



A.Nos.6609 & 6610 of 2024 in
C.S.(Com.Div.) No.235 of 2024

In the High Court of Judicature at Madras

Reserved on
08.1.2026

Delivered on:
12.1.2026

Coram:

The Honourable Mr.Justice N.ANAND VENKATESH

Application Nos.6609 & 6610 of 2024
in C.S.(Com.Div.) No.235 of 2024

Owners & Parties interested in
the Vessel M.V.Sanghi III – TBN:
M.V.Bhaskar I IMO 9091076,
Flag : Indian, sitting on blocks
of the Yanam Jetty, Pondicherry
represented herein by its
Master & Owner

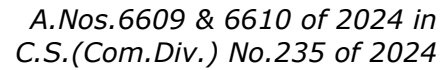
...Applicant in
Both Applns.

Vs

Mr.D.V.Pratapa Varma, owner of
D.V.Pratapa Varma, a proprietorship
firm rep.by its power of attorney
holder Mr.D.V.B.Krishnam Raju,
8-1-67, Doctors Colony,
Visakhapatnam, Andhra Pradesh.
530017.

...Respondent in
both Applns.

CIVIL SUIT under Order IV Rule 1 read with Order XLII Rules 1
to 3 of the Madras High Court Original Side Rules read with Order VII
Rule 1 of the Civil Procedure Code and Sections 3 and 4 of the



Application No.6910 of 2024 praying to vacate the order of arrest of the vessel M.V.Santhi III – TBN M.V.Bhaskar 1 IMO No.9091076 now lying at Yanam Jetty granted in A.No.6206 of 2024 in C.S.No.235 of 2024.



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For Applicant in
Both Applns.

:

Mr.V.P.Raman for
Mr.C.Thiagarajan

For Respondent in
Both Applns.

:

Mr.S.R.Rajagopal, SC for
Mr.Aditya Sarangarajan

COMMON ORDER

The defendant in the main civil suit filed A.No.6609 of 2024 under Order VII Rule 11 of the Civil Procedure Code seeking for rejection of the plaint.

2. A.No.6610 of 2024 has also been filed by the very same defendant seeking to vacate the order of arrest of the vessel passed on 27.11.2024 in A.No.6206 of 2024.

3. Heard both.

4. The facts leading to filing of these applications are as follows:

(i) The respondent/plaintiff filed the said suit on the ground that they are ship repairers, that pursuant to the work order dated 25.10.2024 issued in their favour by the owners of the vessel, they did



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the repair works in accordance with the terms and conditions of the work order dated 25.10.2024, that earlier, the owners of the defendant vessel awarded the work order in favour of one M/s.Aditya Marines on 10.9.2024, that this was subsequently transferred to the plaintiff after adjusting a sum of Rs.20 lakhs, which was already paid to the said M/s.Aditya Marines.

(ii) Pursuant to the termination of the contract, the plaintiff claims a sum of Rs.60 lakhs due and payable by the defendant. An invoice was raised in this regard on 20.11.2024 and a legal notice was also issued on 22.11.2024 calling upon the defendant to pay the money. Since the amount was not settled, the above suit has been filed before this Court.

(iii) Along with the suit, the plaintiff moved an application in A.No.6206 of 2024 seeking for arrest of the vessel on the ground that the vessel is available at Yanam Jetty Port, that there has been a likelihood of the defendant engaging another contractor to complete the repair works and that there was no other security available for the plaintiff. Further, this Court, by order dated 27.11.2024, ordered for the arrest of the vessel since this Court was, prima facie, satisfied with the claim of the plaintiff and since this Court also found that the



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balance of convenience and irreparable loss and hardship that would be caused had been established by the plaintiff.

(iv) Thereafter, on 18.12.2024, this Court slightly modified the earlier order dated 27.11.2024 to the effect that the defendant could carry out the repair works of the vessel, which was under dry dock while making it clear that the order of arrest would continue until further orders.

(v) Later, an attempt was made to refer the parties to the Mediation Centre. Since the mediation was unsuccessful, the matter was once again placed before this Court for hearing the above applications filed by the applicant/defendant for rejection of the plaint and for vacating the order of arrest passed by this Court in A.No.6206 of 2024.

5. The learned counsel appearing on behalf of the applicant/defendant primarily has raised three grounds in the application filed for rejection of the plaint. They are:

(a) The vessel is a broken vessel, which cannot be put to use for navigation as has been certified by the surveyor and hence, it does not satisfy the requirement of a vessel as defined under Section 2(1)(I) of



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the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (for short, the Act);

(b) The vessel of the defendant is registered under the Inland Vessels Act, 1917 vide certificate of registration dated 19.6.2019. Hence, as per the Proviso to Sub-Section (2) of Section 1 of the Act, such a vessel will not fall within the purview of the Act and hence, the vessel cannot be arrested under the Act and the Rules framed thereunder; and

(c) The contract between the parties remains inconclusive and the same is evident from the invoice dated 20.11.2024. Therefore, there is no cause of action for filing the above suit.

Hence, it is contended that the admiralty action is not maintainable before this Court and that therefore, the plaint has to be rejected.

6. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record.

7. The first ground that has been raised on the side of the defendant is that the vessel in question is a broken vessel even as per



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the report submitted by the surveyor dated 08.5.2024 and that therefore, the vessel does not come within the purview of the definition under Section 2(1)(I) of the Act.

8. The definition of the word '**vessel**' as defined under Section 2(1)(I) of the Act and the explanation to the said definition are extracted as hereunder:

"Section 2 (1).....

.....

(I) 'vessel' includes any ship, boat, sailing vessel or other description of vessel used or constructed for use in navigation by water, whether it is propelled or not, and includes a barge, lighter or other floating vessel, a hovercraft, an off-shore industry mobile unit, a vessel that has sunk or is stranded or abandoned and the remains of such a vessel.

Explanation.—A vessel shall not be deemed to be a vessel for the purposes of this clause, when it is broken up to such an extent that it cannot be put into use for navigation, as certified by a surveyor."

9. The specific case of the plaintiff is that the vessel of the defendant was toed to Yanam Jetty Port where it has been dry docked



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and it was left for repairs initially before the sister concern and thereafter before the plaintiff. The specific pleading of the plaintiff is that the survey report dated 08.5.2024 was received for insurance purposes and the intention was not to stop using the vessel for navigation in future.

10. The report of the surveyor merely highlights the defects and it does not indicate the seaworthiness or navigable nature of the vessel. The definition of the word '**vessel**' is quite broad and it includes a stranded/abandoned and the remains of such a vessel. Therefore, if, ultimately, the purpose of conducting the repair on the vessel is to make it seaworthy, obviously it will come within the definition of the word '**vessel**'. Hence, the first ground raised on the side of the defendant stands rejected.

11. The second ground that has been raised on the side of the defendant is that the vessel of the defendant is registered under the Inland Vessels Act and that therefore, it is beyond the purview of the Act by virtue of the Proviso to Sub-Section (2) of Section 1 of the Act.



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12. A learned Single Judge of the Bombay High Court had an occasion to deal with the said provision in the case of ***MV Lima V Vs. Coastal Marine Construction & Engineering Ltd. [Interim Application No.105 of 2022 in Commercial Admiralty Suit No.82 of 2021 dated 28.2.2023]*** wherein the relevant portions are extracted as hereunder:

"31. In my view a conjoint reading of the provisions contained in Sub-section (2) of Section 1 of the Act, 2017 and Section 2(1) (a) of the Act, 1917, indicate that even when a vessel is registered under the Inland Vessels Act, 1917, the applicability of the Admiralty Act, 2017 cannot be questioned unless it can be shown that the Vessel ordinarily plied on inland water. The registration of a vessel under Inland Vessels Act, is not the sole barometer of determining the character of a vessel. An essential feature of an inland vessel is its voyages ordinarily within the inland waters. Secondly, the inland vessel which is registered under the Merchant Shipping Act, 1958, loses the character of an inland vessel, even if it ordinarily plies on inland water and registered under the Inland Vessels Act, 1917. In either case, the registration of a vessel under Chapter IIA of the Act, 1917, is not determinative.

.....



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36. *In this view of the matter, at best, the question as to whether the Defendant No.1 Vessel ordinarily plied on inland waters would be a triable issue. Thus, I am not impelled to vacate the order of arrest on the ground that the Defendant No.1 Vessel could not have been arrested as it falls beyond the purview of the Admiralty Act, 2017."*

13. A learned Single Judge of the Calcutta High Court also had an occasion to deal with this issue in the decision in ***I-Marine Infratech (India) (P) Ltd. Vs. Owners & Parties interested in the Vessel M.V.Maheshwari [reported in 2020 SCC OnLine Calcutta 3254]*** wherein the relevant portions read thus:

"19. The plaintiff, in its supplementary affidavit, has stated that the defendant No.1 vessel is registered as an Indian ship under the provisions of The Merchant Shipping Act, 1958 having Official No.4038. A communication has been produced by the plaintiff from the defendant No.2 dated 1st August, 2019 which states in the very first line that M.V.Maheshwar (Official No.4038) is registered under the Merchant Shipping Act. The fact that the defendant vessel is registered under the Merchant Shipping Act takes it outside the definition of a "Inland Vessel" under Section 2(1)(a) of The Inland Vessels Act, 1917. Since a Certificate of



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Registration has been produced by the defendant No.2 with its affidavit showing that the defendant No.1 vessel M.V.Maheshwar is registered under Section 19F of The Inland Vessel Act, 1917, this Act deserves some consideration.

20. Section 19F of The Inland Vessels Act, 1917, relates to any inland mechanically-propelled vessel where the registering authority, on being satisfied after an appropriate enquiry, shall grant to the applicant a Certificate of Registration comprising of certain particulars. The fact of a Certificate of Registration can be found in Section 19A which stipulates that an inland mechanically-propelled vessel shall not proceed on any voyage or be used for any service unless it has a Certificate of Registration in force granted under The Inland Vessels Act, 1917. The Certificate of Registration produced by the defendant No.2 is, therefore, to be seen in the context of Section 19A of the Act, namely, for the purpose of using the vessel within the framework of The Inland Vessels Act, 1917. Two important factors must be mentioned in this context. The first proviso to Section 1(2) of the Admiralty Act restricts the exception carved out to the definition of an inland vessel under the provisions of The Inland Vessels Act, 1917 and stops there. The ambit of the exception is not stretched beyond the definition of an Inland Vessel under Section 2(1)(a) to include



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the aspect of registration of an inland vessel under Section 19A of The Inland Vessels Act, 1917. This should be seen as a conscious and deliberate omission on the part of the Legislature to exclude inland vessels which have been registered under the Merchant Shipping Act from the ambit of the exception. In other words,

- (a) inland vessels which come within the definition of Section 2(1)(a) of the Inland Vessels Act would be excluded from the operation of the Admiralty Act, 2017;*
- (b) The provisions of The Admiralty Act, 2017 would apply to an inland vessel registered under Section 19F of The Inland Vessels Act;*
- (c) The provisions of The Admiralty Act, 2017 would apply to an inland vessel registered under the Merchant Shipping Act, 1958.*

21. The reliance of the defendant No.2 (Rule 1.5 of the Act) River-Sea Notification, 2013, does not come to the assistance of the defendant No.2 since under the said Rule, registration under the Merchant Shipping Act, 1958, as amended, is required to be obtained expressly for the purpose of the Notification which is specifically for Survey, Certification and Operation of Indian River-Sea vessels and has nothing to do with the application of the Admiralty Act, 2017. The Notification,



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despite being of 2013, also does not find mention either in the Admiralty Act or The Inland Vessels Act, 1917, modified as on 3rd December, 2018.

22. In view of the above, the defendant no. 1 vessel is not entitled to seek the cover of the exception carved out in the first proviso to Section 1(2) of the Admiralty Act, 2017. The plaintiff, therefore, can take recourse to the provisions of the Admiralty Act, 2017 to seek an order of arrest of the defendant No.1 vessel for the purpose of securing its maritime claim against the defendant No.2."

14. The Inland Vessels Act, 1917 was replaced by the Inland Vessels Act, 2021 and Section 3(q) defines the term '***inland vessel***' as follows:

"3.

.....

(q) 'inland vessel' includes any mechanically propelled inland vessel or non mechanically propelled inland vessel which is registered and plying in inland waters, but does not include:

(i) a fishing vessel registered under the Merchant Shipping Act, 1958 or the Marine Products Export Development Authority Act, 1972; and



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(ii) any vessel that are specified as not to be inland vessels by notification by the Central Government.

Explanation:- For the purposes of this clause, it is clarified that a vessel registered under the Merchant Shipping Act, 1958 and plying within the inland waters shall be deemed to be an inland vessel registered under this Act."

15. In the case in hand, the defendant claims to have been registered under the Inland Vessels Act, 1917 vide the certificate of registration dated 19.6.2019 and is claiming exemption from the Act.

16. As held by the learned Single Judge of the Bombay High Court in the decision in ***MV Lima V***, after referring to the Inland Vessels Act, 1917 and the Act, the registration of a vessel under the Inland Vessels Act is not the sole barometer of determining the character of a vessel. The essential feature of an inland vessel is that it voyages ordinarily within the inland waters. Even otherwise, the inland vessel registered under the Merchant Shipping Act, 1958, loses the character of an inland vessel, even if it ordinarily plies on the inland waters and is registered under the Inland Vessels Act, 1917. In either



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case, the registration of a vessel under the Inland Vessels Act, 1917 is not determinative.

17. Apart from the above, Section 19F of the Inland Vessels Act, 1917 deals with the grant of certificate of registration. Section 19A also provides that an inland mechanically propelled vessel shall not proceed on a voyage or be used for service without the certificate of registration.

18. A careful reading of the First Proviso to Section 1(2) of the Act makes it pellucid that it restricts the exception carved out to the definition of the term '**inland vessel**' under the provisions of the Inland Vessels Act, 1917 and does not talk anything more than that. The ambit of such exception has not been stretched beyond the definition of the term '**inland vessel**' under Section 2(1)(a) to include the aspect of registration of an inland vessel under Section 19A of the Inland Vessels Act, 1917,

19. The learned Single Judge of the Calcutta High Court specifically took note of this omission and held that the inland vessels,



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which come within the definition of Section 2(1)(a) of the of the Inland Vessels Act, 1917, would be excluded from the operation of the Act and that the provisions of the Act would apply to an inland vessel registered under Section 19F of the Inland Vessels Act, 1917 apart from holding that the provisions of the Act would apply to an inland vessel registered under the Merchant Shipping Act, 1958.

20. Yet another vital fact that has to be kept in mind is that the question as to whether the vessel of the defendant ordinarily plied only in the inland waters, can be decided only during the course of trial.

21. In the light of the above discussions, the second ground that has been raised on the side of the defendant also stands rejected.

22. The third ground that has been raised on the side of the defendant is that there is no concluded contract between the parties.

23. To substantiate the same, the defendant relied upon the invoice dated 20.11.2024. In this invoice, it has been mentioned that certain claims were not accepted and that they had to be reviewed.



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24. The suit claim pertains to a sum of Rs.42 lakhs, which forms part of the very same invoice and the balance of Rs.18 lakhs payable after adjusting the sum of Rs.20 lakhs that was already paid to the sister concern. Thus, the plaintiff is making a total claim of Rs.60 lakhs along with interest from the defendant.

25. A careful reading of the entire plaint would show that the plaintiff certainly established a cause of action against the defendant and the dispute regarding the actual amount payable can be gone into only after the trial is conducted. Accordingly, the third ground raised by the defendant also stands rejected.

26. In the considered view of this Court, a fair reading of the plaint and the documents relied upon by the plaintiff clearly makes out a cause of action for an admiralty action and there is no ground to reject or return the plaint.

27. During the course of hearing, the learned counsel appearing on behalf of the applicant/defendant submitted that the defendant made excessive payments to the plaintiff more than the amount



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claimed.

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28. This is a factual dispute and apart from that, no materials were placed before this Court by the defendant to substantiate this defence.

29. The applicant/defendant has not come forward to furnish any security to enable this Court to lift the order of arrest of the ship.

30. In the light of the above discussions, this Court does not find any ground either to reject the plaint or to vacate the order of arrest passed by this Court in A.No.6206 of 2024.

31. Accordingly, both the applications stand dismissed. The interim order already granted by this Court on 27.11.2024 in A.No.6206 is made absolute.

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