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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION
IN ITS COMMERCIAL DIVISION

JUDGE'S ORDER (L) NO.15151 OF 2024
IN

COMM ADMIRALTY SUIT (L) NO.15101 OF 2024

M/s. Iff India Frozen Foods Pvt. Ltd. ...Plaintiff

Versus

SSL Brahmputra (IMO 9238806) & Ors. ...Defendants

Yadunath Bhargavan with Satyam Pandey i/b. R. Bhargavan and Associates for the Plaintiffs. (For Caveator in COMAS (L) No.14586 of 2024.

Prashant Pratap, Senior Advocate, Naira Jeejeebhoy, Ruchir Goenka and Avesh Harshan i/b Bose & Mitra and Co. for the Defendant Nos.1 and 2.

CORAM : R.I. CHAGLA J.
DATE : 3RD MAY, 2024.

ORDER :

1. Mr. Bhargavan, the learned Counsel appearing for the Plaintiff states that pursuant to the caveat filed against the arrest of the 1st Defendant vessel which is entered in the caveat warrant book, the present Suit has been filed. The caveat is accordingly discharged.
2. The Plaintiff has made a claim against inter alia Defendant Nos.1 and 2. The Defendant No.1 is the Defendant –

Vessel and Defendant No.2 is the owner of the Defendant vessel. The claim is in respect of damaged cargo of the Plaintiff on the Defendant vessel and which is stated to be a maritime claim under Section 4(1) (d) and 4(1) (f) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 and for recovery of sums due to the Plaintiff on account of damage to the cargo of the Plaintiff and goods of the Plaintiff shipped in the Defendant vessel along with the sum for recovery of sums due to the Plaintiff on account of supplies made to the Defendant vessel along with reimbursement of damages payable to the Plaintiff. The total claim against the Defendant vessel is USD 2133546.25 together with further interest at 18% p.a. from the date of filing of the present Suit till payment and / or realization.

3. I have heard Mr. Bhargavan, the learned Counsel for the Plaintiff and considered the submissions made in the Plaint. After going through the Plaint and annexure thereto, I find that prima facie a case is made out for arrest of the Defendant vessel as the claim falls within the meaning of Section 4(1) (d), 4(1) (f) read with Section 5 of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017.

4. In these circumstances, I find that there is a cause of

action in favour of the Plaintiffs. The Defendant vessel being at Mumbai anchorage is within the admiralty jurisdiction of this Court. The Plaintiffs have made out a strong prima facie case. The balance of convenience also lies with the Plaintiffs to whom, in my view, almost irreversible prejudice would be cause if reliefs were denied. Accordingly, I order and direct the arrest of the Defendant vessel SSL Brahmaputra (IMO 9238806) along with her hull, engines, gears, tackles, bunkers, machinery, apparel, plant, furniture, fixtures, appurtenances and paraphernalia, Plant and Machinery at present at anchorage at the Port of Mumbai or wherever she is within the territorial waters of India until the satisfaction of the Plaintiffs' claim to the tune of USD 2133546.20 together with further interest @ 18% p.a. till payment and / or realization.

5. As mentioned earlier, there is also a Judge's Order. I have seen the Judge's Order and it seems to me to be in the proper form and with the appropriate contents. I accept the undertakings given along with the Judge's Order as undertakings given to the Court. I therefore, make an order in terms of the Judge's Order in the facts and circumstances of the present case.

6. This order will be digitally signed by the Private

Secretary of this Court. All concerned will act on a digitally signed copy of this Order. They will act on production of a copy digitally signed by fax and by email. The authorities in question are the Port and the Customs Authorities.

7. The undertaking of the Plaintiffs' Advocate that the warrant of arrest will be served upon the Defendant vessel and all other concerned authorities within a period of six weeks from today is accepted.

8. After service of this Order of arrest, if the arrested vessel is not released by furnishing security or bail amount within 6 weeks of service, or an application for vacating the order of arrest is not filed, or the vessel is found abandoned by the person in-charge of the vessel or owner, or is found unmanned, then, in such an event, on an application being made by the Plaintiffs, the office of the Sheriff of Mumbai shall present a Sheriff's report for auctioning the vessel within 14 days from the date of receiving communication from the Plaintiffs' Advocate or from the date of knowledge of abandonment of the vessel.

[R.I. CHAGLA J.]