



IN THE HIGH COURT OF ORISSA AT CUTTACK

ADMLS No.2 of 2025

ALPHARD MARITIME LTD. **Plaintiff**
Mr. Ashok Kumar Parija, Sr. Advocate being assisted by
Ms. Amrita Panda, Advocate
-versus-
OCEAN JADE (IMO:9660750) & **Defendants**
another

CORAM:
HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

Order No.
01.

ORDER
19.03.2025

I.A. No.7 of 2025

This matter is taken up through Hybrid Mode.

2. This Interlocutory Application has been filed by the Plaintiff seeking extension of time to pay the deficit Court fees.

3. Heard Mr. Ashok Kumar Parija, learned senior counsel being assisted by Ms. Amrita Panda, learned counsel appearing for the Plaintiff.

4. Considering the averments made in this Interlocutory Application and also the submission advanced on behalf of the Plaintiff, the deficit Court fee be furnished within four weeks. The Registry shall report with regard to its filing and sufficiency before the next date.

5. Accordingly, this I.A. stands disposed of.

ADMLS No.2 of 2025/I.A. No.6 of 2025

6. The present Admiralty Suit has been filed seeking claim arising out of the Settlement Agreement dated 16.09.2024



(Annexure-6 to the suit). It is the Plaintiff's case that the Settlement Agreement constituted a contract for sale of several vessels *inter-alia*, including the vessels for which arrest has been presently sought for.

7. Facts, as adumbrated by the plaintiff, reveal that on 25.01.2024, Alphard Maritime Pvt. Ltd. (the plaintiff's associated entity in India) entered into a Memorandum of Understanding for sale and purchase of seven vessels ("2024 MoU") with Samson and two vessels with Underwater Services Company Limited ("Underwater"). Two of the vessels to be sold by Samson were the Defendant-Vessels 1 and 2. Samson and Underwater breached this 2024 MoU as they failed to obtain the approvals, NOCs and NECs required to be obtained by the 2024 MoU.

7.1. On 16.09.2024 the plaintiff entered into a Settlement Agreement with Samson and Underwater.

7.2. As per the Settlement Agreement, 30 days were given to Samson and Underwater to apprise their creditors of the fact that they had arrived at a distressed deal with the plaintiff to sell these nine vessels to repay their debt to their creditors. The payments from the sale of the vessels were to be made directly to Samson's and Underwater's lenders.

7.3. In terms of clause 3.2 of the Settlement Agreement, the parties capped the consideration for the purchase of these nine vessels at not more than INR 170 crores.

7.4. As per clause 3.3 of the Settlement Agreement, if Samson and Underwater fail to formally execute the MOAs, they would be



jointly and severally liable to indemnify the plaintiff for any loss incurred or arising out of this failure.

7.5. Between October, 2024 to February, 2025, Samson and Underwater made several executes and kept delaying the execution of these aforesaid agreements. Even though all material terms and conditions of these agreements were agreed and finalized, and the agreements were even symbolically executed between the parties, on several occasions, Samson and Underwater confirmed that the creditors were apprised of the deal and that they were about to formally execute, *inter alia*, the MOAs.

7.6. However, till date Samson and Underwater have not formally executed the MOAs. Accordingly, they are in breach of clause 3.1 of the Settlement Agreement and are liable to indemnify the plaintiff for its losses in terms of clause 3.3 of the Settlement Agreement including for loss of revenue and profit.

7.7. The plaintiff has quantified its losses as the difference between the current market price of the nine vessels and the intended distress-sale price at which the plaintiff would have purchased the vessels from Samson and Underwater.

8. Mr. Ashok Kumar Parija, learned senior counsel submitted that the present maritime claim arises under Section 4(1)(r) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 and constitutes a claim “arising out of a contract for sale of the vessel”. He further submitted that a claim for indemnity would also constitute a maritime claim since the underlying claim is towards a dispute arising out of a contract for the sale of the vessel.



8.1. Mr. Ashok Kumar Parija, learned senior counsel further submitted that the plaintiff has invoked Arbitration by a Notice dated 20.02.2025 as amended on 08.03.2025. However, the present Admiralty Suit is against the Defendant-vessels which constitutes a claim *in rem*. It is submitted that the existence of an Arbitration clause in the settlement agreement or any proceedings in Arbitration would not come in the way of the present suit since this is a claim against the vessels *in rem*.

9. A perusal of the Settlement Agreement makes it apparent that Clause 3.1 stipulated that the Owners of the Defendant-vessels were required to sell the vessels in question and formally execute the Memorandum of Agreements within 30 days from the date of the Settlement Agreement. No such Memorandum of Agreements, as alleged, have been executed for purchase of the vessels stipulated in the Settlement Agreements.

9.1. Clause 3.3 of the Agreement stipulates that the Owners of the vessels shall be liable to indemnify the plaintiff herein for any losses incurred or arising out of a failure or breach of Clause 3.1 of the Agreement.

10. The present suit is filed seeking an Order and Decree for a sum of USD 49,268,902.45 along with interest (presently amounting to approximately Rs.428 crores). The plaintiff seeks to arrest Defendants-vessels towards its claim for indemnifying the loss suffered on account of breach of the Settlement Agreements.

11. It is stated that both the Defendants-vessels are presently situated at the Port of Paradip, Odisha. The plaintiff has furnished *prima facie* proof of the location of these vessels. It is, therefore,



apparent that the Defendants-vessels are within the jurisdiction of this Court and, accordingly, the plaintiff has approached this Court on an urgent basis seeking arrest of the said vessels.

12. Heard learned counsel for the plaintiff. Perused the documents annexed to the suit. This Court is *prima facie* satisfied that the claim is maintainable in this forum of admiralty against the aforesaid defendants-vessel, i.e., OCEAN JADE (IMO:9660750) and OCEAN MORGANITE (IMO:9676498). Unless the said two vessels are arrested, irreparable damage may ensue, thereby this Court is persuaded that the balance of convenience tilts in favour of the plaintiff.

13. Considering the submission and the averments made in the suit, coupled with documents enclosed to the suit, this Court feels a *prima facie* case is made out against the defendants-vessels. This Court is, therefore, of the considered opinion that unless order of arrest of defendants-vessel- OCEAN JADE (IMO:9660750) and OCEAN MORGANITE (IMO:9676498) is passed, relief claimed in the suit would be rendered infructuous.

14. Ordered accordingly.

14.1. Hence, the defendants-vessel- OCEAN JADE (IMO:9660750) and OCEAN MORGANITE (IMO:9676498) be arrested at Paradeep Port within the Indian territorial waters by the Port Officer and Customs Authorities or any other Competent Authority and keep the vessels under arrest until further orders of this Court. Accordingly, the plaintiff is at liberty to communicate the order along with Letter of the Marshall of this Court, as defined under Rule 2 of the Orissa High Court Admiralty (Jurisdiction and



Settlement of Maritime Claims) Rules, 2020 and through FAX, e-mail and hand delivery. The plaintiff is also at liberty to serve the warrant of arrest at the earliest. All parties shall act on ordinary copy of this order duly authenticated by the Deputy Registrar (Judicial) of this Court.

15. Issue notice in the main case as also interlocutory application to the defendants by a courier service, requisites for which shall be filed within three working days. In the event of furnishing such requisites within the period stipulated the office shall send the notice to the said defendant, fixing a short returnable date. Additionally, the counsel for the plaintiff may serve a soft copy of the plaint as well as the Interlocutory Application by e-mail on the defendants-vessel- OCEAN JADE (IMO:9660750) and OCEAN MORGANITE (IMO:9676498).

16. It is made clear that it will be open for the Defendants-Vessels to approach this Court even prior to the returnable date with adequate notice to the plaintiff.

17. List this matter on 30.04.2025.

(M.S. Raman)
Judge

Ashwini/MRS

Signature Not
Verified

Digitally Signed
Signed by: MANORANJAN
SAMAL
Designation: PERSONAL
ASSISTANT
Reason: Authentication
Location: Orissa High Court,
Cuttack
Date: 19-Mar-2025 18:07:12