



**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**ADMLS No.1 of 2024**

***Paradip International* .... *Plaintiff***  
***Cargo Terminal Pvt.***  
***Ltd.***

MR. P. Kamat, Advocate  
Mr. N.N. Naik, Advocate  
Mr. I. Patil, Advocate  
Mr. S. Mohanty, Advocate  
Mr. S. Moharana, Advocate

*-versus-*

***M.V. Debi* .... *Defendant***  
***(IMO. 9616735)***

**CORAM: Mr. JUSTICE V. NARASINGH**

**ORDER**

**20.08.2024**

**I.A. No.8 of 2024**

**(arising out of ADMLS No.1 of 2024)**

**Order No.**

23. 1. This is an application for the sale of the defendant vessel M. V. Debi (IMO. 9616735) which was arrested by the Order of this Court dated 23.02.2024 in ADMLS No.1 of 2024.
2. The plaintiff has prayed for a decree against the defendant vessel inter alia to pay the sum of Rs.7,95,47,170/- in terms of Section 4(1)(n) read with Section 9(1)(d) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act,2017. The



defendant entered appearance and contested this claim.

3. On hearing and on considering the competing claims I.A. No.1 of 2024 was disposed of by Order dated 23.02.2024 directing the arrest of the defendant vessel.

The defendant preferred I.A. No. 6 of 2024 for recall of the Order of arrest referred to hereinabove and by Order dated 30.05.2024 this Court did not entertain the prayer for recall of the Order of arrest dated 23.02.2024.

3A. It is apt to note that both of the orders in I.A. No.1 of 2024 and I.A. No.6 of 2024 passed on dated 23.02.2024 and 30.05.2024 respectively have attained finality.

4. The present I.A. seeking sale of the vessel pendente lite was taken up for consideration on 02.08.2024.

On the said date since the copy of the I.A. has not been served on the Counsel appearing for the defendant, this court called upon the plaintiff to serve the copy of the I.A. inter alia seeking sale of the vessel.

4A. On 07.08.2024 a memo filed by the Plaintiff was taken on record wherein the learned counsel on record for defendant endorsed "no instruction" on the body of the memo, while not accepting the copy of



the present I.A (8 of 2024) in terms of the Order dated 02.08.2024.

5. Heard Shri. P. Kamat, learned counsel for the plaintiff along with Mr. S. Mohanty, Advocate.

In I.A No.8 of 2024 multiple prayers have been made. Learned counsel for the Plaintiff confines his submission for scrapping as well as for trading in terms of "prayer-b", which is extracted hereunder:

XXX XXX XXX

b) The Registrar/Marshal be directed to have the Defendant Vessel i.e. M. V. Debi (IMO. 9616735) along with its hull, engines, tackles, machinery, plant, apparel, furniture and all other appurtenances and paraphernalia on the Defendant Vessel surveyed and appraised by a surveyor appointed by the Plaintiff, or any other surveyor / appraiser appointed by this Hon'ble Court or Registrar / Marshal for ascertaining the true value thereof, both for scrapping as well as for trading;

XXX XXX XXX

5A. It is submitted by the Learned counsel for the Plaintiff that since the arrest of the defendant vessel by the Order dated 23.02.2024 the expenses in respect of the defendant vessel are mounting and though initially the lis was contested by the defendant but as is evident from the memorandum adverted to hereinabove the counsels for the defendant have no



instruction and thereafter neither the owner nor the person interested in the vessel have deposited the security relating to the claim amount or have filed written statement denying averments of the plaint.

5B. It is further submitted that each days delay is contributing for increasing the claim of the plaintiff and steps for sale of the defendant vessel needs to be undertaken since the value of the defendant vessel is depreciating by each passing day, on account of the same remaining idle under arrest and it is submitted that any further delay would affect the seaworthiness of the vessel which would adversely impact the price that vessel is capable of fetching to make good the claims of the plaintiff and further creditors of the defendant vessel.

Memo indicating the details of the proposed surveyor is taken on record.

6. The provisions relating to sale are enumerated in Section 11(3) of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (hereinafter referred to as "Admiralty Act, 2017") read with Rule 16 of The Orissa High Court Admiralty (Jurisdiction and Settlement of Maritime Claims) Rules, 2020 (hereinafter referred to as "Admiralty Rules, 2020").



6A. For convenience of reference Section 11(3) of the Admiralty Act, 2017 and Rule 16 of Admiralty Rules, 2020 are quoted hereunder:

**11. Protection of owner, demise charterer, manager or operator or crew of vessel arrested.-**

"xxx xxx xxx

(3) If the owner or demise charterer abandons the vessel after its arrest, the High Court shall cause the vessel to be auctioned and the proceeds appropriated and dealt with in such manner as the court may deem fit within a period of forty-five days from the date of arrest or abandonment:

Provided that the High Court shall, for reasons to be recorded in writing, extend the period of auction of the vessel for a further period of thirty days."

**Rule 16: Application for sale of arrested property:** - In a suit in rem, if the property proceeded against has been arrested, the plaintiff may, at any time alter service of the writ of summons upon the defendant or after the defendant's appearance, whichever is earlier, apply to the Court by notice of Motion for an order that the arrested property be sold by the Marshal and the sale proceeds be paid into the Registry. The Court may make such order on the claim as it thinks fit.



7. In the light of the averments in the IA and considering the submissions of the learned counsel for the Plaintiff in terms of Section 11(3) of the Admiralty Act, 2017 and Admiralty Rules, 2020 the following directions are issued;

i. The order passed by this Court in I.A. No. 1 of 2024 arising out of ADMLS No.1 of 2024 on 23.02.2024 is modified and defendant vessel M.V. Debi (IMO. 9616735) be placed for sale forthwith.

ii. The Learned Deputy Registrar (Judicial) shall act as Court Commissioner till the sale of the defendant vessel M.V. Debi (IMO. 9616735).

iii. The Learned Court Commissioner shall appoint "Adonia Offshore Consultants Private Limited" in terms of the memo filed by the Plaintiff as surveyors as well as valuers to submit report for ascertaining the valuation of the vessel both for scraping as well as for trading to him in a sealed cover on or before 21.09.2024.

On receipt of the same further directions shall be passed.

iv. The Plaintiff at this stage shall deposit a sum of Rs.3,00,000/- by 22.08.2024 by way of a demand draft in



favour of the learned Registrar (Judicial), High Court of Orissa with the learned Court Commissioner for meeting the expenses for survey as above.

v. The learned Commissioner shall issue necessary instructions for depositing the above demand draft in an interest bearing account subject to outcome of the lis.

vi. The plaintiff shall be reimbursed of such amount of Rs.3,00,000/- out of the sale proceeds of the defendant vessel.

8. List this I.A. on 23.09.2024 for consideration of other reliefs save and except "prayer-b".

***(V. NARASINGH)***  
***Admiralty Judge***

*SOUMYA*