

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

INTERIM APPLICATION NO.1833 OF 2025
IN
COMMERCIAL ADMIRALTY SUIT NO.10 OF 2025

The Mormugao Port Authority Known as
The Board of Trustees of the Port of Mormugao ...Plaintiff
V/s.

Sale Proceeds of the Vessel MT NU
Shi Nalini IMO No.9619608 & Ors. ...Defendants

Mr. Nand Kishore i/b DSK Legal for the Plaintiff.

Mr. Manoj Khatri, through VC, with Mr. Arnab Ghosh for the Defendant.

CORAM : ABHAY AHUJA, J.
DATE : 20th JUNE, 2025

PC. :

1. This Interim Application seeks restoration of the Suit that had been dismissed on 7th February, 2025.

2. On 7th February, 2025, the following order was passed and the Suit was dismissed:-

“ 1. As none had appeared for the Plaintiff on 15th January 2025, the following order was passed :

1. None for the Plaintiff.

2. This Suit appears to have been filed against the sale proceeds of a vessel to be paid to the Plaintiff towards reimbursement of the pprrt salvage charges incurred by the Plaintiff for salvaging the vessel. However, since none appears for the Plaintiff, list on 7th February, 2025.

3. It is made clear that if none appears for the Plaintiff

Digitally
signed by
NIKITA
YOGESH
GADGIL
Date:
2025.06.20
18:03:03
+0530

on the next date, this Court will consider dismissing the Suit.

2. Today, again none appears for the Plaintiff.
3. Accordingly, the Suit is dismissed.”

3. As can be seen, since none had appeared for the Plaintiff on 15th January, 2025 and it was made clear on that date itself that if none appears for the Plaintiff on the next date, the Court will consider dismissing the Suit. Since none appeared on 7th February, 2025 as well, the Suit was dismissed.

4. Mr. Kishore, learned Counsel appearing for the Applicant / Plaintiff submits that the dismissal has taken place due to inadvertence on 15th January, 2025 and 7th February, 2025 as the Advocate for the Plaintiff failed to check the cause list and as a result could not remain present before the Court when the matter was called out. It is only while checking the website of the High Court for updating the status of the various cases filed by the Plaintiff on 8th April, 2025 that the order of dismissal dated 7th February, 2025 was noticed and the same was informed to the Plaintiff, after which the Application has been filed on 10th April, 2025.

5. Mr. Kishore submits that the non-appearance of the Plaintiff was neither deliberate nor wanton and was solely due to the inadvertent omission on the part of the Advocate for the Plaintiff in checking the cause list for 15th January, 2025 and 7th February, 2025, resulting in non appearance of the Advocate of the Plaintiff on the said dates of hearing.

6. Mr. Kishore submits that the Plaintiff has a huge outstanding claim of over Rs 33 Crs against the Defendants towards the salvage charges, port charges, etc. which constitute maritime claims of the Plaintiff against the Defendant No.1-vessel. That the Plaintiff is entitled to proceeds of the sale of the Defendant No.1-vessel being Rs. 13.50 Crs, which has been deposited with the Prothonotary & Senior Master of this Court. That the Plaintiff-Applicant is a Central Public Sector Enterprises (“CPSE”) under the Ministry of Ports, Shipping and Waterways and is engaged in performing statutory and public service and that this Court may therefore, restore the Suit.

7. Mr. Kishore also submits that this Court may impose any reasonable costs for restoring the Suit and also draws this Court’s attention to the paragraph 12 of the Application, where the Plaintiff has undertaken that there will not be any further lapses in appearance

before this Court on the date of hearings scheduled by this Court in the Suit.

8. Mr. Khatri, learned Counsel appears for the Defendant No. 3 through video conferencing and submits that he will need some time to take instructions in the matter.

9. It is observed that the Defendant No.3 is only an agent. Mr. Kishore submits that the claim is against the sale proceeds of the vessel and the owner of the vessel and that there is no relief against the Defendant No.3.

10. None appears for the Defendant No.2 despite service.

11. Having heard the learned Counsel and having considered their submissions, this Court is of the view that the Suit be restored as there does not appear to be any deliberate non appearance, however, being port authority, the Plaintiff ought to have been diligent in pursuing the matters before the High Court. On two dates the Plaintiff did not appear and on 15th January, 2025, this Court had also put the Plaintiff to notice, despite that none appeared on 7th February, 2025 and

therefore, in accordance with the order dated 15th January, 2025, the Suit was dismissed on 7th February, 2025.

12. Accordingly, this Court is inclined to restore the Suit but not without imposing costs for the non appearance and the failure to attend to the matter despite order of this Court.

13. The Suit is restored, subject to payment of costs of Rs. 50,000/- to the High Court Employees Medical Welfare Fund at Mumbai, within a period of two weeks.

14. Subject to the payment of costs as above, list the Suit on 18th July, 2025. Mr. Kishore requests that the matter be listed on 25th July, 2025 as he is in personal difficulty on 18th July, 2025. At his request, list on **25th July, 2025.**

(ABHAY AHUJA, J.)