

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 840 OF 2004

M/S JAISU SHIPPING COMPANY PVT. LTD.

Appellant (s)

VERSUS

M.V. ASEAN JADE & ORS.

Respondent(s)

(With appln(s) for permission to file additional documents and with office report for direction)

Date: 24/04/2014 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR
HON'BLE MR. JUSTICE A.K. SIKRI

For Appellant(s)

For Respondent(s)

Mr. Siddhartha Dave, Adv.
Ms. Jentiben AO, Adv.
Mr.Senthil Jagadeesan,Adv.

UPON hearing counsel the Court made the following
O R D E R

This appeal is dismissed for non prosecution in terms of the signed order.

(Sukhbir Paul Kaur)
Court Master

(Indu Bala Kapur)
Court Master

(Signed order is placed on the file)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.840 OF 2004

M/S. JAISU SHIPPING COMPANY PRIVATE LIMITED

Appellant(s)

Versus

M.V. ASEAN JADE AND OTHERS

Respondent(s)

O R D E R

This appeal has been pending since 2004 which

arises out of a special leave petition which was filed in the year 2003. Initially, the appellant was being represented, when notice was issued on 28th April, 2003. The respondent herein was the defendant in Admiralty Suit No. 10 of 2000 filed by the appellant. In the aforesaid suit, the respondents filed Miscellaneous Civil Application No. 33 of 2000 seeking a direction that the appellant be ordered to pay a sum of Rs.2,70,000/- per day for detention of the vessel for eight days. The aforesaid application was allowed. The appellant, therefore, filed O.J. Appeal No. 11 of 2002 in Miscellaneous Application No. 33 of 2000 with Civil Application No. 52 of 2002 with Letters Patent Appeal (Stamp) and/or O.J. Appeal No. 1369 of 2000 in the High Court of Gujarat at Ahmedabad. The appeal was

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dismissed by the Gujarat High Court by the impugned order dated 27.12.2002 with the following observation :-

"Thus in the facts and circumstances, the first order vacating the order of arrest could not be faulted and we find no reason to interfere with the acceptance of the assessment of damages furnished by the affected party. However, in view of the concession fairly made by the learned counsel Mr. Vakil, as recorded earlier, and the fact that the vessel M.V. ASEAN JADE was actually under the order of arrest, at the most for five days from 27.6.2000 to 1.7.2000, we modify the award of damages so as to restrict it to Rs.13,50,000/-. We, however, order that the amount of Rs.13,50,000/- shall be paid by the Appellant (Original Plaintiff) to the opponent No.1, through its owner, authorised agent or representative, on or before 31.1.2003. If the payment is delayed beyond that date, the amount shall be paid with interest @ 12% per annum for the subsequent period till realization. The Letters Patent Appeal (Stamp) No. 1369 of 2000 and/or O.J. Appeal (Stamp) No. 1369 of 2000 shall not be registered and shall stand disposed. The appeal is accordingly partly allowed with no order as to costs. Civil

Application No. 52 of 2002 also stands disposed. We place on record the fact of valuable assistance, rendered at the request of the Court, by learned Advocate Mr. M.J. Thakore."

The aforesaid direction was challenged by the appellant by way of Special Leave Petition(C) No. 5751 of 2003 giving rise to the present appeal.

In view of the fact that the Trial Court as well as the High Court directed payment of certain compensation

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to the respondents, this Court by order dated 12.9.2003 directed the appellant to deposit the amount awarded within two weeks with the Registry of this Court. However, the amount was not deposited by the appellant. Therefore, on 3.2.2004, this Court granted another two weeks time to the appellant for making the deposit. It was further directed that it will be open to the respondents to withdraw the same. If the respondents chose to withdraw the amount, it shall be subject to the condition that in case the appellant succeeds, the said amount shall be refunded by the respondents to the appellant within a period of two weeks thereafter.

Ultimately, when the matter came up for hearing on 29th March, 2012, this Court directed the Secretary General to release 50% of the amount deposited by the appellant to Respondent No.1 without security.

Thereafter, the appellant perhaps lost interest in the matter as on 17th January, 2013 the Advocate-on-Record appearing for the appellant stated that for a long time, he has not been receiving any instructions from the appellant with regard to the present matter. Since 50% of the amount had still not been released to the respondents, it was directed that the amount be released to the Power of Attorney Holder of Respondent No.1 - Mr. A.M. Krishnan.

We are informed by Mr. Dave that this amount has been released. However, in spite of further efforts having been made to elicit some response from the appellant, it has not been possible to evoke any interest in the appellant.

The office has sent a reminder on 21.11.2013 but till date, no response has been received.

On 26th February, 2013, Mr. Chanchal Kumar Ganguli, learned counsel for the appellant made a prayer to discharge him from the case since he was not getting any instructions from the appellant. He was permitted to take discharge from the case.

Keeping in view all the aforesaid facts and circumstances, we have no alternative but to close the present proceedings by dismissing the appeal for non prosecution. Let the remaining amount deposited in this Court be released to the Power of Attorney Holder of Respondent No.1 - Mr. A.M. Krishnan together with the accrued interest.

.....J.
(SURINDER SINGH NIJJAR)

.....J.
(A.K. SIKRI)

New Delhi,
April 24, 2014.