

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/ADMIRALTY SUIT NO. 18 of 2022**

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INDIAN POTASH LIMITED

Versus

M V GOLDEN MAPLE (IMO 9557214)

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Appearance:

MS PAURAMI B. SHETH(841) for the Plaintiff(s) No. 1

for the Defendant(s) No. 1

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CORAM: HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI**Date : 09/06/2022****ORAL ORDER**

1. Draft amendment dated 09.09.2022 i.e. "*1.The plaintiff be permitted to join seller as Defendant No.2 and amend the cause title accordingly for confirmation of the quantity loaded on the board the defendant Vessel "2.Saudi Arabian Mining Company (Maaden), P.O.Box 68861, Riyadh – 11537, Saudi Arabia"* is allowed and the same be carried out forthwith.

2. Learned Advocate Ms. Paurami Sheth has submitted that claim arises for losses caused to the Plaintiff on account of short delivery of the cargo of DAP to the Plaintiff as receiver of the goods by the Defendant Vessel and her Owner, that the Plaintiffs placed order for fertilizers with one Saudi Arabian Mining Company, (MADDEN), Saudi Arabia (for short "seller"), that pursuant to Purchase Order dated 25.05.2022 the Seller dispatched the shipments of the said quantity

material in one cargo on board the Defendant Vessel, raised Commercial Invoice No. 2797473 dated 30.05.2022 for USD 28,980,000.00 for 31,500 MTs DAP for the said supply and also forwarded "Clean on Board" Bill of Lading issued by the Sedres trading & Maritime Services co. Ltd. as the Agent at Load Port, Ras AL Khair, Saudi Arabia on behalf of the Master of the Defendant Vessel since the goods were received in good condition and there has been no apparent damage to the cargo prior to it being loaded on board the vessel. That in any case the Plaintiff has been shown as notify party in Bill of Lading, that meanwhile the Plaintiff opened irrevocable Letter of Credit (L/C) bearing No. 0009MLC00002623 dated 13.05.2022, that the Defendant Vessel arrived at DEENDAYAL Port, Kandla on 05.06.2022 to discharge inter alia the Plaintiff's cargo, that the Plaintiff appointed Rishi Shipping India Pvt. Ltd. to carry out stevedoring and distribution of the cargo, that the defendant Vessel started discharging the cargo of DAP on Board the Defendant Vessel on 05.06.2022 and completed at 09:40 hours on 08.06.2022, that at that time, it was found that there was shortage in receipt of cargo of DAP about 691.470 Mts. on account of the negligence of the Master/owner of the vessel as bailees of the cargo and all concerned during voyage of the Defendant Vessel for which the Defendant Vessel, her Owner as bailees of the cargo and all

interested in her are liable.

3. Learned Advocate Ms. Paurami Sheth also submitted that the Defendants are in flagrant breach of their obligations resulting in loss suffered by the Plaintiff, that the Defendant Vessel and her Owners are therefore liable to make good the losses suffered by the Plaintiff, that the present claim arises out of losses suffered by the Plaintiff for short delivery of the goods on account of operation of the Defendant Vessel and negligence of the Master and others hence amounts to a maritime claim against the Defendants Vessel which falls under Section 4(1)(f) of The Admiralty (Jurisdiction & Settlement of Maritime Claims) Act, the plaintiff is therefore constrained to file present suit and *inter alia* prayed for arrest of the Defendant Vessel and further seeks permission under Order 2 Rule 2 of C.P.C.

4. Upon hearing Ms. Paurami Sheth, Learned Advocate for the Plaintiff and upon reading the plaint herein signed at Ahmedabad on 08.06.2022 filed by the advocate for the Plaintiff herein and the affidavit of Mr. Rohan Kumar, authorized Signatory of the Plaintiff above named declared on 08.06.2022 and upon hearing counsel for the plaintiff and upon the Plaintiff giving an undertaking in writing to the Registrar of this Court to pay such sums by way of damages as this

Court may award as compensation in the event of the defendants sustaining prejudice by this order, I do order that the Registrar of this Court do issue a warrant for the arrest of the Defendant Vessel M.V. Golden Maple (IMO-9557214) along with her hull, engines, gears, tackles, bunkers, machinery, apparel, plant, furniture, equipments and all appurtenances, at present lying at Deendayal Port within the Indian territorial waters and that the Warrant of Arrest be executed at any time of the day or night or on Sundays or holidays and I do further order that the Port Officer and the Customs Authorities at Deendayal Port do effect the arrest, seizure or detention of the defendant Vessel M.V. Golden Maple (IMO- 9557214) at present lying Deendayal Port within the Indian territorial waters or such other place wherever she may be within the territorial waters of India and I do further order that in the event of the defendant and/ or those interested in her depositing in this Court the principal amount of USD 710,871.42 for short of DAP cargo of 691.470 MTs and legal cost of USD 20,000 aggregating USD 730,871.42 together with further interest on USD 710,871.42 at the rate of 18% p.a. from the date of suit until payment, as per particulars of Claim, the said Warrant of Arrest shall not be executed against the defendant Vessel at present lying at Deendayal Port within the Indian territorial waters. The permission to sue is granted under Order 2, Rule

2 of C.P.C.

5. The Port Officer and the Customs Authorities at Deendayal Port are directed to arrest the Defendant Vessel to be at Deendayal Port within the Indian territorial waters and to keep the vessel under arrest until further orders of this Court. It is further ordered that the Port Officer and the Customs Officer at Deendayal Port shall also intimate about this order to the Master/Chief Engineer of the Defendant Vessel through her Agent and effect the warrant of arrest for the Defendant Vessel.

6. The Registry is directed to send this order to Port and Customs at Deendayal Port through Email at following addresses and the Authorities at Deendayal Port shall act on Email copy of the order and take the Defendant Vessel under arrest.

a	dydirector@deendayalport.gov.in
b	harbourmaster@deendayalport.gov.in
c	dyconservator@deendayalport.gov.in
d	srdydirector@deendayalport.gov.in
e	dycvo@deendayalport.gov.in
f	kandlacustoms@gmail.com
g	hmoofficekept@gmail.com
h	signalkpt@gmail.com

7. It is also open for the plaintiff's advocate to communicate the above order by Email to the Authorities and the Owner/person interested in

the Defendant Vessel Owner and the Port and Customs authorities at Deendayal Port are directed to act on Email message with an ordinary copy of this order.

8. Notice to the Defendant returnable on 15.06.2022. It is made clear that it will be open for the Defendant to approach this Court even prior to the returnable date with an adequate notice to the plaintiff.

(VAIBHAVI D. NANAVATI,J)

NABILA