

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT**

THE HONOURABLE MR. JUSTICE EASWARAN S.

Wednesday, the 6th day of August 2025 / 15th Sravana, 1947
ADML.S. NO. 13 OF 2025(FILING NO.)

PLAINTIFF(S):

1. ELSA 3 MARITIME INC., A COMPANY INCORPORATED UNDER THE LAWS OF LIBERIA, AND HAVING ITS OFFICE AT 80 BROAD STREET, MONROVIA, LIBERIA, REPRESENTED BY ITS POWER OF ATTORNEY HOLDER ANIL SHAMRAO JADHAV, S/O SHAMRAO BANSI JADHAV, AGE 41, RESIDING AT 147/151, DR. M. G. MAHIMTURA MARG, 3RD KUMBHARWADA, 2ND FLOOR, ROOM NO. 9, GIRGAON, MUMBAI, PIN - 400004.
2. MULTI CONTAINER MANAGEMENT S.A., A COMPANY INCORPORATED UNDER THE LAWS OF PANAMA, AND HAVING ITS OFFICE AT EDIFICIO PH TORRE PANAMA, 15TH FLOOR, BOULEVARD COSTA DEL AND AVENIDA LA ROTONDA, COSTA DEL ESTE, PANAMA, REPRESENTED BY ITS POWER OF ATTORNEY HOLDER ANIL SHAMRAO JADHAV, S/O SHAMRAO BANSI JADHAV, RESIDING AT 147/151, DR. M. G. MAHIMTURA MARG, 3RD KUMBHARWADA, 2ND FLOOR, ROOM NO. 9, GIRGAON, MUMBAI, PIN - 400004.
3. MSC MEDITERRANEAN SHIPPING CO S.A., A COMPANY INCORPORATED UNDER THE LAWS OF SWITZERLAND, AND HAVING ITS OFFICE AT CHEMIN RIEU 12-14, 1208, GENEVA, REPRESENTED BY ITS POWER OF ATTORNEY HOLDER JACOB GEORGE, S/O KV GEORGE RESIDING AT KARIMPILACKIL HOUSE, 1-7, STREET NO. 1, DEEPTHI NAGAR, KOTTAYAM, PIN - 686004.

BY M/S.ADVS.PRASHANT S.PRATAP (SR.), PRANOY K.KOTTARAM,SIVARAMAN
P.L,ATHUL BABU,SREENAND UDAYAN सत्यमेव जयते

DEFENDANT(S):

1. MR. SAJI SURENDRAN, PROPRIETOR, 'MANGALATH CASHEWS', RESIDING AT 637, TP VI, MELEPLAVILA VEEDU, CHERIKONAM, KANNANALLOOR P.O., KOLLAM, KERALA, PIN - 691576.
2. J. J. TRADING COMPANY, A PARTNERSHIP FIRM REGISTERED UNDER THE LAWS OF INDIA, HAVING ITS OFFICE AT MP 2/207-208, KALAYAPURAM P.O., KOTTARAKKARA, KOLLAM, KERALA. REPRESENTED BY ITS MANAGING PARTNER MR. JOSEMON GEORGE, PIN - 691560.
3. MR. R. RAJENDRAN, PROPRIETOR, 'RRR ENTERPRISES', AGED 50 YEARS, S/O RATHINA MANI, AND HAVING HIS OFFICE AT 26/25F, AMPILI VILAI VIRICODE, NALLOR, KANNIYAKUMARI, TAMIL NADU, PIN - 629165.
4. IACOM FOODS PVT. LTD, A COMPANY REGISTERED UNDER THE INDIAN COMPANIES ACT, HAVING ITS OFFICE AT 6-37 A-1, GNARODE, KURUTHENCODE, KALAKULAM, KANNIYAKUMARI, TAMIL NADU, REPRESENTED BY ITS MANAGER MR. VISHNU V., PIN - 629802.
5. GEORGIAN FOOD PRODUCTS PVT. LTD, A COMPANY REGISTERED UNDER THE INDIAN COMPANIES ACT, HAVING ITS OFFICE AT BUILDING NO. 2/694, ST. NICHOLAS CASHEW EXPORTS, NALLILA P.O., KOLLAM, KERALA, REPRESENTED BY ITS DIRECTOR MR. Y. RAJAN, PIN - 691515.
6. SANS CASHEW INDIA PRIVATE LIMITED, A COMPANY REGISTERED UNDER THE COMPANIES ACT, HAVING ITS OFFICE AT PP/17/133, PAVITHRESWARAM PO

PUTHOOR KOLLAM, KERALA, REPRESENTED BY ITS MANAGING DIRECTOR MRS. PRAVEENA V.P., PIN - 691507.

7. STATE OF KERALA, REPRESENTED BY ITS SPECIAL SECRETARY, ENVIRONMENT DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001.
8. ALL PERSONS CLAIMING OR BEING ENTITLED TO CLAIM DAMAGES, ALL PERSONS CLAIMING OR BEING ENTITLED TO CLAIM DAMAGES BY REASON OF OR ARISING OUT OF LOSS/DAMAGE TO CARGO CARRIED ON BOARDS, THE VESSEL MC ELSA 3 (IMO 9123221) FROM VIZHINJAM TO KOCHI IN MAY 2025.

GOVERNMENT PLEADER FOR R7(Served on)

This Unnumbered Admiralty Suit.../2005(Filing No.13/2025) having come up for orders on 06.08.2025, the court on the same day passed the following:

P.T.0



EASWARAN S., J.

**Unnumbered Adml.S. of 2025
(Filing No.13 of 2025)**

Dated this the 6th day of August, 2025

ORDER

The Registry has raised the following two defects:

1. The address of the 8th defendant is shown as "ALL PERSONS CLAIMING OR BEING ENTITLED TO CLAIM DAMAGES."

2. Whether the Vessel MSC Elsa 3 need to be made a party.

2. As regards the first defect, it must be noted that after framing of the Kerala High Court Admiralty (Jurisdiction and Settlement of Maritime Claims) Rules, 2019, governing the procedure for entertaining the admiralty suits, the power of the High Court is equated with that of the civil court. Rule 3 of the aforesaid Rules deals with the procedure for filing of the suits. However, while framing the rules, the High Court did not envisage the situation where a suit for limitation of liability as provided under Section 352 of the Merchant Shipping Act, 1958. Therefore, in such situation, where a suit is filed for limitation of liability, the procedure to be followed is not depicted.

3. Sri.Prashant S. Pratap - learned Senior Counsel appearing on behalf of the plaintiff, would refer to the rules framed by the

Bombay High Court as well as by the Andhra Pradesh High Court, which takes care of the situation. Insofar as our High Court is concerned, inasmuch as the rules do not provide the exact procedure to be followed, but at the same time the right to institute a suit for limitation of liability being conferred under the provisions of the Merchant Shipping Act, this Court is of the considered view that the proceedings prescribed under Order I Rule 8 of the Code of Civil Procedure (CPC) could be adopted. In such circumstances, the objection of the Registry on Point No.1 is overruled.

4. As regards the objection of the Registry as to whether the Vessel MSC Elsa 3 need to be made a party, this Court finds that going by the decision of the Hon'ble Supreme Court in ***World Tanker Carrier Corporation v. SNP Shipping Services Private Limited [(1998) 5 SCC 310]***, the Apex Court has made it clear that in a suit for limitation of liability, the vessel need not be a party. Therefore, the objection raised under Point No.2 is also overruled.

The Registry is directed to number the suit and post the suit for admission on 21.08.2025.

Sd/-
EASWARAN S.
JUDGE

ACR