

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/ADMIRALITY SUIT NO. 13 of 2020

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FUGRO SURVEY (INDIA) PVT. LTD

Versus

BARGE SAPURA 2000 (MMSI NO. 533130084)

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Appearance:

MR SN SOPARKAR, SENIOR ADVOCATE WITH MS PAURAMI B.

SHETH(841) for the Plaintiff(s) No. 1

MR MIHIR THAKORE, SENIOR ADVOCATE WITH MR HARDIK MODH for
the Defendant(s) No. 1,2

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CORAM: HONOURABLE MS.JUSTICE BELA M. TRIVEDI

Date : 08/04/2020

ORAL ORDER

1. Heard learned Senior Advocate Mr. S.N. Soparkar appearing with learned Advocate Mr. Paurami Sheth for the plaintiff and learned Senior Advocate Mr. Mihir Thakore appearing with learned Advocate Mr. Hardik Modh for the defendants through video conferencing.

2. On 01.04.2020, when the suit was listed before this Court the learned Senior Advocate Mr. Soparkar appearing for the plaintiff had made his submissions for granting an ex-parte interim relief namely arrest of the defendant vessel, however at that juncture, the learned Senior Advocate Mr. Thakore had appeared and submitted that he had instructions to appear as a Counsel for learned Advocate Mr. Modh who had filed his Caveat on behalf of Sapura Off-Shore SDN BDH. Learned Senior Advocate Mr. Soparkar, however had raised objections against the Caveator being heard in the Admiralty Suit, in view of the unreported judgment of the Single Bench dated 22.06.2015 in case of **Phaethon International Co. S.A. versus M V Americana** in Admiralty Suit No. 17 of 2015. The Court therefore

leaving aside the said issue as to whether the Caveator could be heard in the Admiralty Suit, had directed the learned Advocate appearing for the plaintiff to make his submissions on merits. The learned Senior Advocate Mr. Soparkar after arguing for sometime had sought time to move a draft amendment and therefore the matter was directed to be put up on 03.04.2020. On 03.04.2020, the Court had granted the amendment as prayed for and had directed the learned Advocate appearing for the plaintiff to furnish the amended copy of the plaint in soft-copy through e-mail. The matter was thereafter directed to be listed on 07.04.2020. On 07.04.2020, again an amendment was sought by the learned Advocate for the plaintiff for impleading Sapura Engineering and Construction (India) as the party-defendant in the suit. The said amendment was also granted by the Court and thereafter the Notices were issued to the defendants, permitting the plaintiff to serve the same through e-mail. Today, the learned Senior Advocate Mr. Thakore has appeared with learned Advocate Mr. Modh for the newly added defendant No. 2.

3. The parties having settled their disputes outside the Court, a separate order is being passed in the main suit. However this order is required to be passed as today the Court noticed that the Caveator Sapura Off-Shore SDN BDH, in the meantime, had filed the Affidavit-in-reply to the plaint, along with the annexures and the judgments running into more than 200 pages sent through e-mail to the Registry without obtaining any permission from the Court. The Court therefore had taken strong exception to such filing of the documents through e-mail without the permission of the Court by the third party, and burdening the Court's records unnecessarily apart from wasting the papers in huge quantity. The Court had brought the said fact to the notice of Mr. Thakore appearing for the defendant No. 2, who was also earlier appearing for the so-called Caveator, and expressed its

intention to impose cost for forwarding such reply and documents without the permission of the Court. The learned Senior Advocate Mr. Thakore however submitted that the reply was filed with bona fide intention and therefore no such costs be imposed.

4. It may also be noted that the Registrar (Judicial) had also brought to the notice of the Court that since the time e-filing is permitted, everyday his Office is receiving the documents in huge quantity through e-mail and sometimes the same documents are repeated sent by the advocates for three to four times, which causes not only inconvenience to the staff but also causes difficulty in downloading the documents in a such huge quantity. The Court has also experienced that the pleadings and the documents are being filed in soft-copy by the learned Advocates without pagination being done and without verifying as to whether the documents are legible or not.

5. At this juncture, it may be also noted that the High Court considering the gravity of situation prevailing in the State, has issued the circular dated 22.03.2020 about the methodology for e-filing and video conferencing. The relevant part as regards e-filing is reproduced as under:

“1) e-FILING:

a) The complete petition in soft copy (scanned PDF format) filed through advocate, may be sent from registered email address of the advocate to efiling.gujhc@gmail.com one day in advance. Further, soft copies of the same may be sent to the Government Pleaders / Public Prosecutors Office at the following address efiling.gujhcgp@gmail.com for civil matters, efiling.gujhcpc@gmail.com for criminal matters, and efiling.gujhcag@gmail.com for matters relating to Central Government respectively. A brief note explaining the extreme urgency would also accompany the petition. If urgency is considered favourably by the concerned Bench, necessary intimation of listing date and time will be informed to the

petitioner/advocate.

b) Payment of Court Fees and filing of affidavit by petitioner, as of now, are optional but the same will have to be furnished once the normal working of the High Court is restored.

c) All pages of the petition would be signed by the petitioner/ authorised agent and also by the lawyer before being scanned. Annexures to the petition, shall also be scanned in PDF format and sent along with the petition. However, upon restoration of normal functioning of the High Court, hard copies of the complete petition as required under the rules would have to be supplied. In cases where affidavit has not been filed with the soft copy, the affidavit which may be subsequently be sworn, would contain recital to the effect that the petition was filed during the crisis period but its contents are being verified now. Even for the matters filed through e-filing during this crisis period and disposed of during this period, the petitioner and his/her lawyer would supply the hard copy complete in all respects, upon restoration of normal functioning of the High Court.

d) The reply, civil application, miscellaneous civil application, if any, to be filed during this period, shall also be filed as per the method given for e-filing of petition.”

6. Since, the Court has noticed that the instructions/ directions as contained in the aforestated circular are not being adhered to by the parties/ Advocates, it is directed that the said circular shall be scrupulously followed by all concerned, failing which stringent view shall be taken in the matter.

7. The Registry is directed to place this order on the website of the High Court of Gujarat for the necessary information of all concerned.

(BELA M. TRIVEDI, J)

SINDHU NAIR