. Accordingly, the evidence is closed.

21. List the Suit for final hearing on **1st August, 2025**.

Digitally
signed by
NIKITA
YOGESH
GADGIL
Date:
2025.07.11
19:54:34
+0530

Nikita Gadgil

(ABHAY AHUJA, J.)