

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE M.A.ABDUL HAKHIM**

**Thursday, the 10th day of July 2025 / 19th Ashadha, 1947
IA.NO.1/2025 IN ADML.S. NO. 12 OF 2025 J**

APPLICANT/PLAINTIFF:

**STATE OF KERALA REPRESENTED BY ITS SPECIAL SECRETARY ENVIRONMENT
DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, KERALA PIN -
695001.**

RESPONDENTS/DEFENDANTS:

- 1. M V MSC AKITETA II (IMO NO. 9220847) (AND HER OWNERS AND ALL OTHER
PERSONS CONCERNED AND ALL OTHER PERSONS CONCERNED AND/OR INTERESTED
IN HER) A VESSEL REGISTERED IN LIBERIA, TOGETHER WITH HER HULL,
TACKLE, ENGINES, GEARS, PLANT, MACHINERY, ARTICLES, THINGS, APPAREL,
EQUIPMENT, PARAPHERNALIA, AND ALL OTHER APPURTENANCES, PRESENTLY AT
THE PORT AND HARBOUR OF ADANI PORT, WITHIN THE TERRITORIAL WATERS OF
INDIA AND WITHIN THE ADMIRALTY JURISDICTION OF THIS HON'BLE COURT.**
- 2. MEDITERRANEAN SHIPPING CO. S.A (MSC) REPRESENTED AS OWNER/DEMISE
CHARTERER/MANAGER AND OPERATOR OF THE VESSEL, MSC ELSA 3, HAVING ITS
OFFICE ADDRESS AT SA CHEMIN RIEU, 12-14, 1208, GENEVA, SWITZERLAND.**
- 3. MEDITERRANEAN SHIPPING COMPANY THROUGH ITS AUTHORIZED NODAL OFFICER,
MR. JACOB GEORGE, MSC HOUSE, ANDHERI – KURLA ROAD, ANDHERI EAST,
MUMBAI, MAHARASHTRA, INDIA, PIN - 400059.**
- 4. MSC AGENCY INDIA PVT LTD 146, PALAYAMKOTTAI ROAD, 1ST FLOOR,
MANICKAM TOWER, TUTICORIN, INDIA, PIN - 628003.**
- 5. ADANI VIZHINJAM PORT PVT LTD PORT OPERATION BUILDING, MULLOOR,
THIRUVANANTHAPURAM, KERALA, INDIA, PIN - 695521.**

**Application praying that in the circumstances stated in
the affidavit filed therewith the High Court be pleased to
issue a warrant of arrest of the 1st defendant Vessel M V MSC
AKITETA II(IMO No.9220847) flying flag of Liberia,along with
her hull, tackle, engine, machinery
spares,gear,apparel,paraphernalia,furniture,etc,presently/sche
duled to be within the Territorial Waters of India at the
Port/Anchorage of Vizhinjam and direct the 5th defendant
(Adani Vizhinjam Port PVT LTD, Port Operation
Building,Mulloor,Thiruvananthapuram,Kerala-695521) to keep the
vessel under safe arrest until further orders of this Hon'ble
Court and also prayed that this Hon'ble Court may be pleased
to communicate the order of arrest to the 5th
Respondent/Defendant by e-mail/fax/phone and direct the 5th
Respondent/Defendant to act upon the e-mail/fax/copy of the
order, in the interest of justice.**

This Application again coming on for orders upon perusing the application and the affidavit filed in support thereof, and this court's order dated 07.07.2025, and upon hearing the arguments of ADVOCATE GENERAL SRI.K. GOPALAKRISHNA KURUP and GOVERNMENT PLEADER SMT.PARVATHY KOTTOL, for the Applicant/State of Kerala and of SRI. PRASANT S. PRATHAP, SENIOR ADVOCATE and SRI.PRANOY K.KOTTARAM Advocate for the respondent No.1, SRI.ROSHEN D. ALEXANDER, Advocate for the respondent No.5, the court passed the following:



M.A. ABDUL HAKHIM, J.

Adml.S. No. 12 of 2025

Dated this the 10th day of July 2025

ORDER

1. List the suit for further consideration on 06.08.2025.

I.A. No.1 of 2025

1. This Court passed an order of conditional arrest dated 07.07.2025 in this Application for arresting the 1st respondent Vessel till the 1st respondent furnishes security for the plaint claim of Rs.9,531 Crores to the satisfaction of this Court.
2. This Application was posted today for further consideration on the request of the learned counsel for the 1st respondent, Sri. Pranoy K. Kottaram, who appeared pursuant to the Caveat filed by him.
3. Today, when this Application is taken for consideration, Senior Counsel Sri. Prasanth S. Pratap instructed by Adv. Sri. Pranoy K. Kottaram appeared for the 1st respondent and made submissions to convince this Court that the suit at the

instance of the State Government is not maintainable as the vessel is not within the territorial waters; that there is no report of any oil pollution caused on account of the accident of the vessel MSC ELSA III; that the oil sheen spread within one nautical mile in the sea was completely removed by the ship owner and that the claim, if at all maintainable, is highly exaggerated for want of supporting documents. The learned Senior counsel invited my attention to Section 11(2) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017, which provides for modification or cancellation of the security for sufficient reasons by this Court on application of the party providing security. The learned Senior Counsel cited the Division Bench judgment of this Court in MFA (Admiralty) Nos. 78 & 90 of 2017 in which the Division Bench confirmed the order of the learned Single Judge reducing the security to Rupees one Crore as against the original order to furnish the security for Rs.18.15 Crores. The learned Senior Counsel submitted that the 1st respondent will be filing Counter Affidavit detailing its objections along with supporting

documents within a short time and that the oral submissions are made on account of the extreme urgency in the matter and the paucity to file Counter Affidavit.

4. The learned Advocate General, Sri. K. Gopalakrishna Kurup, instructed by Smt. Parvathy Kottol submitted that this Court passed an interim order of arrest on 07.07.2025 after satisfying the prima facie case revealed from the plaint and the supporting documents. The further consideration as to the continuance or modification of the said order arises only after the completion of pleadings in the Interim Application. The respondents have not filed any counter affidavit in the matter.
5. In the light of the submissions made before me, I am of the view that this Court can consider the modification or continuance of the order of arrest only after completion of the pleadings in this Application. Accordingly, the 1st respondent is directed to file its Counter Affidavit with supporting documents within two weeks from today and the Applicant is directed to file Rejoinder, if any, within a further period of one

week, in order to enable this Court to dispose of this Application finally.

6. This Application is posted to 06.08.2025 for hearing.
7. Till 06.08.2025, the order of arrest passed on 07.07.2025 shall remain in force.

Sd/-

**M.A.ABDUL HAKHIM
JUDGE**

jma

