



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 17<sup>TH</sup> DAY OF JANUARY, 2025**

**PRESENT**

**THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA**

**CIVIL PETITION NO. 23 OF 2020**

BETWEEN:

SHIPOIL LIMITED  
A COMPANY INCORPORATED UNDER THE LAWS OF  
HONG KONG AND HAVING ITS OFFICE AT  
79, LEI MUK ROAD, 22/F, UNIT- 7,  
ASIA TRADE CENTRE, KWAI CHUNG  
NEW TERRITORIES, HONG KONG  
REPRESENTED BY ITS AUTHOIRSED SIGNATORY  
MR. KUNAL NAIK.

(BY SRI.BALAJI HARISH IYER, ADVOCATE)

...PETITIONER

AND:

M. T. STANDORF (I.M.O 8902993)  
FLYING THE FLAG PANAMA  
CURRENTLY IN POSR AND  
HARBOUR NEW MANGALORE AND  
WITHIN THE TERRITORIAL WATERS OF INDIA,  
ALONG WITH HER HULL, TACKLE,  
MACHINERY AND APPURTENANCES  
AND HER OWNERS AND ALL PERSONS  
INTERESTED IN HER WITHIN THE  
ADMIRALTY JURISDICTION OF THE COURT.

(BY SRI.MAHESHCHANDRA B.N., ADVOCATE  
SRI. NAVEEN G.S. ADVOCATE)

... RESPONDENT

THIS INTERLOCUTORY APPLICATION NO.1/2024 IS FILED  
UNDER ORDER VII RULE 10 OF CPC SEEKING THE COURT TO  
RETURN THE PETITION/PLAINT.

THIS INTERLOCUTORY APPLICATION NO.1/2024 HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 09.01.2025 COMING ON FOR PRONOUNCEMENT OF ORDERS ON THIS DAY, **DR. CHILLAKUR SUMALATHA, J.**, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

**ORDER ON IA NO.1/2024**

This is a petition filed under Order VII Rule 10 of Code of Civil Procedure seeking the Court to return the petition presented by the respondent/petitioner.

2. Heard Sri.B.N.Maheshchandra, learned counsel for the petitioner/respondent as well as Sri.Balaji Harish Iyer, learned counsel for the respondent/petitioner. Also gone through the contents of the statement of objections filed.

3. The respondent herein filed a civil petition vide Civil Petition No.23/2020 invoking Sections 3 and 5 of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 seeking the Court to pass a decree against the vessel by name M.T. STANDORF for recovery of a sum of EUR.506,512.66 equivalent to INR 4,05,21,732.80 (Rupees Four Crores Five Lakhs Twenty one Thousand Seven Hundred Thirty Two and eighty paise only) towards outstanding principal amount of EUR.457,149.36 and the accrued interest thereon and other allied reliefs including sale of the vessel by public auction.

4. The present application to return the petition is filed on the ground that the case falls within the scope and definition of "Commercial Dispute" as enshrined under the Commercial Courts Act, 2015 and therefore the designated commercial division of this Court should entertain the case. The respondent/petitioner in his statement of objections contended that the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 makes it clear that the High Court is vested with the exclusive original and admiralty jurisdiction over the matters falling within the ambit of the said Act and therefore the petition is not maintainable.

5. Thus, the point that emerges for consideration is;

*Whether the petition is liable to be returned on the ground that the subject matter falls within the ambit of the Commercial Courts Act, 2015 and not under the provisions of Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017?"*

6. When learned counsel for the petitioner/respondent submitted that exclusive jurisdiction to deal with the matter is vested with the commercial division of this Court under the provisions of the Commercial Courts Act, 2015, vehemently opposing the submission thus made, learned counsel for the respondent/petitioner projected that Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 covers the dispute and the case falls within the ambit and purview of the said legislation.

7. The Law Commission of India in its 188<sup>th</sup> Report had recommended constitution of Commercial Division in each High Courts. Accordingly, the Commercial Division of High Courts Bill, 2009 was introduced and passed by the Loka Sabha. However, some members of Rajya Sabha raised certain issues and therefore the matter was again referred to the Law Commission of India for its examination. The Law Commission of India in its 253<sup>rd</sup> Report had recommended for the establishment of Commercial Courts, the Commercial Division and the Commercial Appellate Division in the High Courts for disposal of commercial disputes of Specified Value. Thereafter, the Bill namely the Commercial Courts, Commercial Division and the Commercial Appellate Division of the High Courts Bill, 2015 was introduced in the Rajya Sabha. The Bill was passed by both the Houses of Parliament and thereafter it received the assent of the President. Thus, the Commercial Courts, Commercial Division and Commercial Division of High Courts Act, 2015 came into effect. Thereafter, the nomenclature of the Act was changed as "The Commercial Courts Act, 2015".

8. Much stress was laid by learned counsel for the petitioner/respondent upon Section 2(1)(c)(iii) of the Commercial Courts Act, 2015. Section 2 of the Commercial Courts Act, 2015 defines certain terms including "Commercial Dispute". It is laid down in definite terms that the Commercial Dispute includes a dispute

arising out of the issues relating to admiralty and maritime law (Section 2(1)(c)(iii)).

9. The Commercial Courts Act, 2015 mandated constitution of Commercial Courts, Designation of Commercial Appellate Courts, Constitution of Commercial Division of High Courts and Constitution of Commercial Appellate Division. The Commercial Courts Act also laid down that the provisions of the Code of Civil Procedure, 1908 shall in their application to any suit in respect of a commercial dispute of a specified value stands amended in the manner as specified in the Schedule appended to the Act. The Commercial Courts Act came into effect in the year 2015.

10. Now coming to the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (hereinafter referred to as the 'Admiralty Act, 2017' for brevity) it is a legislation which consolidated the laws relating to admiralty jurisdiction, legal proceedings in connection with vessels, their arrest, detention, sale and other matters connected therewith or incidental thereto. The Admiralty Act, 2017 repealed The Admiralty Courts Act, 1840, The Admiralty Courts Act, 1861, The Colonial Courts of Admiralty Act, 1890, The Colonial Courts of Admiralty (India) Act, 1891 and also the provisions of the Letters Patent, 1865 in so far as they apply to the admiralty jurisdiction of the Bombay, Calcutta and Madras High Courts.

11. Basing on the 151<sup>st</sup> Report of the Law Commission of India by which a recommendation was made for enacting a new Admiralty Act which would be in consonance with modern trends in the maritime sector and also in the light of the judgment of Hon'ble Supreme Court of India in the case of M.V.Elisabeth and Others Vs. Harwan Investment and Trading Pvt. Ltd., reported in 1993 Supp (2) Supreme Court Cases 433, wherein the Hon'ble Apex Court urged to codify the existing admiralty laws in India, the Admiralty Act, 2017 came into effect from 01.04.2018.

12. Section 4 of the Admiralty Act, 2017 states that the High Court may exercise jurisdiction to hear and determine any question on a maritime claim, against any vessel, arising out of any dispute mentioned in that section.

13. Section 4(2) of the Admiralty Act, 2017 grants power to the High Court to settle any account outstanding and unsettled between the parties in relation to a vessel and also empowers the High Court to direct that the vessel or any share thereof be sold.

14. Section 5 of the Admiralty Act, 2017 grants power to the High Court to order arrest of any vessel which is within its jurisdiction for the purpose of providing security against a maritime claim which is the subject matter of any admiralty proceeding.

15. Section 12 of the Admiralty Act, 2017 states that the provision of the Code of Civil Procedure, 1908 shall apply in all the proceedings before the High Court in so far as they are not inconsistent with or contrary to the provisions of the Admiralty Act, 2017 or the Rules made thereunder.

16. Basing on the nature of disputes which can be dealt with by the Commercial Courts Act, 2015 which includes the issues relating to admiralty and maritime law, the present petition is filed stating that the Commercial Courts Act, 2015 alone covers the dispute in question and therefore the case has to be filed before the Court having jurisdiction under the said Act.

17. The stand taken by the respondent/petitioner on the other hand is that the Admiralty Act, 2017 is a specific Act covering the dispute in question and therefore the provisions of the Admiralty Act, 2017 are invoked and the claim is raised.

18. For the purpose of understanding the jurisdictional aspect in a proper way, Section 1 of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 is extracted as under:

*"1. Short title, application and commencement.—(1) This Act may be called the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017.*

*(2) It shall apply to every vessel, irrespective of the place of residence or domicile of the owner:*

*Provided that this Act shall not apply to an inland vessel defined in clause (a) of sub-section*

*(1) of section 2 of the Inland Vessels Act, 1917 (1 of 1917), or a vessel under construction that has not been launched unless it is notified by the Central Government to be a vessel for the purposes of this Act:*

*Provided further that this Act shall not apply to a warship, naval auxiliary or other vessel owned or operated by the Central or a State Government and used for any non-commercial purpose, and, shall also not apply to a foreign vessel which is used for any non-commercial purpose as may be notified by the Central Government.*

*(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint."*

Thus, the Admiralty Act, 2017 states in definite terms the nature of cases in which the High Court can exercise its jurisdiction in respect of maritime claims.

19. Learned counsel for the petitioner with a submission that the case is liable to be instituted under the provisions of Commercial Courts Act, relied upon the decision of the Hon'ble Apex Court in the case between Rameshwar and Others Vs. Jot Ram and Another reported in (1976) 1 SCC 194, the case decided by the High Court of Calcutta in the case between Siddhartha Insurance Limited Vs. The Owners and Parties Interested in the Vessel M.V. VSL SSL, Kolkata in AS No.6/2019 decided on 05.09.2024 and the decision of the High Court of Madras in the case between M/S.Mayar (HK) Limited and another Vs. Owners and Parties Interested in the Vessel MV NEETU reported in 2003 SCC OnLine Mad 458 : AIR 2003 Mad 422.



20. However, the aforementioned decisions does not lay the proposition in specific terms that the Commercial Courts Act alone applies to the maritime and admiralty claims, but not the Admiralty Act, 2017.

21. Learned counsel for the respondent/petitioner to establish his contention that the petition filed by him under the Admiralty Act is maintainable, relied upon the decision of the Hon'ble Apex Court in the case of Owners and Parties Interested in the Vessel M.V.Polaris Galaxy Vs. Banque Cantonale De Geneve reported in 2022 SCC OnLine SC 1293.

22. In the said decision, dealing with the non obstante clause contained in the Admiralty Act as well as the Commercial Courts Act, the Court at paras 67 to 69 of the judgment held as under:

*"67. A clause with the words "notwithstanding anything contained in any other law for the time being in force" is generally appended at the beginning of a section with a view to give the enacting part of the section overriding effect in case of conflict with any other law. Ordinarily, when two or more statutes contain statutory provisions which start with the clause "notwithstanding anything contained in any other law for the time being in force" and those statutes contain conflicting provisions, a question that could arise is, which statute would prevail. As a general rule, the special statutes prevail over general statutes. If both statutes are general statutes or special statutes containing identical or similar non obstante clauses, the later statute would prevail.*

*68. The rule that a non obstante clause in a later statute prevails over the non obstante clause*

*in an earlier statute is not an absolute rule. The question of which provision prevails, would necessarily depend on the object of the enactment and, in particular, the object of giving overriding effect to the enactment or any specific provision thereof.*

*69. When two or more enactments operating in the same field contain a non obstante clause stating that its provisions will have effect notwithstanding anything inconsistent therewith contained in any other law, the conflict has to be resolved upon consideration of the purpose and policy underlying the enactments. "*

23. Learned counsel for the respondent/petitioner also relied upon the decision of Division Bench of this Court in the case between MV Global Emerald Vs. Meck Petroleum DMCC in OSA 10/2024 decided on 12.07.2024 wherein the Division Bench of this Court at paras 23 and 24 of the judgment held as follows:

*"23. Though the appellant's Counsel contended that the claim constitutes a commercial dispute and therefore the claim lies before the Commercial Court in the form of a suit, ousting the jurisdiction of the High Court, he could not demonstrate how the jurisdiction of the High Court is barred. Section 3 of the Admiralty Act which is relevant on this point reads as follows:*

*"3. Admiralty jurisdiction.—(1) Subject to the provisions of sections 4 and 5, the jurisdiction in respect of all maritime claims under this Act shall vest in the respective High Courts and be exercisable over the waters up to and including the territorial waters of their respective jurisdictions in accordance with the provisions contained in this Act:*

*Provided that the Central Government may, by notification, extend the jurisdiction of the High Court upto the limit as defined in section 2 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 (80 of 1976)."*

*Reading of the above provision shows that the High Court alone has exclusive jurisdiction to deal with the maritime claim covered under Sections 4*

*and 5 of the Admiralty Act. Though the definition of commercial dispute under Section 2(1)(c)(iii) of the Commercial Courts Act covers issues relating to admiralty and maritime law, in the said Act, there is nothing barring the jurisdiction of the High Court on the issue relating to the arrest of the vessel under Section 5 of the Admiralty Act.*

*24. The Commercial Courts Act was enacted in 2015. Subsequent to that the Admiralty Act was enacted and came into force with effect from 01.04.2018 vide S.O.767(E), dated 22.02.2018. Section 3 of the Admiralty Act employed the language that the jurisdiction in respect of maritime claims under the Act shall vest in the High Courts which shows that Section 3 of the Admiralty Act takes precedence over Sections 6 and 7 of the Commercial Courts Act. Therefore there is no merit in the contention that the petition in C.P.No.56/2024 was not maintainable."*

24. The aim and object of the Admiralty Act, 2017 is to consolidate the existing laws of admiralty jurisdiction of Courts, proceedings on maritime claims, arrest of vessels and related issues. The Admiralty Act, 2017 dealt with the vessels which falls under the ambit of the said Act, maritime claims, territorial waters etc.

25. The said Act is specifically legislated to consolidate the laws relating to admiralty jurisdiction and the legal proceedings in connection with the vessels. The procedure of arrest, detention and sale of the vessels is also included. Undoubtedly, such a procedure is not found in the Commercial Courts Act, 2015.

26. When the Commercial Courts Act, 2015 is a general statute which aimed at Constitution of Commercial Courts, the Commercial Appellate Courts etc. for dealing with commercial

disputes, the Admiralty Act, 2017 is a specific statute aimed at regulating the legal proceedings in connection with the Maritime Claims as defined under Section 4 of the said Act. Under the principles of statutory interpretation, the legal maxim "*lex specialis derogat legi generali*" covers the field. This doctrine states that, if two laws govern the same factual situation, a law governing a specific subject matter (*lex specialis*) overrides a law governing general matters (*lex generalis*). While the Commercial Courts Act, 2015 is a general statute, the legislation brought into effect thereafter that is the Admiralty Act, 2017 is a specific statute covering the Maritime Claims. Therefore, this Court is of the view that the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 applies rightly and governs the lis in question.

Hence, this Court ultimately holds that there are no merits in this petition.

Resultantly the petition stands dismissed.

**Sd/-**  
**(DR.CHILLAKUR SUMALATHA)**  
**JUDGE**

AP  
CT:TSM