KANCHAN PRASHANT DHURI
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE-ADMIRALTY JURISDICTION
IN ITS COMMERCIAL DIVISION
INTERIM APPLICATION NO. 692 OF 2024
IN
COMMERCIAL ADMIRALTY SUIT NO. 33 OF 2021

Carnival PLC … Applicant/Plaintiff

Versus

The Sale Proceeds of Vessel
M.V. Karnika and others … Respondents/Defendants

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Mr. Ajai Fernandes alongwith Ms. N.D. Motiwalla, Ms. Janhavi Kandekar and Ms. Anjali Kotecha instructed by Motiwalla & Co., Advocate for the Plaintiff/Applicant in IA-710-2025.
Mr. Prathamesh Kamat alongwith Mr. Joji Jacob instructed by Adil Patel & Associates, Advocate for Defendant No.3 in COMAS-42-2021.
Mr. Shubham Agrahari instructed by Mr. Kaushik Krishnaswamy, Advocate for the Defendant No.4 and the Applicant in IA-692-2024.
Mr. Prathamesh Kamat alongwith Ms. Arpeeta Panvalkar, Advocate for the Respondent No.3 in IA-692-2024.
Mr. Abhijeet Desai instructed by Mr. Harsh Pratap, Advocate for the Plaintiffs in COMAS-24-2021, COMAS-26-2021 and COMAS-70-2021.

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CORAM : ABHAY AHUJA, J.
DATE : 28 MARCH 2025

P.C. :

1. This Interim Application seeks determination of priorities of claims in the matter of M.V. Karnika. The learned Counsel appearing in the matter submit that even pending the other Interim Applications, this Application can be decided by this Court.

2. Accordingly, this Court proceeds to hear the Interim Application for determination of priorities of claims in the matter of M.V. Karnika.

3. This Interim Application has been taken out by the Applicants who have obtained a decree as registered mortgagee against the sale proceeds of the vessel M.V. Karnika.

4. Mr. Agrahari, learned Counsel, appearing for the Applicant submits that this Application has been filed under Rule 1087 of the Bombay High Court (Original Side) Rules, 1980 (**High Court Rules**) for determination of priorities of claims and payment out of sale proceeds.

5. Mr. Agrahari however submits at the outset that he is only pressing for prayer clause (a) which pertains to the determination of priorities of claims as per Section 10 of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (**the Admiralty Act**) and not pressing prayer clauses (b) and (c) which pertain to the payment out and remittance and seeks liberty to file an appropriate Application for the same.

6. The Applicant accordingly seeks the following prayer clause (a), which reads thus :

> (a) This Hon'ble Court be pleased to pass appropriate orders determining the order of priority of claims against the proceeds of sale of the said vessel M.V. KARNIKA as per Section 10 of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017.

7. Mr. Agrahari submits that, the Applicant is incorporated under the laws of the United Kingdom in Southampton and is an operator of cruise ships worldwide. The Defendant No.1 are the sale proceeds of the vessel M.V. Karnika which represents the said vessel (which is registered at the Port of Nassau, Bahamas) and are deposited with the Admiralty Registrar/Prothonotary & Senior Master, High Court, Bombay. Defendant No.2 was the owner of the vessel at the relevant time and neither appeared nor contested the proceedings in the Admiralty Suit. Defendant No.3 are the crew members who had served during the relevant period and have filed Commercial Admiralty Suit No.11 of 2021 against the Defendant vessel/sale proceeds for their unpaid wages. Defendant No.4 are also crew members that served on board of the said vessel during the relevant period and have filed Commercial Admiralty Suit (L) No. 6959 of 2021 against the Defendant-Vessel/sale proceeds for their unpaid wages. Defendant No.5 is the Board of Mumbai Port Authority that has instituted Commercial Admiralty Suit No. 42 of 2021 for unpaid port dues and other similar claims against the Defendant-vessel/sale proceeds. That the Interim Application No.710 of 2025 in the said Suit, pertaining to the amendment of Interim Application seeking Summary Judgment in the said Suit is to be listed on 13th June 2025.

8. It is observed from the Application that the said vessel was a cruise ship owned by Jalesh Cruises Maritime Ltd. viz. Defendant No. 2 and mortgaged to the Applicant. The vessel was first arrested by an order of this Court dated 17th March, 2020 in Commercial Admiralty Suit (L) No.11 of 2020. By further orders dated 7th October, 2020 and 28th October, 2020, passed by this Court in Commercial Admiralty Suit (L) No.3579 of 2020 the vessel was sold through a judicial sale at the instance of other Claimants in Commercial Admiralty Suit (L) No.3579 of 2020 and the sale proceeds aggregating to USD 11,650,000.00/-, were deposited with the Admiralty Registrar/Prothonotary & Senior Master, High Court, Bombay.

9. Subsequently, by an order dated 22nd December, 2020 passed in Commercial Admiralty Suit (L) No.4374 of 2020, the Sheriff of Bombay was directed to issue a public notice as contemplated in Rule 1087 and Rule 1088 of the High Court Rules for inviting claims against M.V. Karnika and/or the sale proceeds. The said notice was published on 7th January, 2021 and required persons having a claim against the sale proceeds of the Defendant vessel to file a Suit within 90 days from the date of publication of the said notice and further stated that the order of priorities of claims against the sale proceeds would be determined after the expiry of that period. The said period of 90 days

expired on 7th April, 2021.

10. Pursuant to the aforesaid publication the Suits which are listed at Exhibit F have been filed.

11. It is submitted that the Applicant being the registered mortgagee of the said vessel had filed Commercial Admiralty Suit No.33 of 2021 for recovery of the outstanding loan amount and interest, which was secured by a registered mortgage of the said vessel and that the Applicant has a maritime claim under Section 4(1)(c) of the Admiralty Act. The Applicant has obtained a judgment and decree dated 13th September, 2022 against the sale proceeds of the vessel in Commercial Admiralty Suit No.33 of 2021 for a sum of USD 12,972,981/- along with interest at the rate of 8% p.a. on the principal amount of USD 12,000,000/- from the date of filing of Suit (1st April 2021) till date of payment and/or realization plus legal costs of Rs.4,00,000/-. The sale proceeds represent the said vessel and the Applicant is therefore entitled to recover its decretal amount from the sale proceeds of the said vessel.

12. As noted above, the Applicant has obtained a decree against the sale proceeds. The 90 day period for filing claims as per the public notice also expired on 7th April, 2021. Consequently, the Applicant is entitled to file the present application under Rule 1087 of the High

Court Rules for the determination of order of priorities of claims against the sale proceeds of the said vessel and for payment of the amounts due to the Applicant as per the judgment/decree dated 13th September, 2022 in Commercial Admiralty Suit No.33 of 2022, from the sale proceeds of the said vessel.

13. Rule 1087(c) of the High Court Rules states that the order of priorities of claims shall be in accordance with the provisions of Sections 9 and 10 of the Admiralty Act. Section 10 of the Admiralty Act, which is relevant for the present application, is reproduced below :

> "Section 10 : "Order of priority of maritime claims" – (1) The order of maritime claims determining the inter se priority in an admiralty proceeding shall be as follows :-
> (a) a claim on the vessel where there is a maritime lien;
> (b) registered mortgages and charges of same nature on the vessel;
> (c) all other claims.
> (2) The following principles shall apply in determining the priority of claims inter se-
> (a) if there are more claims than one in any single category of priority, they shall rank equally;
> (b) claims for various salvages shall rank in inverse order of time when the claims thereto accrue."

14. The Applicant's claim is in respect of a registered mortgage on the vessel. The claim falls under Section 10(b) of the Admiralty Act in

terms of priority and ranks below claims which are in the nature of the Maritime lien but above all other Maritime claims.

15. The learned Counsel appearing in the matter have referred to Exhibit F which contains the list of Suits filed against the sale proceeds of the vessel M.V. Karnika alongwith the nature of claim as set out below :

Sr. No.	Commercial Admiralty Suit No.	Plaintiff	Principal Claim Amount (USD/INR)	Nature of Claim u/s Section 10	Maritime Claim u/s Section 4
1.	11 of 2021	Irwin Edmund Sequera and 43 Others	USD 341552.82	Sec 10 (a) Maritime Lien	Sec. 4(1)(o) Crew wages
2.	(L) 6959 of 2021	Vijay Prajwal D'souza and 45 Others	INR 29,81,081	Sec 10 (a) Maritime Lien	Sec. 4(1)(o) Crew wages
3.	42 of 2021	The Board of Mumbai Port Authority	INR 53,18,24,380.82	Sec 10 (a) Maritime Lien	Sec. 4(1)(n) Port Dues
4.	33 of 2021	Carnival PLC	USD 12972981	Sec 10 (b) Registered mortgage the vessel	Sec. 4(1)(c) Mortgage on the vessel
5.	24 of 2021	Monjassa DMC	USD 912414	Sec 10 (c) Other Maritime Claims	Sec. 4(1)(l) Bunker supplies
6.	10 of 2021	Glander Bunkering	USD 2213230	Sec 10 (c) Other Maritime Claims	Sec. 4(1)(l) Bunker supplies
7.	40 of 2022	ISS Shipping India Private Limited	USD 7439690	Sec 10 (c) Other Maritime Claims	Sec. 4(1)(t) Agency Services and expenses

8.	43 of 2022	ISS Shipping Service Dubai LLC	USD 1106555	Sec 10 (c) Other Maritime Claims	Sec. 4(1)
9.	22 of 2022	SA Cruise Services	USD 10,929,470.59	Sec 10 (c) Other Maritime Claims	Sec. 4(1) & (p) Necessaries & disbursements
10.	(L) 5213 of 2020	M/s. Campbell Cruise & Yatch Management Ltd.	USD 75800	Sec 10 (c) Other Maritime Claims	Sec. 4(1) Technical management services
11.	25 of 2022	Inchcape Shipping Services	USD 205901	Sec 10 (c) Other Maritime Claims	Sec. 4(1)(t) Agency Services
12.	33 of 2022	Inchcape Shipping Services Dubai LLC	USD 214,374	Sec 10 (c) Other Maritime Claims	Sec. 4(1)(t) Agency Services
13.	26 of 2021	Integr8 Fuels Inc.	USD 532,965.07	Sec 10 (c) Other Maritime Claims	Sec. 4(1)(t) Bunker Supply
14.	24 of 2021	Integr8 Fuels India Pvt. Ltd.	Rs. 3,86,56,597.69	Sec 10 (c) Other Maritime Claims	Sec. 4(1)(t) Bunker Supply
15.	20 of 2022	NXS Oil Trading FZE	USD 985888.21	Sec 10 (c) Other Maritime Claims	Sec. 4(1)(t) Supply of Bunkers
16.	23 of 2022	Apollo Exports Warehouse INC	USD 3797250	Sec 10 (c) Other Maritime Claims	Sec. 4(1) (l) Necessaries

17.	58 of 2021	Aeromarine Private Limited	INR 623, 869	Sec 10 (c) Other Maritime Claims	Sec. 4(1)(l) Necessaries
18.	45 of 2021	Kenmark Tech Solutions	INR 13,75,581	Sec 10 (c) Other Maritime Claims	Sec. 4(1)(l) & (m) Necessaries and ship repair
19.	27 of 2021	Sembcorp Marine Repairs and Upgrades Pte. Ltd.	USD 1425921.93	Sec 10 (c) Other Maritime Claims	Sec. 4(1)(m) Ship repair services
20.	26 of 2022	American Steamship Owners Mutual Protection & Indemnity	USD 71909.98	Sec 10 (c) Other Maritime Claims	Sec. 4(1)(s) Outstanding Insurance Premium
21.	70 of 2021	Spark Experience LLC	USD 2,278,648.58	Sec 10 (c) Other Maritime Claims	Sec. 4(1)(l) Services to vessel

16. Mr. Agrahari submits that there are no other claims/suits filed nor any other claims have been received pursuant to the notice that has been published by the Office of the Sheriff on 7th January 2021 under Rules 1087 and 1088 of the High Court Rules.

17. From the provisions reproduced above, the order of priority in respect of all existing claims against the vessel and/or its sale proceeds would be as follows :

a) Crew claims forming the subject matter of

Commercial Admiralty Suit No.11 of 2021 and Commercial Admiralty Suit (L) No. 6959 of 2021 - 1st priority.

b) Claims of Mumbai Port in relation to its Port dues in respect of the said vessel forming subject matter of Commercial Admiralty Suit No. 42 of 2021 - 2nd priority.

c) Plaintiff's claim as per judgment and decree dated 13 September 2022 in Commercial Admiralty Suit No.33 of 2021 - 3rd priority.

d) All other maritime claims – last priority and *pari passu* inter se.

18. Having heard the learned Counsel and having considered the aforesaid elucidation on determination of priorities in respect of the claims and nature of claims set as set out above, the priorities in respect of the said claims are determined as under :

Sr No.	Commercial Admiralty Suit No.	Plaintiff	Principal Claim Amount (USD/INR)	Nature of Claim u/s Section 10	Maritime Claim u/s Section 4	Order of priorities of the Claim
1.	11 of 2021	Irwin Edmund Sequera and 43 Others	USD 341552.82	Sec.10(a) Maritime Lien	Sec.4(1)(o) Crew wages	1st
2.	(L) 6959 of 2021	Vijay Prajwal D'souza and 45 Others	INR 29,81,081	Sec.10(a) Maritime Lien	Sec.4(1)(o) Crew wages	
3.	42 of 2021	The Board of Mumbai Port Authority	INR 53,18,24,380.82	Sec.10(a) Maritime Lien	Sec.4(1)(n) Port Dues	2nd

4.	33 of 2021	Carnival PLC	USD 12972981	Sec.10(b) Registered mortgage on the vessel	Sec.4(1)(c) Mortgage on the vessel	3rd
5.	24 of 2021	Monjassa DMC	USD 912414	Sec.10(c) Other Maritime Claims	Sec.4(1)(l) Bunker supplies	Last or 4th
6.	10 of 2021	Glander Bunkering	USD 2213230	Sec.10(c) Other Maritime Claims	Sec.4(1)(l) Bunker supplies	
7.	40 of 2022	ISS Shipping India Private Limited	USD 7439690	Sec.10(c) Other Maritime Claims	Sec.4(1)(t) Agency Services and expenses	
8.	43 of 2022	ISS Shipping Service Dubai LLC	USD 1106555	Sec.10(c) Other Maritime Claims	Sec.4(1)	
9.	22 of 2022	SA Cruise Services	USD 10,929,470.59	Sec.10(c) Other Maritime Claims	Sec.4(1) & (p) Necessaries & disburse-ments	
10.	(L) 5213 of 2020	M/s. Campbell Cruise & Yatch Management Ltd.	USD 75800	Sec.10(c) Other Maritime Claims	Sec.4(1) Technical manage-ment services	
11.	25 of 2022	Inchcape Shipping Services	USD 205901	Sec.10(c) Other Maritime Claims	Sec.4(1)(t) Agency Services	
12.	33 of 2022	Inchcape Shipping Services Dubai LLC	USD 214,374	Sec.10(c) Other Maritime Claims	Sec.4(1)(t) Agency Services	

13.	26 of 2021	Integr8 Fuels Inc.	USD 532,965.07	Sec.10(c) Other Maritime Claims	Sec.4(1)(t) Bunker Supply	Last or 4th
14.	24 of 2021	Integr8 Fuels India Pvt. Ltd.	Rs. 3,86,56,597.69	Sec.10(c) Other Maritime Claims	Sec.4(1)(t) Bunker Supply	
15.	20 of 2022	NXS Oil Trading FZE	USD 985888.21	Sec.10(c) Other Maritime Claims	Sec.4(1)(t) Supply of Bunkers	
16.	23 of 2022	Apollo Exports Warehouse INC	USD 3797250	Sec.10(c) Other Maritime Claims	Sec.4(1)(l) Necessaries	
17.	58 of 2021	Aeromarine Private Limited	INR 623, 869	Sec.10(c) Other Maritime Lien	Sec.4(1)(l) Necessaries	
18.	45 of 2021	Kenmark Tech Solutions	INR 13,75,581	Sec.10(c) Other Maritime Claims	Sec.4(1)(l) & (m) Necessaries and ship repair	
19.	27 of 2021	Sembcorp Marine Repairs and Upgrades Pte. Ltd.	USD 1425921.93	Sec.10(c) Other Maritime Claims	Sec.4(1)(m) Ship repair services	
20.	26 of 2022	American Steamship Owners Mutual Protection & Indemnity	USD 71909.98	Sec.10(c) Other Maritime Claims	Sec.4(1)(s) Outstanding Insurance Premium	
21.	70 of 2021	Spark Experience LLC	USD 2,278,648.58	Sec.10(c) Other Maritime Claims	Sec.4(1)(l) Services to vessel	

19. Mr. Desai, learned Counsel, appearing for the Plaintiff in Commercial Admiralty Suit No. 24 of 2021, Commercial Admiralty Suit No. 26 of 2021 and Commercial Admiralty Suit No. 70 of 2021, has no objection if the priorities are determined in the aforesaid manner.

20. Accordingly, the two claims above which have been ranked as 1st will take first equally from the sale proceeds lying in this Court and thereafter, the claims from the remaining amounts ranked 2nd will take, after which the claim ranked 3rd will take and thereafter, the claim ranked last or 4th will take from the balance remaining, subject of course to the pending Suits being decreed, it is being clarified that payment out on the basis of the aforesaid priorities will be subject to the amounts decreed in the Suit(s).

21. The Interim Application accordingly stands allowed and disposed in terms of prayer clause (a).

22. The priorities having been decided, the Applicant is at liberty to take out an appropriate Application for payment out.

(ABHAY AHUJA, J.)