

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

INTERIM APPLICATION NO. 3703 OF 2024
IN
COMMERCIAL ADMIRALTY SUIT NO. 2 OF 2023

KROLL TRUSTEE SERVICES LIMITED)...APPLICANT

IN THE MATTER BETWEEN

GLOBAL RADIANCE SHIP MANAGEMENT)
PTE. LTD.)...PLAINTIFF

V/s.

SALE PROCEEDS OF MT AEON)...DEFENDANT

Mr.Prashant Pratap, Senior Advocate a/w. Mr.Rishabh Saxena,
Ms.Jyotika Jain, Mr.Shubham Agrahari i/by Bose & Mitra & Co.,
Advocate for the Applicant in IA/3703/2024.

Mr.Navroze Seervai, Senior Advocate a/w. Ms.Neha Bhosale, Ms.Disha
Parekh i/by NDB Law, Advocate for the Plaintiff in COMAS/2/2023.

CORAM : ABHAY AHUJA, J.

DATE : 4th JULY 2025

ORAL ORDER :

1. This Interim Application seeks intervention by the Applicant in
Commercial Admiralty Suit No.2 of 2023 as a party Defendant.

2. Mr.Pratap, learned Senior Counsel, appearing for the Applicant
submits that the Applicant is a security agent holding security, including
registered ship mortgages on behalf of a syndicate of lenders under

facility agreements entered into between the Applicant who is also the facility agent on behalf of those lenders in respect of the borrowers of the assets.

3. Mr.Pratap, learned Senior Counsel, submits that under Rule 1086(a) of the Bombay High Court (Original Side) Rules, 1980, where a ship against which a Suit in rem is brought is under arrest or money representing the proceeds of sale of that ship is in Court, a person who has interest in that ship or money but who is not a Defendant to the Suit may, with the leave of the Judge, intervene in the Suit.

4. Mr.Pratap submits that the Applicant has itself filed Commercial Admiralty Suit No.41 of 2022 against the subject Vessel on 16th June 2022 for enforcement of the first and second priority registered mortgage over the subject Vessel and for recovery of and decree for a sum of USD 23,132,644.10 together with interest payable by the registered owners to the Applicant under the 'Term Loan Facility' entered into on 24th July 2017 and Addenda thereto, pursuant to notice of acceleration, demand and reservation of rights of the Facility Agreement dated 9th August 2021 read with notice of repossession dated 25th May 2022.

5. Mr.Pratap submits that the Applicant therefore has an interest in the sale proceeds of the Vessel that are lying with the Prothonotary & Senior Master of this Court.

6. Mr.Pratap submits that earlier the Applicant had obtained an order of arrest from this Court against the said Vessel M V Aeon (IMO No.9576818) on 20th June 2022 and that the said Vessel has been sold and the sale proceeds of INR 103,67,06,200/- along with accrued interest thereon are presently lying with the Prothonotary & Senior Master of this Court.

7. That, the claim of the Applicant squarely falls within the definition of a maritime claim under Section 4(1)(c) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (the “Admiralty Act”). That, under Clause 14.5(a)(i)(E) of the Mortgage Deed, each Obligor shall, on demand, indemnify each indemnified person against any cost, loss or liability incurred by any of them in relation to, or as a result of, any default by any Transaction Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance documents.

8. Mr.Pratap submitted that as per Clause 27.15 of the Mortgage Deed, any arrest of a ship or its detention in the exercise or the purported exercise of any lien or claim unless it is redelivered to the full control of the relevant borrower within 21 days of such arrest or detention also becomes an event of default. That, under Clause 27.20, at any time after the occurrence of an event of default which is continuing, the facility agent may declare that all or part of the loan, together with accrued interest and all other amounts accrued or outstanding under the finance documents be immediately due and payable, whereupon it shall become immediately due and payable.

9. Mr.Pratap has submitted that the Applicant became forthwith entitled to put into force and exercise the rights, powers and remedies possessed by it as the mortgagee and accordingly, the security created by the Loan Agreement and the mortgage had already become immediately enforceable and the Applicant as a mortgagee was entitled to put into force and exercise all its powers as mortgagee of the mortgaged subject Vessel which it has done by filing the Suit and arresting the subject Vessel.

10. Mr.Pratap submits that, therefore, the Applicant is a party interested in the sale proceeds of the Vessel and is entitled to intervene in the present Suit under Rule 1086 of the Bombay High Court (Original Side) Rules, 1980. Mr.Pratap has submitted that it is imperative that the Applicant be permitted to intervene in the Suit so as to ensure that unjustified / illegal / fanciful / untenable claims of the Respondent / original Plaintiff are not granted, as no one presently appears for the owners of the subject Vessel to contest the claim of the Respondent / original Plaintiff.

11. Mr.Pratap has submitted that an application for leave under Rule 1086 of the Bombay High Court (Original Side) Rules, 1980 can be made ex-parte by an Affidavit showing the interest of the Applicant in the Vessel against which the Suit is brought or in the money held in Court.

12. Mr.Navroze Seervai, learned Senior Counsel, appearing for the Plaintiff in the Suit does not raise any particular objection to the submissions made by Mr.Pratap.

13. I have heard the learned Senior Counsel in the matter and I am of the view that in view of the aforesaid submissions and the claim made by the Applicant who claims to be a mortgagee in Suit No.41 of 2022 for USD 23,132,644.10 along with interest pursuant to the Facility Agreement mentioned in the application, the Applicant having claimed under Section 4(1)(c) of the Admiralty Act would be a person interested in the proceeds of the sale lying with the Prothonotary & Senior Master of this Court. As noted above, the Suit has been filed in rem and the ship had been arrested earlier and the sale proceeds of the auction sale have been deposited and lying with the Prothonotary & Senior Master of this Court.

14. Accordingly, I am inclined to allow this application in terms of prayer clause (A) which reads thus :

“(A) Admit this application and permit the Applicant to intervene in Commercial Admiralty Suit No.2 of 2023 as a party Defendant.”

15. Let the Plaintiff in the Commercial Admiralty Suit no.2 of 2023 amend the plaint to add the Applicant as a party Defendant within a period of two weeks. Let copy of the amended plaint and proceedings be served on the others and an appropriate affidavit of service be filed.

16. The application is allowed and stands disposed as above.

(ABHAY AHUJA, J.)

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