

ODSL-2

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Admiralty Jurisdiction
ORIGINAL SIDE

AS-COM/7/2024
IA No. GA-COM/1/2024, GA-COM/2/2024

PATANJALI FOODS LTD.
-VS-
M. T. ERAWAN 12 (IMO NO.9301366) ANR.

BEFORE:
The Hon'ble JUSTICE BISWAROOP CHOWDHURY
Date : October 18, 2024.

[VACATION BENCH]

Appearance :
Mr. Prathamesh N. Kamat, Adv.
Mr. Rituparna Chatterjee, Adv.
Ms. Khushboo Choudhury, Adv.
Mr. Bodhisattwa Majumder, Adv.
Mr. Zubeen Pandey, Adv.
...for the plaintiffs/petitioners

The Court:

AS-COM/7/2024

Upon considering the facts and circumstances of the case, leave under Order II Rule 2 of the Code of Civil Procedure, 1908 as well as leave for dispensation under Section 12A of the Commercial Courts Act is allowed.

IA No. GA-COM/1/2024, GA-COM/2/2024

The suit of Maritime claim filed by the plaintiff is for (a) decree of 13,05,66,505/-; (b) for arrest of MT ERAWAN 12 (IMO No. 9301366) with her

hull, tackle, engines, gears, apparel, equipment and/or paraphernalia lying on board; (c) sale of MT ERAWAN 12 (IMO No. 9301366) along with her hull, tackle, engines, gears, apparel, equipment and/or paraphernalia lying on board; and appropriation of proceeds of such sale in *pro-tanto* satisfaction of the plaintiff's claim. The plaintiff has filed affidavit of the assets where the plaintiff has submitted that the vessel has arrived at the Discharge Port and tendered notice of readiness on 8.9.2024 confirming that the vessel was in all respects ready to discharge the cargo. However, the vessel was not allowed to berth by the Port Authorities at the Discharge Port. Learned Advocate relies upon the documents showing its readiness. It is further contended that thereafter, the plaintiff urgently approached Arvee and by oral communication asked them to take up the issue of the vessel being denied entry and to resolve the same at the earliest and the plaintiff was further shocked to learn that the vessel entry was further denied by the Port Authorities as the vessel/owners failed to procure the following documents:

- (a) Cargo Ship Safety Radio Certificate;
- (b) International Oil Pollution and Prevention Certificate;
- (c) Cargo Ship Safety Equipment Certificate;
- (d) Cargo Ship Safety Construction Certificate;
- (e) International Load Line Certificate;
- (f) Record of equipment for the Cargo Ship Safety Radio Certificate;
- (g) International Air Pollution Prevention Certificate;

(h) International Certificate of Fitness for the carriage of dangerous chemical in bulk;

(i) Cap Certificate.

Learned Advocate draws attention to different notification by which the Customs duty already paid by the plaintiff has to be paid again due to delay in arrival of the vessel and due to no fault of the plaintiff.

Upon considering the different aspects, the plaintiff has made claim of Rs.13,05,66,505/-. The vessel is a foreign vessel according to the plaintiff and flying the flag of Indonesia and the plaintiff is alleged to be informed by the vessel agents that the defendant vessel is likely to sail out of Haldia Port on 18.10.2024. Thus, the extreme urgency in the matter and Section 12 (a) of the Commercial Courts Act, 2015 may be dispensed with.

Upon considering the provisions contained in Section 4 of the Admiralty Jurisdiction and Settlement of Maritime Claims Act, 2017 and the provisions contained in Section 5 of the said Act and considering the contentions and the materials on record, this Court is of the view that the plaintiff prima facie has been able to make out a case for obtaining the relief sought for.

Let there be an order of arrest of MT ERAWAN 12 (IMO No. 9301366) along with her hull, tackle, engines, gears, apparel, equipment and/or paraphernalia lying on board from the date of this order.

Let a copy of the arrest of the vessel be communicated to the Port Authorities, Custom Authorities as well as the Marshall of the vessel by the plaintiff. The Marshall shall also communicate the same to the Port Authorities, Custom Authorities and the vessel owner.

Let the matter appear on the reopening date of the vacation. As certain defects are pointed out by the office, let these defects be cured by the learned Advocate for the plaintiff/petitioner.

(BISWAROOP CHOWDHURY, J.)