

**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
Vs.	
DLB Nand Gaurav & Ors.	...Respondents/Defendants

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

Mr. Gopalkrishna Nayak with Ms. Ritika Kudia i/b Flavia Legal for the Defendant No. 4.

Mr. Subir Kumar with Ms. Vaishnavi Paar i/b SDS Advocates for the Respondents No.5-IDBI Bank.

CORAM	:	ABHAY AHUJA, J.
DATE	:	27th MARCH, 2026

PC. :

1. This Interim Application has been filed by the Applicant/Plaintiff under Order XIII-A of the Code of Civil Procedure, 1908 (the “CPC”) seeking summary judgment in favour of the Plaintiff and a direction for payout against the balance sale proceeds of the Defendant No.1-Vessel.
2. The Applicant/Plaintiff is a Port Authority and is the owner of the docks and harbour and port facilities at Mumbai.
3. The Defendant No.1 Vessel viz. DLB Nand Gaurav (the “Defendant-Vessel”) is a pipe laying dumb barge flying in Indian flag

registered at Mumbai and earlier owned by M/s. Essar Offshore Subsea Limited, which is under liquidation and the Defendant No.2, Official Liquidator was appointed by order dated 2nd August, 2018 of this Court. It is submitted that prior to the liquidation of the Defendant No. 2-Owner and even thereafter, the Defendant-Vessel continuously availed the services of the Plaintiff i.e. anchorage services etc.

4. It has been submitted that the Port Authority has a claim of Rs. 9,90,30,203/- together with interest at the rate of 15% p.a. on the principal sum of Rs. 8,94,40,514/- from 1st October, 2021 till payment and/or realization in respect of port and statutory dues, which is a maritime claim under Section 4(1)(n) read with Section 9(1)(d) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (the “Admiralty Act”).

5. It is submitted that earlier, the Defendant No. 4 pursuant to an assignment agreement was assigned the debt of Yes Bank who was a mortgagee of the Defendant-Vessel and was impleaded as a party to the Suit by order dated 25th November 2021 and thus, as mortgagee, had a maritime claim under Section 4(1)(c) read with Section 10(1)(b) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (the “Admiralty Act”). That the 4th Defendant’s Suit viz. Commercial

Admiralty Suit No. 16 of 2025 had been decreed by order dated 5th April 2024.

6. Mr. Fernandes has also submitted that earlier the Defendant No. 5 was also impleaded as a party to the Suit by order dated 15th December 2021 and is also a mortgagee having maritime claim under Section 4 read with Section 10 (1)(b) of the Admiralty Act. The 5th Defendant's Suit viz. Commercial Admiralty Suit No. 50 of 2022 has been decreed by order dated 5th April 2022. It has been further submitted that by order dated 20th March 2023 passed in Interim Application (L) No. 38384 of 2022 in Commercial Admiralty Suit No. 50 of 2022, Rs. 14,00,00,000/- was kept aside from the sale proceeds of the Defendant-Vessel towards the Applicant/Plaintiff's claim and Rs. 5,47,10,557/- towards the claim of the Defendant No. 4.

7. That the Defendant No. 5 was permitted to withdraw the balance sale proceeds which were to be adjusted and shared between the Defendants No. 4 and 5 with an undertaking to bring back any amount together with interest, if so directed by this Court, to satisfy any claims ranking higher in priority than the claim of the Defendant No. 5. Subsequently, by order dated 13th March, 2026 passed in Interim Application No. 707 of 2023, the Defendant No. 4 was permitted to

withdraw their claim amount which was decreed as Sheriff's expenses by order dated 5th April 2024.

8. Mr. Fernandes has submitted that the Defendant-Vessel was arrested by this Court by order dated 25th November, 2021 in Commercial Admiralty Suit (L) No.25587 of 2021 and the Defendant-Vessel was sold by an order dated 7th July, 2022 passed by this Court in Interim Application No. 3260 of 2021 in Commercial Admiralty Suit (L) No. 18 of 2022 for the sum of Rs.76,66,88,000/- and was delivered to the auction purchaser viz. M/s. Tog Mor Transport Chartering on 1st September, 2022.

9. Mr. Fernandes has submitted that the claim of the Applicant-Plaintiff that the Applicant-Plaintiff rendered anchorage services, etc. to the Defendant-Vessel is substantiated by the bills of charges and interest raised, which with the Owners, Master and Agents of the Defendant-Vessel, have failed to pay despite raising the said bills and issuance of Notices under Form I and Form II under Section 64 of the Major Port Trusts Act, 1963.

10. Mr. Fernandes has taken this Court to the claim of statutory dues and interest, which works out to Rs.9,90,30,203/- as set out in the table which is at paragraph 5 of the Plaint or Paragraph 4 of the Interim

Application in support.

11. Mr. Fernandes submits that, therefore, the Plaintiff instituted the Suit in *rem* against the Defendant-Vessel for a decree in favour of the Plaintiff and against the sale proceeds of the Defendant-Vessel for a sum of Rs. 9,90,30,203/- and interest on the principal amount of Rs. 8,94,40,514/- till payment or realisation.

12. Mr. Fernandes further submits that vide order dated 17th October, 2025, this Court allowed the Applicant-Plaintiff to drop the Defendant No.3 as a party Defendant. Thus, the Suit as against the Defendant No 3 has been disposed of as withdrawn.

13. Mr. Fernandes submits that the documents on record, especially the bills annexed and the detailed working of the bills from Exhibits 1 to 18 and 18-A to 18-G to the Interim Application and the Notices issued by the Plaintiff i.e. Form I and Form II not having been replied to clearly shows that the Defendant No. 2 has no defence to the Plaintiff's claim.

14. Mr. Fernandes has further submitted that the Plaintiff are also entitled to interest at the rate of 15% p.a. on the aforesaid bills mentioned in the table at paragraph 5 of the Plaint or Paragraph 4 of the Interim Application, as per the applicable Scale of Rates (the "SoR")

from 1st October, 2021 till payment and/or realisation in respect of the anchorage charges.

15. Mr. Fernandes has submitted that the rates that have been applied with respect to the services rendered and the interest are based on the SoR approved by the Tariff Authority of Major Ports (the “TAMP”).

16. Mr. Fernandes submits that response of the Defendants No. 4 and 5 only raises frivolous objections with respect to the rates that have been applied to the services rendered by the Port Authority. It is submitted 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. Further, there has been no denial of the Applicant’s claim by the master of the said vessel or the Defendant No. 2 and there was no objection to the bills raised by the Applicant on the Agents of the vessel and even to Notices issued under Form I and II distraining the said vessel for non-payment of the Applicant-Plaintiff’s statutory dues. Even otherwise, there are no real prospects of the Defendants being likely to succeed in defending the Suit.

17. The Applicant/Plaintiff has submitted that the claim of the Port Authority is towards statutory port dues and maritime claim under Section 4(1)(n) read with Section 9(1)(d) of the Admiralty Act.

18. I have perused the averments in the Interim Application as well as the Plaint and I am satisfied that there is a maritime claim. Further, the Defendant-Vessel and / or the Defendant No. 2 have despite receiving the aforementioned bills and Notices of the maritime claim of the Applicant/Plaintiff not denied the same nor objected to the aforementioned bills and Notices sent by the Plaintiff to the Agents/Masters/Owners of the Defendant-Vessel.

19. Learned Counsel appearing for the Defendants No.4 and 5 have left it to the orders of this Court.

20. From a perusal of the Plaint and the Interim Application, I am satisfied that the Defendant-Vessel and the Owner/Liquidator have no real prospect of successfully defending the claim and there is no other compelling reason why the claim made by the Applicant/Plaintiff should not be disposed of before recording of oral evidence.

21. The Interim Application accordingly stands allowed.

22. There shall be a decree only against the sale proceeds of the Defendant-Vessel in the sum of Rs. 9,90,30,203/- together with interest

at the rate of 15% p.a. on the sum of Rs. 8,94,40,514/- from 1st October, 2021 till payment and/or realisation.

23. The Suit stands decreed as above.

24. Drawn up decree dispensed with.

25. No costs.

26. By order dated 13th March 2026, this Court has already determined the priorities whereby the priorities of the Port Authority in this Suit/Interim Application being maritime lien under Section 4(1)(n) read with Section 9(1)(d) and Section 10(1)(a) of the Admiralty Act have been ranked at priority No. 1.

27. In view of the order dated 13th March, 2026 and subject to the amounts being available in the account of the Prothonotary & Senior Master with respect to the sale proceeds of DLB Nand Gaurav, the Prothonotary & Senior Master is directed to pay the Plaintiffs/Applicants the decretal amount of Rs. 9,90,30,202/- together with interest at the rate of 15% p.a. on the sum of Rs. 8,94,40,514/- from 1st October, 2021 till payment and/or realisation.

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YOGESH
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(ABHAY AHUJA, J.)