

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/ADMIRALTY SUIT NO. 10 of 2023**

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AURIGA SHIPPING MANAGEMENT PTE. LTD.

Versus

M. T. SYRMA (IMO-9204805)

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Appearance:

for the Defendant(s) No. 1

MS PAURAMI B. SHETH(841) for the Plaintiff(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL**Date : 20/06/2023****ORAL ORDER**

1. Learned Advocate Ms. Paurami Sheth has submitted that maritime claim arises under Ship Management Agreements dated 12.09.2022 in respect of the Defendant Vessel and dated 04.11.2022 with respect to vessel, Avior both under the same ownership of Minh Thu Shipping Trading, that one Jsc entered into said Ship Management agreements, that under the terms of both the Contract, the Plaintiff has to render Technical, Crew and Commercial management service to the Defendant Vessel and Vessel Avior and the Owner has to pay the Plaintiff the annual management fee, all sums due to the Managers punctually in accordance with the terms of this

Agreement and all expenses incurred by the Managers under the terms of this Agreement on behalf of the Owners and it was agreed that the Plaintiff as Managers under no circumstances shall be required to use or commit their own funds to finance the provision of the Management Services, that the Plaintiff provided services to the Defendant Vessel and the Vessel, Avior and continued to provide till date.

2. Learned Advocate Ms. Paurami Sheth has further submitted that the Plaintiff placed orders for both the Vessels and requested the owner to release of funds but no funds were received, that the Plaintiff has prepared the Statements of Outstanding amount which was sent to the Defendant, that the Plaintiff has complied with its obligations under both the Contracts till time and continues to render services despite not receiving funds as per its commitment under the Contracts, that by Email dated 05.06.2023, the Owner asked for details and supporting documents which has been provided by the Plaintiff on same date through Email, that the Plaintiff then received the full amount of Avior freight, that the

Owner intimated about remittance of USD 50,000/- by provision of "draft" SWIFT though such funds have to be yet credited towards payment of Avior and hence the Plaintiff has not included the same in present claim, that the Owner is liable to pay respect of the supplies/ services arranged by the Plaintiff under the Agreements, that the Plaintiff has been receiving regular reminders from various third parties it had approached for such supplies/ services, that the Owner of the defendant Vessel has exposed the Plaintiff to the risk of facing demand and proceedings from those third parties as for them, it is the Plaintiff, which would be responsible for the payment that the Plaintiff has maritime claim falling under Section 4(1) (o) and 4(1)(p) of The Admiralty (Jurisdiction & Settlement of Maritime Claims) Act against the Defendants Vessel for which the plaintiff is constrained to file present suit and interalia prayed for arrest of the Defendant Vessel.

3. Upon hearing Ms. Paurami Sheth, Learned Advocate for the Plaintiff and upon reading the plaint herein signed at Ahmedabad on 19.06.2023 filed by the Advocate for the

Plaintiff herein and the affidavit of Mr. Sachin Somabhai Patel, Constituted Attorney of the Plaintiff above named declared on -19.06.2023 and upon hearing counsel for the plaintiff and upon the Plaintiff giving an undertaking in writing to the Registrar of this Court to pay such sums by way of damages as this Court may award as compensation in the event of the defendants sustaining prejudice by this order, hence, issue **Notice returnable on 26.06.2023**. Furthermore, I hereby order that the Registrar of this Court do issue a warrant for the arrest of the Defendant Vessel M.T. SYRMA (IMO- 9204805) along with her hull, engines, gears, tackles, bunkers, machinery, apparel, plant, furnitures, equipments and all appurtenances, at present lying at Deendayal Port, Kandla within the Indian territorial waters and that the Warrant of Arrest be executed at any time of the day or night or on Sundays or holidays and I do further order that the Port Officer and the Customs Authorities at Deendayal Port, Kandla do effect the arrest, seizure or detention of the defendant Vessel M.T. SYRMA (IMO- 9204805) at present lying Deendayal Port, Kandla Port within the Indian territorial waters or such other place wherever she may be within

the territorial waters of India and I do further order that in the event of the defendant and/ or those interested in her depositing in this Court the principal amount of USD 471.504.15 and legal cost of USD 20,000/- aggregating USD 491.504.15 together with further interest on principal amount of USD 471.504.15 at 18% pa from the date of filing of the Suit till payment and/or realization thereof as per the particulars of claim, the said Warrant of Arrest shall not be executed against the defendant Vessel at present lying at Deendayal Port within the Indian territorial waters.

4. The Port Officer and the Customs Authorities at Deendayal Port are directed to arrest the Defendant Vessel to be at Deendayal Port within the Indian territorial waters and to keep the vessel under arrest until further orders of this Court. It is further ordered that the Port Officer and the Customs Officer at Deendayal Port shall also intimate about this order to the Master/Chief Engineer of the Defendant Vessel through her Agent and effect the warrant of arrest for the Defendant Vessel.

5. The Registry is directed to send this order to Port and Customs at Deendayal Port through Email at following addresses and the Authorities at Deendayal Port shall act on Email copy of the order and take the Defendant Vessel under arrest.

1. signalkpt@gmail.com
2. hmofficekpt@gmail.com
3. harbourmaster@deendayalport.gov.in
4. dydirector@deendayalport.gov.in
5. dyconservator@deendayalport.gov.in
6. cvo@deendayalport.gov.in
7. trafficmanager@deendayalport.gov.in
8. dychairman@deendayalport.gov.in
9. secretary@deendayalport.gov.in
10. komal.patel@gov.in
11. kandlacustoms@gmail.com

6. It is also open for the plaintiff's advocate to communicate the above order by Email to the Authorities and the Owner/person interested in the Defendant Vessel Owner and the Port and Customs authorities at Deendayal Port are directed to act on Email message with an ordinary

copy of this order.

7. The Plaintiff is permitted to serve to the Defendant Vessel through her Owner through email.
8. It is made clear that it will be open for the Defendant to approach this Court even prior to the returnable date with an adequate notice to the plaintiff.

Direct service is permitted today.

Bhoomi

(NIKHIL S. KARIEL,J)