

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

COMMERCIAL ADMIRALTY SUIT (L) NO. 7 OF 2020

Axis Trustee Services Ltd .. Plaintiff
v.
M.T. Prem Mala, IMO No. 9209927 & Ors. .. Defendants

WITH

COMMERCIAL ADMIRALTY SUIT (L) NO. 6629 OF 2020

State Bank of India .. Plaintiff
v.
M.T. Prem Mala & Ors. .. Defendants

WITH

COMMERCIAL ADMIRALTY SUIT (L) NO. 3 OF 2020

Engineering Appliances Corporation .. Plaintiff
v.
M.T. Prem Mala (IMO No. 9209927) .. Defendants

WITH

COMMERCIAL ADMIRALTY (L) NO. 3242 OF 2020

Indian Oil Corporation Limited .. Plaintiff
v.
The Sale Proceeds of M.T. Prem Mala .. Defendant

WITH
ADMIRALTY SUIT (L) NO. 4545 OF 2020

Avdhesh Kumar Verma & Ors. .. Plaintiff

v.

Sale Proceeds of the vessel

M.T. Prem Mala, IMO No. 9209927 & Ors. .. Defendants

Mr. Ashwin Shankar a/w Ms. Shweta Sadanandan in COMAS (L) No. 7 of 2020 (for Axis Trustee Services Ltd).

Mr. Zarir Bharucha a/w Ms. Niloufer Lam, Ms. Rishi Thakur, Mr. Rohaan Pajnigar and Mr. Umang Thakur i/b ZBA in COMAS (L) No. 6629 of 2020 (for State Bank of India).

Ms. Rutuja Patil and Ms. Radhika Venugopal i/b Negandhi Shah and Himayatullah for Plaintiff in COMAS(L) No.3242 of 2020 (for Indian Oil Corporation Ltd).

Mr. Shiv Iyer i/b Ganesh & Co. in COMAS (L) 3 of 2020 (for Engineering Appliances Corporation).

Mr. Manoj Khatri a/w Arnab Ghosh in ADMS (L) No. 4545 of 2020 (for Avdhesh Kumar Verma & Ors.).

CORAM :- B.P.COLABAWALLA, J.

DATE :- MAY 5, 2021.

(THROUGH VIDEO CONFERENCING)

P. C.:

1 I have been informed that SBI and ATSL (acting for

and on behalf of UTI Structured Debt Opportunities Fund-I (“**UTI SDOF-I**”)) have amicably resolved their disputes with respect to the sale proceeds of the vessel, MT Prem Mala (“**Vessel**”) in a 50:50 sharing ratio without priority or preference between them and without admission of the parties’ rights and contentions. Pursuant thereto, Consent Terms have been executed by the authorized signatories of SBI, ATSL (acting for and on behalf of UTI SDOF-I) and UTI SDOF-I on 03 May 2021 (“**Consent Terms**”). The Consent Terms are taken on record and marked ‘**X**’ for identification.

2 In terms of the Consent Terms (specifically paragraphs under the heading Consent Terms), the following Order is passed:

a. The Prothonotary and Senior Master, Bombay High Court shall within seven (7) working days of this Order being uploaded:

i. remit an amount of Rs. 11,56,94,595 (Rupees Eleven Crore Fifty-Six Lakhs Ninety-Four Thousand Five Hundred and Ninety-Five Only) to SBI, as per the bank details provided in

paragraph 26 of the Consent Terms (“**SBI Settlement Amount First Tranche**”);

- ii. remit an amount of Rs. 1,50,00,000 (Rupees One Crore and Fifty Lakhs Only) to ATSL / UTI SDOF-I, as per the bank details provided in paragraph 26 of the Consent Terms (“**SBI Settlement Amount Second Tranche**”). ATSL and UTI SDOF-I shall keep SBI Settlement Amount Second Tranche in trust for and on behalf of SBI and shall be paid to SBI in the manner as set out in paragraph 2(c) and (d) below;
- iii. remit an amount of Rs. 10,03,05,378 (Rupees Ten Crore Three Lakhs Five Thousand Three Hundred and Seventy-Eight Only) to ATSL / UTI SDOF-I, as provided in paragraph 26 of the Consent Terms (“**ATSL Settlement Amount**”);
- iv. remit 38% of the total interest accrued on the Sale Proceeds till the date of breaking of the Bank of Baroda fixed deposit to SBI, as per the bank

details provided in paragraph 26 of the Consent Terms; and

- v. remit 38% of the total interest accrued on the Sale Proceeds till the date of breaking of the Bank of Baroda fixed deposit to ATSL / UTI SDOF-I, as per the bank details provided in paragraph 26 of the Consent Terms.

- b. In aggregate, under the Consent Terms, SBI is entitled to receive an amount of Rs. 13,10,83,812 (Rupees Thirteen Crore Ten Lakhs Eighty-Three Thousand Eight Hundred and Twelve Only) being the aggregate of SBI Settlement Amount First Tranche and SBI Settlement Amount Second Tranche (“**SBI Settlement Amount**”) and ATSL/UTI SDOF-I is entitled to receive a collective amount of Rs. 10,03,05,378 (Rupees Ten Crore Three Lakhs Five Thousand Three Hundred and Seventy Eight Only) (“**ATSL Settlement Amount**”) in terms of paragraph 13 of the Consent Terms.

- c. Within 7 (seven) working days after receipt of SBI

Settlement Amount First Tranche plus interest as mentioned above [paragraph 2(a)(i) and (iv)] SBI undertakes, without any admission to parties' respective rights and contentions, to withdraw Commercial Appeal (L) No. 5538 of 2020 filed before the Hon'ble Division Bench of the Bombay High Court. For calculating 7 (seven) working days in this paragraph, any court vacations and public / bank holidays will be excluded. The said Undertaking is accepted.

- d. Within 7 (seven) working days from the date that the Hon'ble Division Bench Order is uploaded, or certified copy of such Order is made available, in respect of withdrawal of Commercial Appeal (L) No. 5538 of 2020 by SBI, UTI SDOF-I undertakes to pay Rs. 1,50,00,000 (Rupees One Crore Fifty Lakhs Only) as the SBI Settlement Amount Second Tranche, to SBI. If UTI SDOF-I fails to pay the said amount of Rs. 1,50,00,000 (Rupees One Crore Fifty Lakhs Only) as required above, UTI SDOF-I undertakes to pay SBI simple interest at the rate of 12% per annum on the

sum of Rs. 1,50,00,000 (Rupees One Crore Fifty Lakhs Only) from 7 (seven) working days post SBI Appeal withdrawal order passed by the Hon'ble Division Bench of the Bombay High Court till the date of receipt of such amount by SBI. The said undertakings are accepted.

- e. ATSL shall be at liberty and is only entitled to take steps to record the transfer and / or registration of its mortgage, as the case may be, with MMD after receipt of the SBI Settlement Amount (plus accrued interest) in full by SBI (including the amount of the SBI Settlement Amount Second Tranche to be paid by UTI SDOF-I to SBI), and ATSL Settlement Amount (plus accrued interest) by UTI SDOF-I. ATSL / UTI SDOF-I will be entitled to rely on the Settlement Agreement / Consent Terms to have the transfer of the mortgage of ATSL recorded with MMD. SBI, without admission of parties' rights and contentions, consents to the recording of transfer of mortgage in favour of ATSL without any determination of inter-se priorities of ATSL / UTI SDOF-I and SBI. SBI will confirm receipt of

payment of the SBI Settlement Amount to ATSL/UTI SDOF-I. For the avoidance of doubt, it is clarified that SBI shall not be responsible to ATSL or UTI SDOF-I or any third person, in any manner whatsoever, for any delay in recording of transfer or registration of mortgage, as the case may be, by ATSL or UTI SDOF-I with MMD for any reason whatsoever. In case of non-recording or non-registration of its mortgage in the manner mentioned in this clause, neither ATSL nor UTI SDOF-I shall have any right to claim any interest, cost or damages in any form from SBI.

- f. SBI and ATSL consent to the payout of the crew wages of Rs. 21,90,459/- plus accrued interest thereon which forms the subject matter of Admiralty Suit (L) No. 4545 of 2020, as and when determined by the Court.

- g. Amounts in respect of IOCL's Claim and Engineering Appliances' Claim aggregating to Rs. 6,60,97,675 together with the remaining interest accrued till the date of breaking of the Bank of Baroda fixed deposit on the Sale Proceeds shall be retained and re-invested in a

fixed deposit with Bank of Baroda subject to further orders of the Court.

- h. ATSL and UTI SDOF-I, without any admission to each parties' rights and contentions, consents to a decree in favour of SBI as a mortgagee of the Vessel in terms of prayer clause (a) of SBI's Plaintiff and para 31 of SBI's Interim Application (L) No. 1081 of 2020 in Commercial Admiralty Suit (L) No. 6629 of 2020. SBI agrees that the SBI Settlement Amount plus accrued interest received by it as set out in paragraph 14 of the Consent Terms, satisfies SBI's claim in terms of prayer clause (c) of SBI's Plaintiff. The suit is accordingly decreed in terms of prayer clause (a) of the SBI's Plaintiff, against the Vessel and para 31 of SBI's Interim Application (L) No. 1081 of 2020 in Commercial Admiralty Suit (L) No. 6629 of 2020. On receipt of SBI Settlement Amount (including the SBI Settlement Amount First Tranche, SBI Settlement Amount Second Tranche and the respective accrued interest), SBI suit stands disposed of. SBI further undertakes, without any admission to parties' respective rights and

contentions, following receipt of the SBI Settlement Amount (plus accrued interest), to (i) consent to be withdrawn as a Defendant from Commercial Admiralty Suit (L) No. 7 of 2020 filed by ATSL and withdraw its Intervention Application filed in Commercial Admiralty (L) No. 3242 of 2020 filed by IOCL; and (ii) consent to withdraw from ATSL's Interim Application (L) No. 6328 of 2020 [LD/VC/IA/1/2020], in each case, without prejudice to its contentions. The said Undertakings are accepted.

- i. SBI, without any admission to each parties' rights and contentions, consents to a decree in favour of ATSL, as a mortgagee, in Commercial Admiralty Suit (L) No. 7 of 2020 in terms of prayer clause (a) of ATSL's Plaint and prayer clause 28 (e) of ATSL's Interim Application (L) No. 6328 of 2020 LD/VC/IA/1/2020. The suit is accordingly decreed in terms of prayer clause (a) of ATSL's Plaint and prayer clause 28 (e) of ATSL's Interim Application (L) No. 6328 of 2020 LD/VC/IA/1/2020 in Commercial Admiralty Suit (L) No. 7 of 2020.

j. After SBI Settlement Amount (including the SBI Settlement Amount First Tranche, SBI Settlement Amount Second Tranche and the respective accrued interest) is fully received by SBI, ATSL shall be at liberty to contest the Engineering Appliances Claim and IOCL Claim and shall have full right to appropriate any amount in respect of above claims from the Sale Proceeds of the Vessel, unless any decrees favouring Engineering Appliances and/or IOCL rank higher in priority to ATSL's decree.

3 SBI, ATSL and UTI SDOF-I undertakes to perform their obligations under the Consent Terms and in accordance with the timelines mentioned therein. Undertakings are accepted.

4 All parties to act on an authenticated copy of this order duly signed by the Personal Assistant / Private Secretary / Associate of this Court.

(B. P. COLABAWALLA, J.)