Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.1692/2021 (F)

SUDIP BHATTACHARYA **... Petitioner**

Versus

MORMUGAO PORT TRUST **...Respondent**

Ms. Akshata Timmapur, Advocate *for the Petitioner.*

Mr. Yogesh Nadkarni, Advocate *for the Respondent.*

CORAM: REVATI MOHITE DERE & M. S. JAWALKAR, JJ.

DATED: 6th December, 2021

P.C:

1. Learned counsel for the petitioner has tendered an additional affidavit on behalf of the petitioner. The same is taken on record.

2. In the said additional affidavit the petitioner has stated that he has received one offer from a prospective purchaser for an amount of Rs.11.50 crores for both vessels, higher than what was stated earlier i.e. Rs.11 crores. The petitioner in para 3 of the additional affidavit has set out the timeline within which the said two vessels could be sold and taken out from the port. The said timeline is as under:-

Sr. No.	Days from order	Task
1	4	I will conduct an inter-se e-auction between the prospective auction purchasers to facilitate price discovery and get the best value for the assets.
2	7	The highest bidder will be notified, and Letter of Sale will be issued. As per the terms of the sale, the highest bidder will be given two weeks to make complete payment and take over the said vessels.
3	21	Upon complete payment being made for the said vessels, the Bills of Sale shall be issued, and formal ownership of the said vessels shall be transferred to the auction purchasers.
4	28	The said vessels shall either be taken out of the port premises of the Respondent, or the auction purchasers shall come to a mutual understanding with the port authorities for continued berthing and other services.

3. It is further stated in para 4 of the said additional affidavit that the petitioner would undertake to deposit the entire sale proceeds of the said vessels (net of actual costs incurred in the sale process) in the Registry of this Court. Sub clauses A to E of para 4 read as under:

A. I undertake that I shall keep aside the entire sale proceeds of the sale of the said vessels (net of actual costs incurred in the sale process) aside in the form of a fixed deposit which shall not be appropriated in any manner during the pendency of the present petition;

B. In the alternative to (A) above, I undertake to deposit the entire sale proceeds of the said vessels (net of actual costs incurred in the sale process) with this Hon'ble Court within a period of seven days from its receipt;

C. I undertake to file a report before this Hon'ble Court setting out details of the inter se bidding process, the highest bid, the payments received, and the costs incurred in the sale process, and to serve a copy of this report to the Respondent;

D. I undertake that the process shall be completed within the timelines set out in paragraph 3 above, subject to force majeure circumstances;

E. I further undertake that the report under (C) above within a period of four weeks from the date of the order passed by this Hon'ble Court accepting these undertakings.

4. As far as clause A of the para 4 is concerned, we are not inclined to accept the same. As far as clause C is concerned, we direct the petitioner to deposit the entire sale proceeds in the Registry of this Court within a period of 7 days from the date of its receipt. The petitioner to also file a report setting out the details of *inter se* bidding process, the highest bid receipt and the payments received and the cost incurred in the sale process. Copy of the said report to also be furnished to the respondent. The petitioner to complete the said process within the timeline/schedule mentioned in para 3 of the said additional affidavit.

5. We make it clear, that the petitioner will deposit the entire sale proceeds of the said vessels in the Registry of this Court.

6. The petitioner to abide by the timeline set out in para 3 and the undertaking given in para 4 and the directions given by us.

7. We make it clear, that this interim arrangement/order is passed without prejudice to the rights and contentions of either of the parties and as such all contentions on merits are kept open.

8. Rule.

9. Since pleadings are complete, the matter to be listed on the Final Hearing board in the week commencing from 07.03.2022, at its appropriate place.

10. The matter be posted on 17.01.2022 under the caption "**for directions**", for recording compliance of the order of deposit.

11. All parties to act on an authenticated copy of this Order.

M. S. JAWALKAR, J. **REVATI MOHITE DERE, J.**