

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

**INTERIM APPLICATION NO. 1598 OF 2025
IN
COMMERCIAL ADMIRALTY SUIT NO. 18 OF 2022**

**The Board of Mumbai Port Authority ...Applicant/Plaintiff
v/s.
DLB Nand Gaurav & Ors. ...Respondents/Defendants**

**WITH
INTERIM APPLICATION NO. 707 OF 2023
WITH
INTERIM APPLICATION NO. 3521 OF 2025**

Mr. Ajai Fernandes with Mrs. Nina Motiwala, Mrs. Janhavi Kandekar and Ms. Anjali Kotecha i/b Motiwalla and Co. for the Plaintiff.

Mr. Rahul Narichania, Senior Advocate with Mr. Gopalkrishna Nayak and Ms. Ritika Kudia for the Defendant No. 4.

Ms. Vaishnavi Pawar, through VC with Ms. Asmita Aggarwal i/b SDS Advocates for the Defendant No.5-IDBI Bank Ltd.

**CORAM : ABHAY AHUJA, J.
DATE : 6th MARCH, 2026**

PC. :

1. When the matter is called out, at the outset, this Court is informed that the Interim Application No. 3521 of 2025 is wrongly on board as the same has already been withdrawn on 17th October, 2025.
2. Registry is directed to remove the said Interim Application from the board.
3. Mr. Fernandes, learned Counsel appears in the Interim Application No. 1598 of 2025 for the Applicant-Port Authority and submits that the said Interim Application seeks Summary Judgment in

the matter and that although the pleadings are complete, the response of the Respondent No.4 only raises frivolous objections with respect to the rates that have been applied to the services rendered by the Port Authority in as much as the rates that have been applied are based on the Scale of Rates (the “SoR”) approved by the Tariff Authority of Major Ports (the “TAMF”) and that the Interim Application for Summary Judgment be allowed, as there is no defence otherwise and that there are no real prospects of the Defendants succeeding in the Suit.

4. Mr. Narichania, learned Senior Counsel appearing for the Respondent No.4 submits that while this Court may decide the Interim Application No. 1598 of 2025, what is pertinent is Interim Application No. 707 of 2023, filed by the Respondent No.4 seeking determination of priorities and payment out. That by order dated 5th April, 2024, this Court (Coram: R. I. Chagla, J.) has decreed the Commercial Admiralty Suit No. 16 of 2023 and also directed that the sum of Rs. 5,47,10,557/- as reflected in the particulars of claim annexed as Exhibit ‘Y’ to the Plaint in the Suit be paid as Sheriff’s costs, charges and expenses, as they were incurred to maintain the vessel, failing which it could have become a loss and may not have been available for the benefit of all the creditors. That accordingly the priorities be determined as under:-

Table

Sr. No.	Suit No.	Name of Parties	Amount	Nature of Claim	Status of Suit	Priorities
1	Commercial Admiralty Suit no. 16 of 2023	Suraksha Asset Reconstruction Ltd vs Sale proceeds of DLB Nand Gaurav	Rs. 5,47,10,557/- plus interest at the rate of 11% p.a. from 25/11/2021 till payment and/or realisation	Sheriffs Expenses	Suit Decreed vide order dated 05/04/2024	Sheriffs Expenses
2	Commercial Admiralty Suit no.18 of 2022	The Board of Mumbai Port Authority vs DLB Nand Gaurav	Rs. 9,90,30,203/- plus interest at the rate of 15% p.a. on the principal sum of Rs.8,94,40,514/- from 01/10/2021 till payment and/or realisation	Statutory charges (maritime lien) under section 4(1)(n) r/w 9(1)(d) and 10(1)(a)	Decree pending	First
3	Commercial Admiralty Suit no. 16 of 2023	Suraksha Asset Reconstruction Ltd vs Sale proceeds of DLB Nand gaurav	Rs. 479,96,43,080.33 plus interest at the rate of 11% p.a. from 16-09-2022 till payment and/or realisation	Mortgagee under section 4(1)(c) r/w 10(1)(b)	Suit Decreed vide order dated 05/04/2024	Second
4	Commercial Admiralty Suit no. 50 of 2022	Axis Trustees Services Ltd. & anr vs DLB Nand Gaurav	US\$2,76,91,421.56 alongwith interest @ 10.837380 % from 01/04/2023 till the date of decree and a further sum of Rs.3,40,07,890/- towards preservation and maintenance of the defendant-vessel.	Mortgagee under section 4(1)(c) r/w 10(1)(b)	Decreed vide Order dated 05/04/2022 (Partially paid Rs. 56,57,82,691/- plus Rs. 3,40,07,890/- vide order dated 20/03/2023 to IDBI Bank)	Second

5. Mr. Fernandes, learned Counsel appearing for the Plaintiff-Port Authority has no objection to the aforesaid determination of priorities and payment out.

6. However, Ms. Pawar, learned Counsel appears for the IDBI Bank and submits that the claims of the Interim Applicant in the Interim Application No. 707 of 2023 rank *pari passu* and that the IDBI Bank would have to be heard before the priorities are determined in the manner submitted before this Court on behalf of the Interim Applicant and accepted by the Port Authority. Ms. Pawar submits that she is led by Counsel who is on his legs in another Court.

7. Mr. Narichania, learned Senior Counsel submits that although the Interim Application has been filed in the year January, 2023 and no reply has been filed and although pursuant to the order dated 20th March, 2023, the IDBI Bank has already withdrawn the amounts of Rs. 34,007,890/- expended together with the Applicant in the maintenance and general upkeep of the Defendant-vessel, a grievance/objection is being raised at this stage, when the Court is proceeding to determine the priorities and that the same cannot be permitted.

8. Mr. Fernandes, learned Counsel appearing for the Interim Applicant in the Interim Application No. 1598 of 2025 submits that although the Interim Application for Summary Judgment has been served on the IDBI Bank, which is the Respondent No.5, no reply or objection has been filed to the same on behalf of the IDBI Bank.

9. However, since a request is being made by the Advocate for the IDBI Bank, submitting that she is led by another Counsel, who is on his legs in another Court, list on **13th March, 2026 on the supplementary board** only for Counsel on behalf of the IDBI Bank to address the Court.

10. It is made clear that no further request for time would be entertained and that this Court will proceed to pass final orders on the next date in both the Interim Applications.

(ABHAY AHUJA, J.)

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signed by
NIKITA
YOGESH
GADGIL
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