
(2019) 05 CAL CK 0035

In the Calcutta High Court

Case No : Temp APO (APOT) No. 48 Of 2019, General Application No. 1206 Of 2019 With Admiralty Suits (AS) No. 11 Of 2018

Rigveda Maritime Pvt. Ltd

APPELLANT

Vs

Sohom Shipping Pvt. Ltd. & Ors

RESPONDENT

Date of Decision : 15-05-2019

Acts Referred:

Major Port Trust Act, 1963 — Section 64
Calcutta Port Trust (Distrain or Arrest And Sale Of Vessels) Regulations, 1988 — Regulation 5, 6

Citation : (2019) 05 CAL CK 0035

Hon'ble Judges : Soumen Sen, J;Ravi Krishan Kapur, J

Bench : Division Bench

Advocate : Asis Kumar Banerjee, Abhijit Chakrabarti, Siddhajyoti Biswas, Asutosh Mohanty

Final Decision : Disposed Off

Judgement

The appellant is not a party in the original suit. The appellant has filed this appeal with a prayer for leave to file the instant appeal. The affidavit of service filed shows that service has been effected on all the parties including the plaintiff. However, in spite of notice, the plaintiff is not represented.

The appellant seems to be aggrieved by an order passed by Justice Arindam Sinha on 7th May 2019 in which His Lordship has laid down certain procedures to be followed regarding the sale of the ship in question. The procedure prescribed is in partial modification of Regulations 5 and 6 of Calcutta Port Trust (Distrain or Arrest and Sale of Vessels) Regulations, 1988.

Mr. Asis Kumar Banerjee, the duly authorised representative of the applicant, has submitted that the applicant has filed an admiralty suit for arrest of the vessel in question, and in the said suit, an order of arrest was passed on 24th November 2017 and the said order was confirmed on 30th November 2017. The applicant has a substantial claim against the owners of the vessel and is apprehensive that

in the event the sale takes place, it may prejudice the interest of the applicant qua the vessel. The apprehension further expressed is with regard to the modalities of the sale. The applicant presumes that the sale would be by private treaty and not by public auction, in which case, the realisation by way of sale proceeds may be inadequate.

We have heard Mr. Abhijit Chakrabarti, Chief Law Officer in Charge of the added defendant, and Mr. Asutosh Mohanty, learned advocate representing the respondent No. 2. Mr. Mohanty has submitted that the defendant No. 2 has entered into a settlement with all the claimants including the banks and the matter is likely to be settled between the parties, in which case, there would be no necessity to sell the said vessel. Mr. Mohanty has also submitted that in earlier proceedings, the defendant No. 2 in its affidavit has stated that the defendant No. 2 has received offer from a buyer which would completely wipe out the claims of all the claimants. However, on enquiry made by this Court, Mr. Mohanty is unable to disclose the particulars of either the buyer or the consideration amount. Mr. Mohanty is also unable to produce any document to show that the applicant or the plaintiff has agreed to settle their disputes with the owners. In any event, the order of arrest of a ship operates in rem. Large number of proceedings have been initiated against the ship. The arrest order is in force for more than one and a half years and it is in the best interest of all the parties that the vessel is sold at the earliest following the procedure indicated by Justice Sinha in His Lordship's order dated 7th May 2019. It is only after receipt of the sale proceeds that the distribution of the sale proceeds can take place in accordance with Section 64 of the Major Port Trust Act, 1963.

We have perused the order and it does not appear to us that the sale will be on a private treaty. In fact, we have been informed by Mr. Chakrabarti that the Port Trust has already taken steps for valuation of the vessel and steps are being taken to obtain necessary permission from the Director General of Shipping for taking further steps in the matter. We expect that the process would be expedited and the directions passed by Justice Sinha would be strictly complied with by the parties.

With the aforesaid observations, the appeal and the application are disposed of. However, there would be no order as to costs. Undertakings are discharged.