IN THE HIGH COURT OF SINDH AT KARACHI

Adm. Suit No. 04 of 2018

Plaintiff:	**Selat Marine Services Co. LLC. Through Mr. Omair Nisar, Advocate.**
Defendant: Nos. 1 & 2.	**M.T. Bofors & Global Marine Services Through Mr. Shaiq Usmani, Advocate.**
Defendant: No. 3.	**Byco Petroleum Pakistan Limited Through Mr. Muhammad Ehsan, Advocate.**

1. *For hearing of CMA No. 31/2018.*
2. *For hearing of CMA No. 150/2018.*

Dates of hearing: **28.01.2019, 26.02.2019 & 13.03.2019.**

Date of Order: **29.04.2019.**

O R D E R

Muhammad Junaid Ghaffar J.- This is a Suit under the Admiralty Jurisdiction of The High Court Ordinance, 1980 (**"Ordinance 1980"**). Application at Serial No.1 has been filed on behalf of the Plaintiff under Rule 731 of the Sindh Chief Court Rules (Original Side) (**"SCCR"**) read with Order XXXVIII Rule 5 and Section 151 of Civil Procedure Code ("**CPC**") for arrest of Vessel i.e. Defendant No.1, whereas, Application at Serial No.2 has been filed under Order 12 Rule 6 CPC for passing of judgment and decree on the basis of purported admission of the Defendants as to the claim of the Plaintiff.

2. Precise facts, as stated are that Plaintiff is a Company offering shipping services including chartering of Vessels/tugs & boats; whereas, Defendant No.1 is a foreign Vessel under the UAE flag and was berthed at Karachi Port at the time of filing of this Suit. Defendant No.2 is the registered owner as well as manager/operator of Defendant No.1; whereas, Defendant No.3 is a Refinery registered under the laws of Pakistan and is a regular importer of crude oil and has established Pakistan's first floating Single Point Mooring and port facilities, for which it has to hire tugs, pilot boats and utility boats. It is further

stated that Defendants No.2 & 3 entered into negotiations and pursuant to such negotiations an Operation and Maintenance Contract was signed which required Defendant No.2 to hire and put on disposal of Defendant No.3 various tugs, pilot boats and utility boats. Insofar as the arrangement and agreement between Defendant No.2 and 3 is concerned, it is not the issue in hand directly. However, for the purposes of honoring its commitment with Defendant No.3, the Defendant No.2 approached Plaintiff to hire one of it Utility Boats namely **"M.V. Osam Jumbo-5"** bearing IMO No.8309048 and the said boat was chartered by Defendant No.2 from the Plaintiff pursuant to Time Charter Agreement dated 7.6.2014 at the rate of US $ 2,800 per day pro rata. It is case of the Plaintiff that Defendant No.2 failed to pay the hire charges and defaulted and for such recovery, the Plaintiff has invoked the Admiralty Jurisdiction of this Court and through order dated 20.02.2018, the Defendant No.1 i.e. "M.Y.Bofors" owned by Defedant No.2 was arrested and then ordered to be released on furnishing of solvent surety of US $ 645,356.85. Thereafter, vide Order dated 02.03.2018, another ad-interim order was passed, whereby, Defendant No.3 was restrained from releasing the amount to Defendant No.2, on the basis of some compromise decree in a separate Admiralty Suit No.04/2017 to the extent of Plaintiff's claim of US $ 645,356.85.

3. Learned Counsel for the Plaintiff has contended that Defendant No.2 has admittedly defaulted in making payments of the hire charges and as of 31.05.2017, the amount, as claimed in this Suit, was outstanding; whereas, Defendant No.2 has repeatedly admitted the said amount and kept on promising to pay, and the only reason for delaying payment was for the reason that Defendant No.3 had delayed their payments, and as soon as such payments were released, the Plaintiff's outstanding amount would be duly and immediately paid. Learned Counsel has referred to various correspondence including emails placed on record and has contended that the amount being claimed against Defendant No.3 by Defendant No.2 has been settled through a compromise in Admiralty Suit No.04/2017 and despite this, no response has been given to the Plaintiff's outstanding claim; hence, instant Suit. He has further contended that the total value of the Vessel in question i.e. Defendant No.1 is a maximum of US $ 90,000/- as per the fresh Valuation Certificate; therefore, Plaintiff has also joined

Defendant No.3 in this Suit and seeks an order of attachment before judgment as well as a garnishee order. Per learned Counsel in terms of Ordinance 1980, the claim of the Plaintiff in *personam* can be enforced in *rem* against Defendants No.1 & 2 and is covered by the Admiralty Jurisdiction of this Court. Learned Counsel has referred to Section 3 (2) (h) read with Section 4(4) of the Ordinance 1980 and has contended that Defendant No.1 is a sister-ship of the offending Vessel for all legal purposes under the Ordinance 1980, and therefore the claim is maintainable in the present form. According to him during correspondence, the claim has been admitted; therefore, even otherwise the Plaintiff's case is that the application under Order 12 Rule 6 CPC may be allowed as prayed and a judgment and decree be also passed and in support he has read out the provisions of Order 12 Rule 6 CPC. In support of his contention he has relied upon the cases reported as ***Messrs MSC Textile (Pvt) Ltd. through Executive Director v. Asian Pollux and 5 others*** (2007 CLD 1465), ***Nippon Yusen Kaisha (NYK) Lines v. Messrs MSC Textiles (Pvt.) Ltd. and 6 others*** **(PLD 2008 Karachi 244)**, **[2008] ANZMarLawJ1 11**, **Court of Appeal [1982] Vol.1 Part-3, Page 225 LLOYD's Law Reports**, **Hong Kong Supreme Court [1982] Vol. 2 Part-5 Page-532 LLOYD's Law Reports**,

4. On the other hand, learned Counsel for Defendants No.1 & 2 has contended that the Suit in the present form cannot be entertained under the Admiralty Jurisdiction of this Court for the reason that the offending Ship i.e. "**M.V. Osam Jumbo-5"** was never owned by Defendant No.2 and in fact is owned by the Plaintiff itself and was on a Time Charter with Defendant No.2 and when the cause of action arose for filing instant Suit, the said time Charter had expired, and therefore, the claim in *personam* against the said Vessel cannot be enforced in *rem* against Defendants No.1 & 2. Per learned Counsel it is also to be considered by the Court that whether the provisions of Order 38 Rule 5 CPC could be invoked and applied in a case under its Admiralty Jurisdiction and it is the case of the Defendants that the same does not apply. He has further contended that there is no admission as claimed in respect of the Plaintiff's outstanding amount, and even otherwise, mere correspondence by an unauthorized person of the Company cannot be made basis for an admission of the claim. Learned Counsel, without prejudice, has further argued that in fact the offending Vessel

was not a ship within the meaning of Section 2(k) of the Ordinance, 1980, as it is case of the Defendants that it was a Boat, which cannot be used in navigation as interpreted in the case reported as ***Aleem Ahmad Ansari v. M.V. Ashar*** (**PLD 1986 Quetta 54**), wherein, the learned Baluchistan High Court has held that a floating platform can be said to be useable in Navigation only, if it can withstand perils of sea, which would mean storms, tempest, tidal waves etc. whereas, the present boat in question hardly meets the said criteria; hence in terms of Section 2(k) of the Ordinance 1980, it is not a valid claim within the Admiralty Jurisdiction of this Court. Per learned Counsel first it has to be seen that what is the cause of action in a case under the Admiralty Jurisdiction and as per Section 4(4) firstly the claim should arise relating to a ship, and secondly, one should be liable for claim in *personam* and at the relevant time be in control of the Ship i.e. "*The Ship*" in respect of which the claim arose, which is also called as the offending Ship. Per learned Counsel, secondly, when the action is brought, the law lays down that at the time when the action in *rem* is invoked against the offending Ship through its arrest as per Section 4(4) (a) of the 1980 Ordinance, it is a must that the offending Ship is beneficially owned as regards majority shares by the person liable for claim in *personam.* Per learned Counsel, alternatively under Section 4(4)(b) ibid, any other Ship, beneficially owned as regards majority shares therein by the said person can also be arrested, which commonly is known as a sister-ship under the Admiralty Practice i.e. the two ships have the same owners or in other words same parentage. According to him when the action was initiated, it ought to have been against the offending Vessel, first in *personam* i.e. "**M.V. Osam Jumbo-5";** however, since the time charter has expired and **"M.V. Osam Jumbo-5"**, is beneficially owned by the Plaintiff, and instead at the time of filing of this Suit, an action in *rem* has been invoked against Defendant No.1, whereas it is obvious that this could not have been done as Defendant No.1 is not a sister-ship of the offending Ship "**M.V. Osam Jumbo-5"**. According to him this is not a case of a Demise Charter i.e. a long term Charter when the Charterer is virtually the owner, and in certain cases under the Demise Charter could be regarded as sister vessel in view of the International Convention Relating to the Arrest of Sea Going Ships of 10.05.1952. According to him, admittedly, it is not the Plaintiff's case that **"M.V. Osam Jumbo-5"** was under a Demise Charter. Per learned

Counsel in this context the Pakistani law is somewhat different where according to the Ordinance 1980, the concept of Sister Vessel only applies, if two Vessels are beneficially owned as regards majority shares therein, and in support of his contention he has also relied upon the case of ***Messrs V.N. Lakhani & Company v. M.V. Lakatoi Express and 2 others*** **(PLD 1994 SC 894)**. In addition to this objection, he has also contended that order 38 Rule 5 CPC does not apply in a case under Admiralty Jurisdiction as per dictum laid down by this Court in case reported as ***Bangladesh Shipping Corporation Dacca v. S.S. NENDN*** (**PLD 1981 Karachi 419)** and therefore, no attachment could be made in respect of the amount supposed to be paid by Defendant No.3 to Defendant No.2 pursuant to the compromise judgment and decree in Admiralty Suit No.04/2017. Lastly, he has contended that even otherwise the preconditions of invoking order 38 Rule 5 CPC, do not apply in the facts and circumstances of this case as there is no property as yet of Defendant No.2, which could be attached before judgment and in support he has referred to the case reported as ***Muhammad Yousif v. Agha Amir Muhammad*** **(PLD 1976 Karachi 926)** and ***New Bengal Shipping Company v. Eric Lancaster Stump*** **(PLD 1952 Dacca 22)**. Insofar as the allegation regarding admission and passing of a judgment and decree is concerned, learned Counsel has contended that the negotiating person was acting as an inter-mediatory and was not authorized to make any commitment or admission on behalf of Defendant No.2. Per learned Counsel in fact the emails relied upon by the Plaintiff on the basis of a report of I.T. Expert reflects that they are forged; whereas, an admission in terms of Order 12 Rule 6 CPC must be unqualified and unconditional, and if not, then no judgment and decree can be passed on the basis of the said purported admission. In support he has relied upon the case of ***Kassamali Alibhoy v. Shaikh Abdul Sattar*** **(PLD 1966 (WP) Karachi 75)** and ***Habib Khan v. Mst. Taj Bibi and others*** **(1973 SCMR 227)**.

5. Insofar as Counsel for Defendant No.3 is concerned, he has contended that Defendant No.3 has no relation or agreement with the Plaintiff, and therefore, the Suit is not maintainable against Defendant No.3 under the Admiralty Jurisdiction of this Court. Per learned Counsel dispute, if any, is between Plaintiff and Defendant Nos.1 & 2,

and therefore, no judgment and decree or a relief could be sought against Defendant No.3.

6. I have heard all the learned Counsel and perused the record. It is a matter of admitted fact that Plaintiff and Defendant No.2 entered into a Time Charter in respect of **"M.V. Osam Jumbo-5"**, which continued and stood extended on a number of occasions. Though a contention has been raised on behalf of Defendant No.2 that in fact the Time Charter stood expired and the boat in question was returned; however, for the present purposes, this issue cannot be adjudicated for lack of evidence, and admittedly, the claim of hire charges against Defendant No.2 is in relation to the period when the Vessel was under the Time Charter. It is not disputed that **"M.V. Osam Jumbo-5"** was under a Time Charter between Plaintiff and Defendant No.2 and was being used and deployed for necessary works by Defendant No.2 in relation to its services to Defendant No.3. It is also a matter of fact that insofar as Defendant No.3 is concerned, they have no direct nexus or relationship with the Plaintiff. It is the case of the Plaintiff that several dues and charges accrued in respect of the Time Charter and Defendant No.2 has defaulted. It is their further case that when approached, certain commitments were made and the claim was admitted for which the Plaintiff has also filed an application under Order 12 Rule 6 CPC for passing of a compromise judgment and decree. The present Suit has been filed by the Plaintiff when a Vessel i.e. Defendant No.1 was berthed at Karachi Port and according to the Plaintiff, since that Vessel was owned by Defendant No.2, this Court can and must exercise the Admiralty Jurisdiction under the Ordinance, 1980. An order for arrest of the Vessel was made on 20.02.2018 and the Vessel in question was arrested and was only directed to be released upon furnishing security or bank guarantee to the extent of US $ 645,356.85. It is a matter of record and not in dispute that Defendant No.2 has not furnished any guarantee for seeking release of Defendant No.1, the ship in question. Thereafter by means of another order dated 02.03.2018 at the request of the Plaintiff an order was passed in respect of attachment of certain amount, to be paid by Defendant No.3 to Defendant No.2 in another Admiralty Suit. Now presently the Plaintiff's case is that since the value of the Vessel arrested is much less as against their claim, therefore, not only the order of arrest of the Vessel be maintained under the Admiralty

Jurisdiction of this Court; but so also the attachment of the amount can also be done by this Court under the said jurisdiction read with Order 38 Rule 5 CPC.

7. In order to have a clear understanding of the dispute in hand, it would be advantageous to refer to the relevant provisions of Section 3 (2) (h) and so also Section 4 (4) of the 1980 Ordinance, which reads as under:-

> "3. Admiralty Jurisdiction of the High Court;
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> (2) The Admiralty jurisdiction of the High Court shall be as follows, that is to say, jurisdiction to hear and determine any of the following causes, questions or claims-
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> (h) Any claim arising out of any agreement relating to the carriage of goods in a ship or to the use or hire of a ship;
>
> 4. Mode of exercise of Admiralty jurisdiction. - ...
>
> (4) In the case of any such claim as in mentioned in clauses (e) to (h) and (j) to (q) of subsection (2) of section (3), being a claim arising in connection with a ship, where the person who would be liable on the claim in an action in personam was, when the cause of action arose, the ***owner*** or ***charterer*** of, or ***in possession*** or ***in control*** of ***the ship***, the Admiralty jurisdiction of the High Court may, whether the claim gives rise to a maritime lien on the ship or not, be invoked by an action in rem against--
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> (a) ***that ship***, if at the time when the action is brought it is beneficially owned as respects majority shares therein by that person; or
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> (b) ***Any other ship*** which, at the time when the action is brought, is beneficially owned as aforesaid."

8. Perusal of the aforesaid provisions reflects that Admiralty Jurisdiction has been conferred on this Court that is to say the jurisdiction to hear and determine any claim arising out of any Agreement relating to the carriage of goods in a Ship or to the use or hire of a Ship, whereas, the mode of exercise of such jurisdiction has been provided in Section 4(4), which states that in case of any such claim as is mentioned in Clauses (e) to (h) and (j) to (q) of Subsection (2) of Section 3, a claim arising in the connection with a Ship where the person who would be liable on the claim in an action in *personam* was, when cause of action arose, the owner or charterer of, or in possession or in control of the ship, the admiralty jurisdiction of the High Court may, whether the claim gives rise to a maritime lien on the ship or not, be invoked by an action in *rem* against that ship, if at the time when the action is brought it is beneficially owned as respects majority shares therein by that person; or any other ship which, at the time when the

action is brought, is beneficially owned as aforesaid. Learned Counsel for Defendant No.1 & 2 has vehemently relied upon the judgment of the Hon'ble Supreme Court in the case of ***V.N. Lakhani & Co., (Supra)***; however, before coming to that it would be advantageous to examine the judgment of the learned Single Judge of this Court in that case which is reported as ***Messrs V.N. Lakhani & Co. v. the Ship Lakatoi Express*** **(1994 CLC 1498),** wherein, the claim of the Plaintiff against the Defendants including a sister-ship of the offending ship was dismissed on the ground that the Plaintiff had failed to show that when the action was brought, ship was beneficially owned by shipper as respects majority of shares in the ship in question as the Defendant having entered into slot charter agreement with the shipper, no beneficial interest was conferred on him in the ship in question. The said judgment of the learned Single Judge went into Appeal and the order was upheld on 09.03.1994 in an Admiralty Appeal No.01/1994. The Appellant being further aggrieved, approached the Hon'ble Supreme Court wherein the Hon'ble Supreme Court (though while refusing leave to appeal) has interpreted the question of invoking the Admiralty Jurisdiction against a sister-ship in a case where the offending ship is under a Charter Party Agreement. The relevant finding of the Hon'ble Supreme Court is contained in Para Nos.4, 5 & 8, which reads as under:-

> "4. The relevant facts for attracting the jurisdiction of the Court in the present case are that the ship which originally carried the goods was owned by Merzario who were the time charterer of respondent No.I. The petitioner had filed suit for arrest of respondent No.I and not the original vessel, claiming it to be a sister-ship of the vessel "Commandante Revello" as both were owned by Merzario. If this would have been the situation, there would have been no difficulty to entertain the suit under the Ordinance and to pass order for arrest but from the evidence, it transpired that Merzario were the owners of "Commandante Revello", but so far respondent No.I is concerned, they were only time charters. In these circumstances, the question arose whether under subsection (4) quoted above, the Court could exercise jurisdiction in rem against respondent No.I. In applying section 4(4) one has to take into connection with the offending ship. In order to invoke the jurisdiction, the plaintiff has to establish that:
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> (1) The claim falls in any of the clauses as mentioned in clauses (e) to (h) and (j) to (q) of subsection (2) of section 3 and arises in connection with a ship.
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> (2) when the cause of action for action in personam arose.
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> (3) The person liable in an action in personam at the time when such; cause of action arose, was the owner or charterer of or in possession or in control of the offending ship.
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> (4) The offending ship or any other ship which is sought to be arrested, at the time action is brought is beneficially owned as respects majority shares by the person liable on the claim in an action in personam.

> 5. The key words in the provision are `beneficially owned as respects majority shares. The person liable for the claim in an action in personam should beneficially own majority shares. It is on compliance with this condition that action in rem for arrest of a sister vessel can be filed. Lord Denning in I Congreso del Partido (1981) 1 All England Law Reports 1092 at 1099), while considering the effect of section 3(4)(b) of Administration of Justice Act, 1956 of Britain, which is similar to section 4(4) of the Ordinance, with a difference so far the beneficial ownership as respect of the shares is concerned, as would be pointed out later, observed as follows:--
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>> "In applying section 3(4)(b) you have first to consider the position at the time when the cause of action arose in connection with the offending ship. You have then to discover a person who would be `liable on the claim in an action in personam'. Having discovered him, you have to consider the position at the time when the action is 44 - brought. You have then to inquire whether that person at that time beneficially owned any other ship (a sister-ship) besides the offending ship. If there is such a person, you can invoke the Admiralty jurisdiction of the High Court against that sister-ship."
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> 8. In our view the learned Judges have taken correct view by excluding the charterer, be it time charterer or charterer by demise, from the category of persons who beneficially own majority shares in the ship sought to be arrested. The pre-condition for invoking jurisdiction under section 4(4)(a)(b) is that the person who would be liable on the claim in an action in personam was, when the cause of action arose, should beneficially own majority shares in the ship only then sister-ship can be arrested. If we take the view that the words "beneficially 8 owned" may include even a demise charterer then words "as respects majority shares" will be completely redundant. The ownership of majority shares may be beneficial or legal is a condition precedent for invoking the jurisdiction. It is a well-settled principle of interpretation of statute that each and every word of a statute has to be given its meaning and no part of a statute can be treated as redundant or surplus. It, therefore, seems clear that the legislature intended to give an effective meaning to the words "as respects majority shares" which can only be attributed to the owners. The petition is dismissed.

9. From perusal of the aforesaid finding, it reflects that the Hon'ble Supreme Court has come to a definite conclusion that a Charter, be it a time Charter or Charter by Demise, is excluded from the category of persons who beneficially own majority shares in *the ship* sought to be arrested and the precondition in invoking jurisdiction under Section 4(4)(a)(b) is that the person, who would be liable on the claim in an action in *personam* or when the cause of action arose, should beneficially own majority shares in the ship, only then a sister-ship can be arrested. The gist of the above finding is that first and foremost, the person against whom the claim is being lodged must be an owner of the offending ship, and once such a condition is fulfilled, only then an order for arrest of a sister-ship can be made. However, when the facts of the reported case are examined, it is somewhat different from the facts germane in the instant matter. In that case the shipment was effected on a Vessel called *"Commandante Revello"* owned by *Merzario* (in short) for which a bill of lading was issued which restricted transshipment of goods. However, notwithstanding this restriction, goods were transshipped on vessel *"Lakatoi Express"* belonging to M/s Artemis Lines S.A. This vessel i.e. *"Lakatoi Express"* was on a Time Charter with *"Merzario"*. The Admiralty Suit was filed against *"Lakatoi Express"* and its

owners as well as local shipping agent and the same was resisted by the Defendants on the ground that the Suit in rem was not maintainable against *"Lakatoi Express"* as it was under a Time Charter to *"Merzario"* when it arrived at Karachi Port, and was not owned beneficially by it; hence, the claim against its actual owners for satisfying the claim in personam against *"Merzario"*, or for that matter against the offending Vessel, cannot be maintained. The Hon'ble Supreme Court while upholding the view of the learned Single Judge and the learned Division Bench then came to the aforesaid conclusion. When the facts of instant matter are examined and read in juxtaposition to the facts and law laid down in the case of ***V.N.Lakhani & Co., (Supra)*** hereinabove, then it transpires that the ratio of the said judgment is not applicable in this case. Here, the Vessel under arrest is owned by the then Time Charterer (Defendant No.2) against whom the Plaintiff has lodged the claim in personam, whereas, in the case of ***V.N.Lakhani & Co., (Supra)***, the Plaintiffs had filed its claim against a ship which was under a Time Charter and berthed within the Admiralty Jurisdiction of this Court; but was not owned beneficially by "*Merzario*", the defaulting party in personam; or for that matter the offending Vessel. If the contention of learned Counsel for Defendant No.1 & 2 is accepted; then under no manner Admiralty claims could be satisfied against a party owning and or utilizing a Vessel under a Time Charter. Indeed, if permitted, then this would benefit all such Time Charterers and in each default they would go scot free and will never be subjected to any Admiralty Jurisdiction of Courts world over. It needs to be appreciated that in terms of Section 4(4) of the Ordinance 1980, it is required by the Plaintiff to first identify the relevant person who would be liable in personam when the cause of action arose. That person can be either the owner, or the Charterer, or the person in possession or control of the ship in connection with which the claim arose. It also provides that for establishing a claim in *rem* for the arrest of that ship, the relevant person must beneficially own majority shares in that ship. And when it is in respect of any other ship or a sister ship as is commonly known (but not provided in law by itself), then the relevant person must be beneficially owning such other ship. Hence, if the person liable when the cause of action arose, was the Time Charterer and it is not possible to arrest that ship in connection with which the claim arose for any reason, any ship beneficially owned by the Time Charterer would be a

target for arrest in terms of s.4(4) ibid. In view of such position the objection regarding the very jurisdiction of this Court under the Ordinance 1980, is misconceived and is hereby overruled and it is held that in the given facts and circumstances of this case, the Plaintiff has rightly invoked the Admiralty jurisdiction conferred upon this Court for the arrest of Defendant No.1 for its outstanding claim of hire charges against Defendant No.2 in respect of **"M.V. Osam Jumbo-5"**.

10. Learned Counsel for the Plaintiff in support has relied upon two judgments from the foreign jurisdiction on almost identical facts. The first case is from Court of Appeal and is known as the case of ***"Span Terza"*** **[1982] 1 Lloyds Rep. 225**. In that case by a majority of two to one (Sir David Cairns and Lord Justice Stephenson agreeing and Lord Justice Donaldson dissenting) it was held that a ship of a Charterer can also be arrested, though it may not be a sister ship in its literal sense. Brief facts of the said case are that a writ in rem was issued by the plaintiffs being owners of the vessel *Neptunia*, against the defendants, the owners of the vessel *Span Terza* claiming damages and charges pursuant to a Time Charter of *Neptunia* to the Defendants. The Plaintiffs applied for the arrest of *Span Terza* which was now in the Mersey but the Admiralty Registrar refused. The Plaintiffs appealed which was dismissed by Sheen, J. but gave the plaintiffs leave to Appeal to the Appellate Court. The Appellate Court by a majority of two to one held that insofar as section 3(4) of Administration of Justice Act 1956 (similar to our law of Admiralty), is concerned, the use of the word "Charterer" does not only means or restricts itself to a "demise charter" as contended by the original defendants. It was held that notwithstanding the fact that the vessel *Span Terza* was not a sister ship of the offending ship, but in the peculiar facts of the case it was open to the Court to order for its arrest. In essence the facts of the case before their lordships are identical to the facts of instant case, and I do not see any reason not to agree with the findings recorded in the case of *Span Terza*. The Court of Appeal further went on to hold that words of s.3(4) of the 1956 Act had to be given their natural meaning unless there was a good reason to limit them or unless there was binding authority requiring the Court to limit them; and the natural meaning of the word "Charterer" included a time charterer within those whose vessels could be arrested and there was no sufficient reason to limit the words to charterer by demise and there

was no authority which bound the Court to construe the sub-section as the learned Judge (Single) had done.

The second case relied upon by the learned Counsel is from the Hong Kong jurisdiction and has in fact followed *Span Terza*. The case is reported as The ***"Sextum"*** **[1982] 2 Lloyds Rep. 532** and it is from the Supreme Court of Hong Kong. The issue involved was identical i.e. arrest of vessel owned by the Charterers. In a similar fashion the Plaintiffs had let their vessels *Ria Sol* and *Ria Mar* to the defendants Charterers under a Time Charter and due to default and alleged nonpayment of amounts owning by the Defendants under the Time Charter Agreement, Plaintiffs issued writs against the vessel owned by Charterers namely *"The Sextum"*. The defendants case was that no order for arrest of the vessel in question could be passed and sustained as it was not a sister ship of the offending ship against which the Plaintiffs had their claim and both the ships had to be owned and controlled by the same person and in case of a Time Charter, control is not given of that ship. The learned Judge Mr. Justice Penlington went on to hold as follows;

> There has also been considerable argument before me concerning the interpretation in this particular section of the word "or" as it appears between the word "owner" and the word "charterer". I consider that I should follow the wording of the Interpretation Ordinance Cap. I and construe it disjunctively, i.e., owner and charterer must be meant to be different classes and not similar ones.
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> I prefer the reasoning behind. *The Permina* 108 and *The Span Terza*. I consider that I should give the word "charterer" its ordinary meaning and it should not be restricted to demise charterer. I do not think that even if the Convention is worded differently from the Act that is sufficient reason to put such a restrictive meaning on it. Indeed I feel that as the Convention must have been before the House when it was considering the legislation and they apparently declined to use the word "demise" that is an argument for saying that such a decision must be taken to have been deliberate. I think the clause is clear and unambiguous. Nor do I think the consequences of so construing it will be as dramatic as Mr. Waung suggests. The number of times this sort of situation arises must be small and in any event I do not see that the consequences are unjust.
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> Like the Court of Appeal in *The Span Terza* I regret I have not had longer to consider the authorities in greater depth but I am satisfied that if I had the opportunity to do so I would still come to the same conclusion although I might have an opportunity to express myself in greater detail and more elegantly.

11. Notwithstanding the above, it is also a matter of fact that the Plaintiff's case is not only confined to the arrest of the Vessel under the Admiralty Jurisdiction of this Court exercisable under the Ordinance 1980, but so also for an order of attachment before Judgment in terms

of Order 38 Rule 5 CPC. And this is premised on the fact that the value of the arrested Vessel is much less than the claim of the Plaintiff, and for this reason, Defendant No.2 has not exercised any option for having it released by furnishing any guarantee before this Court. Insofar as the Admiralty Jurisdiction of this Court is concerned, order for arrest of a Vessel is governed by Rule 731 of SCCR. It would suffice to observe that an application for arrest of a Vessel filed in terms of Rule 731 of the **SCCR** read with the Admiralty Jurisdiction of this Court, is not an injunction application at par with an application of injunction in terms of Order 39 rule 1 & 2 CPC or for that matter in similar terms cannot be equated with an application for attachment before judgment in terms of Order 38 Rule 5 CPC. By now it is settled law that Admiralty Jurisdiction is totally separate and independent from common law jurisdiction or the civil jurisdiction of a Court. As a contrast to common law or civil jurisdiction, by way of arrest of a ship, it has the consequence of obtaining security in lieu thereof for the claimed amount, and to establish its jurisdiction, even if there is no substantive link between the claim and the jurisdiction, other than the presence of the arrested ship within the jurisdiction of the Court. It is in these peculiar facts and circumstances, as well as the nature of the Admiralty Jurisdiction under the Ordinance, 1980 that an application for arrest of a vessel or ship is to be decided by the Court. It is a measure to secure the claim against a party who is in alleged default and because of the peculiarity of the Maritime Law and the issue of jurisdiction in international waters and the claims of the respective parties, a method of arrest of vessel and its release against suitable guarantee has been provided in Admiralty Law worldwide. In civil law systems, there are three distinct rules provided in civil procedure codes: rules for a provisional pre-trial remedy (for example, conservatory measures to obtain security for a claim, called in French, saisie conservatoire); rules relating to establishing jurisdiction on the merits, which may be based on a substantive link between the claim and the particular jurisdiction; and codified rules relating to the status of some claims as preferred claims over unsecured creditors. By contrast, in common law jurisdictions, commencing the in rem (action) claim and the arrest of the ship merges all three distinct functions. Namely, it has the consequence of obtaining security for the claim; of establishing jurisdiction on the merits (even if there is no substantive link between

the claim and the jurisdiction other than the presence of the arrested ship in the jurisdiction); and of securing the position of statutory maritime claimants as preferred creditors over unsecured ones by the issue of the proceedings in rem. Article 7 of the Arrest Convention 1952 adopted a middle way between common law and civil law, in that, where the arrest was made, that court should have jurisdiction on merits, it its own domestic law permitted it, but allows the parties to agree another jurisdiction[1]. At the cost of repetition, it may be observed that it is not linked or to be confused with, the ordinary powers of a Civil Court including the powers to order for attachment before judgment or for that matter any other enabling and subsidiary powers vested in the Court ordinarily. The parameters for grant of an application under Order 39 Rule 1 & 2 CPC or for that matter an application under Order 38 Rule 5 CPC, as against an application under Rule 731 (ibid) are completely different and are at variance. A learned Single Judge of this Court in the case reported as ***Spectre Consulting Limited through Attorney V. MT "Everrich" through Master and others (P L D 2018 Sindh 136)*** had the occasion to dilate upon this aspect of the matter and following observations are a complete answer to this objection;

> "16. ……………The plaintiff has failed to establish any probable and persuasive right to grant any injunctive order under Order 39 Rule 1 & 2 read with Section 94 C.P.C in the variety and diversity of Mareva Injunction nor the plaintiff is entitled to the relief of attachment of cargo shipped to defendant No.5. *Seeing as the plaintiff's own statement that they have not moved application under Rule 731 of Sindh Chief Court Rules (O.S) but under Order 39 Rule 1 & 2 C.P.C., I feel like to elucidate that there is a marked distinction in the significances and characteristics of both the provisions, the former may come to rescue in an urgent situation to cause the arrest of vessel moored/anchored within the territorial waters with or without condition of furnishing surety for further things to be decided then whereas in the latter situation some indispensable components and dynamics are to be satisfied such as the phrase prima facie case, balance of convenience and irreparable injury*. With reference to my own judgment in the case of Al-Tamash Medical Society vs. Dr. Anwar Ye Bin Ju & others, reported in 2017 MLD 785, the phrase prima facie in its plain language signifies a triable case where some substantial question is to be investigated or some serious questions are to be tried and this phrase 'prima facie' need not to be confused with 'prima facie title'. Before granting injunction the court is bound to consider probability of the plaintiff succeeding in the suit. All presumptions and ambiguities are taken against the party seeking to obtain temporary injunction. The balance of convenience and inconvenience being in favour of the defendant i.e. greater damage would arise to the defendant by granting the injunction in the event of its turning out afterwards to have been wrongly granted, than to the plaintiff from withholding it, in the event of the legal right proving to be in his favour, the injunction may not be granted. A party seeks the aid of the court by way of injunction must as a rule satisfy the court that the interference is necessary to protect from the species of injury which the court calls irreparable before the legal right can be established on trial. In the technical sense with

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[1] Modern Admiralty Law (By Aleka Mandaraka-Sheppard)

the question of granting or withholding preventive equitable aid, an injury is set to be irreparable either because no legal remedy furnishes full compensation or adequate redress or owing to the inherent ineffectiveness of such legal remedy.”

12. Another learned Single Judge of this Court in the case of ***Bangladesh Shipping Corporation Dacca (supra)*** had the occasion of dealing in almost identical facts the provisions of Order 38 Rule 5 CPC in an Admiralty Suit and it has been held that the principles applicable in deciding an application for attachment before judgment or for granting an ad-interim injunction cannot be made strictly applicable to an application for arrest of a Vessel in an Admiralty Suit. The relevant finding is as under:-

> “*(f*) Reverting to the question, as to whether the general principles applicable to case of an attachment before judgment or in respect of an *ad interim* injunction can be pressed into service, while considering an application for arrest of a vessel under rule 731 of the Sind Chief Court Rules (O. S.) or under inherent power, it may be pertinent to mention that an admiralty suit is a suit of special type. It is against the *res i. e.* the vessel. In my view it cannot be equated with an ordinary suit, in which an application under Order XXXVIII or XXXIX, C. P. C. may be moved. Therefore, the principles applicable in deciding an application for attachment before judgment *B* or for granting an *ad interim* injunction cannot be made strictly applicable, to an application for arrest of a vessel in an admiralty suit. It may be noticed' that in the above-cited Karachi cases, in which the orders of arrest were recalled, the Court had come to the conclusion that the claims were not triable as admiralty actions. Whereas the above English cited cases indicate that the relief of arrest of a vessel is a normal relief which is granted in an admiralty suit except in those cases, in which the Court comes to the conclusion that the claims in actions, cannot be tried as admiralty actions or that claim is bogus on the face of it. Furthermore, generally an admiralty suit is a suit against a vessel, if the vessel is allowed to leave the limits of the Court's jurisdiction without a security, the suit loses its utility. It may not be possible to execute the decree if any passed, as by time the suit will be finalized the vessel may sink or she may be purchased by a *bona fide* purchaser without notice.”

13. Even if the case of the Plaintiff to the effect that the value of the arrested ship is much less than their claim; hence, additional security from the amount lying in another Admiralty Suit be attached is examined from another angle in terms of the Ordinance, 1980 itself, there appears to be no justification for that as well. The Ordinance 1980, in terms of s. 4(4) provides either for arrest of a particular ship in respect of which the claim arose i.e. the offending ship; or in the alternative any other ship (sister ship) who was, at the time when the claim arose, was owned by the alleged defaulter. Thus, either that particular ship or a sister ship can be arrested. The English Court of Appeal had occasion to consider whether a Claimant in Admiralty action is entitled to arrest more than one ship in order to secure its claim. In the case of ***Owners of the Motor Vessel “Monte Ulia”***

commonly known as (**The Banco case**) reported as **[1971] 1 All ER 524,** Claimant commenced the admiralty action against six ships including its owner. The offending ship was only 'The Banco'. The owners applied to set aside the service of the writ and warrants of arrest in respect of all the vessels save 'The Banco' and offered to put a bail in the value of "Banco" alone in the sum of £135,000. The application of the Defendant was accepted against which the Claimant filed Appeal before the Court of Appeal. The Court scanned through the historical jurisdiction of the Courts of Admiralty and then referred to The 1952 International Convention at Brussels with special reference to Article 1(1) which defines the 'Maritime Claim', Article 1(2) which defines 'Arrest', Article 3(1) which permits Claimant to arrest not only the offending ship, but any other ship owned by the same owner and Article 3(3) which makes it clear that if a ship is arrested in any one of the jurisdiction of the convention countries or bail or other security has been given in such jurisdiction, any subsequent arrest of the ship or of any ship in the same ownership by the same Claimant for the same Maritime Claim shall be set aside and the ship released. After referring to the provisions of Convention, the Court held that 'only one ship of the same owner may be arrested'. The Court thereafter referred to Section 3(3) of the Administration of Justice Act, 1956 and held that the phrase 'any other ship' means 'ship' and not 'ships'. The Court went on to hold that plaintiff, as soon as his cause of action arises, is entitled to issue a writ in rem against the offending ship and all other ships belonging to the same owner, and thereafter he could wait until he finds the one ship which he thinks more suitable to arrest and execute a warrant of arrest against her. The Judgment of Court of Appeal was delivered by Lord Denning M.R. and concurring Judgments by Megaw & Cairns, L.JJ. Lord Denning was pleased to hold as under;

> Section 3 (4) is the important one for our purpose. It says, so far as material, that in the case of any claim (inter alia) for damage done by a ship, the Admiralty jurisdiction "may (whether the claim gives rise to a maritime lien on the ship or not) be invoked by an action in rem against - (a) that ship, if at the time when the action is brought it is beneficially owned as respects all the shares therein by that person; or (b) any other ship which, at the time the action is brought, is beneficially owned as aforesaid."
>
> The important word in that subsection is the word "or". It is used to express an alternative as in the phrase "one or the other". It means that the Admiralty jurisdiction in rem may be invoked either against the offending ship or against any other ship in the same ownership, but not against both. This is the natural meaning of the word "or" in this context. It is the meaning which carries

> into effect the International Convention. It is the meaning which high authority we ought to give to it.

Therefore, even under the Admiralty jurisdiction the claimant cannot come before the Court for arrest of multiple ships of an alleged defaulter on the ground that the ship already arrested is of lesser value as against the amount claimed or is encumbered by priority charges / claims of others, and therefore the security would be inadequate. If this is permitted, then a claimant could at the outset arrest multiple ships of the same owner on the ground that each ship is mortgaged and therefore to obtain adequate security the entire fleet of the owner be arrested. The law is very clear and only provides for arrest of *that ship* or *any other ship*, and not beyond that. Hence, on this ground as well no case of any attachment of amount lying with the Court in any other Suit arises, as it is beyond the mandate of this Court while exercising Admiralty Jurisdiction.

14. Insofar as the other application of the Plaintiff under Order 12 Rule 6 CPC for passing of a judgment and decree on purported admission on the part of the defendants is concerned, the plaintiff relies upon certain documents / correspondence (emails) filed with the said application, which according to the plaintiff are documents issued by the defendant, and therefore, these are admissions on the part of the defendants and in terms of Order XII rule 6 CPC; this is a fit case for passing Judgment and Decree on the basis of such documents. However, it appears to be an admitted position that there is no specific admission in the pleadings of Defendant No.1 & 2 filed so far. In fact through its counter affidavit they have denied any such admission; rather they have stated that such emails were generated from some fake ID as per the report of an IT Expert in Dubai annexed with the counter affidavit.

15. Learned Counsel for the Plaintiff had contended that his case is premised on the word "*or otherwise*" mentioned in Order XII Rule 6 CPC, as according to the learned Counsel for the Plaintiff, this is in addition to admissions in the pleadings and would cover the admissions in the correspondence exchanged between the parties. It would be advantageous to refer Order XII Rule 6 CPC, which reads as under:-

> "6. Judgment on admissions. Any party may, at any stage of a suit, where admissions of fact have been made, either on the pleadings, or otherwise, apply to the Court for such judgment or order as upon such admissions he may be entitled to, without waiting for the determination of any other question between the parties; and the Court may upon such application make such order, or give such judgment, as the Court may think just."

16. The aforesaid provisions provides for judgment on admissions and it is open to any party, at any stage of the Suit, where admission of fact is made either in the pleadings ***or otherwise*** apply to the Court for such judgment or order as upon such admissions he may be entitled to without waiting for the determination of any other question between the parties and the Court may upon such application make such order or give such judgment as the Court ***may think fit***. The precise case as set up on behalf of the plaintiff is that any admission even beyond pleadings and through correspondence would fall in Order XII rule 6 CPC, as the same provides for admissions on facts made in pleadings or otherwise and since this correspondence falls within the word *"or otherwise"* a judgment and decree can be passed. There is no cavil to the proposition that the Court may, in the facts and peculiar circumstances of a case, if it thinks fit, can pass a judgment and decree on the basis of admission beyond pleadings. However, as stated the Court has to exercise such discretion judicially and after having been satisfied to that effect. The word *"or otherwise"* as appearing in Order XII Rule 6 CPC has been interpreted by a learned Division Bench of this Court in the case of ***Syed Waqar Haider Zaidi Vs. Mst. Alam Ara Begum & Others* (PLD 2015 Sindh 472)**. The issue in that case was that the appellant had filed an application before a learned Single Jude of this Court under Order XII Rule 6 CPC, for passing of judgment and decree on the basis of some admission in pleadings (written Statement) filed by respondent No.1 in some other Suit. Though the Court came to the conclusion that the use of the word *"or otherwise"* in Order XII Rule 6 CPC, permits the Court to take in to consideration any other material placed before it in addition to the pleadings, but dismissed the appeal as the admission was not specific and clear. The relevant finding reads as under:

> "Perusal of Order XII, Rule 6, C.P.C. reflects that it empowers the Court to pass judgment on the basis of admission made by the parties in their pleadings or otherwise at any state of the proceedings without waiting for the determination of any other question that may arise between them. However, the admission on the basis whereof a decree is sought must be specific, clear, unambiguous, categorical

> and definite. There is no denial that the admission made by the original respondent No.1 reproduced above does not meet criteria of an admission on the basis whereof a decree can be passed, except that such admission is in the connected suit. In our opinion if the provisions of Order XII, Rule 6, C.P.C. are read in a manner to restrict the admission only to the extent of pleading in the suit wherein the Court is asked to enter a decree in favour of the plaintiff on the basis of admission then the words "or otherwise would become redundant, therefore, there does not appear to be any justification to confine the admission to the extent of pleadings only."

17. On perusal of the documents relied upon by the plaintiff though it appears that these are part of certain correspondence exchanged between the parties through email, in respect of payments due to the Plaintiff; however, even if such correspondence, without prejudice, is taken as an admission (though vehemently denied), the same is not unequivocal and unconditional and therefore cannot be regarded as an unqualified admission on the basis of which judgment and decree could be passed. Moreover, the contesting defendants through counter affidavit have not only raised objections but have categorically denied and further, the concerned person was not even authorized. This specific denial in the pleadings by the defendants cannot be regarded as an admission; nor could any reliance be placed on correspondence exchanged between the parties in this context.

18. A Division Bench of this Court in the case of ***Gerry's International (Pvt.) Ltd v M/s Qatar Airways*** **PLD 2003 Karachi 253)** while deciding an appeal filed against an order passed by a learned Single Judge of this Court, whereby, an application under Order XII Rule 6 CPC was allowed by partly decreeing the Suit has been pleased to observe as under:-

> "Mere non-denial of a fact in the written statement could not be construed as an admission and that too to be equated as "unequivocal", "clear" and "unambiguous". Mr. Zahid Ebrahim is correct to the extent that statement, Annexure "H", which the respondent have filed along with the plaint, has not been commented upon by the appellant in its written statement but this would not lead to constitute admission of the appellant nor any inference of the nature could be drawn to believe something for which law requires proof through leading evidence by the parties nor could this be treated as admission of the liability of the appellant.
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> Mr. Kazim Hasan has rightly pointed out that non-denial of a document in the Written Statement in no way amounts to admission of the liability of the claim, which otherwise required settlement through documentary evidence."

19. Similarly, the Hon'ble Supreme Court in the case of ***Macdonald Layton & Company Limited v Uzin Export-Import Foreign Trade Co & Others*** **(1996 SCMR 696)** has observed as under:-

> 3………"Such admission should not only be in respect of the amount but the liability to pay the same as well to the plaintiff. The Court in deciding such application exercises its discretion which is regulated by the well-recognized principles. In this regard, reference can be made to Tahilram Tarachand v. Vassumal Deumal and another (AIR 1926 Sindh 119) wherein it has been held that to pass judgment on admission of the defendant is within the discretion of the Court which should be exercised in judicial manner and is not a matter of right. However, if it involves questions which cannot be conveniently disposed of in an application, the Court may exercise discretion in rejecting the application. Reference can be made to Premsuk Das Assaram v. Udairam Gungabux (AIR 1918 Calcutta 467). Same view has been taken in Izzat Khan and another v. Ramzan Khan and others (1993 MLD 1287), a Full bench decision of the Sindh High Court.
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> 4. Another principle which regulates the exercise of discretion is that even, if an admission has been made, but it is subject to qualifications regarding maintainability of the suit or any such legal objection which goes to the very root of it, then it would not be proper exercise of discretion to grant decree on such admission. In this regard reference can be made to Kassamali Alibhoy v. Sh. Abdul Sattar (PLD 1966 (P.W.) Karachi 75) in which Justice A.S. Faruqui, laid down the rule in the following words:--
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> > *"Shortly put the question is this. When a defendant makes an admission on a point of fact but asserts that the claim is not recoverable in the suit because of the legal objections raised therein, can the court then take the factual admission as an unqualified one and pass a decree on that admission? Having given my careful consideration to the question I have reached the conclusion that the answer to it must be in the negative. An admission in order to be made the basis of a decree under Order XII, rule 6, of the C.P.C. must be unqualified and unconditional. Therefore, when factual admission is accompanied with a qualification that the suit itself is not maintainable or that the claim suffers from a legal difficulty, it cannot be said that the admission is unqualified. When such a legal defence is raised the consideration of it must wait until the suit itself comes to be tried. The Court cannot in such a case proceed under Order XII, rule 6 of the C.P.C."*

20. It is of utmost importance to note that an admission on the basis whereof a judgment and decree is being sought from the Court under Order XII Rule 6 CPC, before recording of evidence, must be specific, clear, unambiguous and definite in nature. After perusing the material relied upon by the Plaintiff, I am of the view that all these ingredients are lacking in the instant matter; hence, cannot be considered for passing a judgment and decree thereof.

21. And lastly, as to the objection of the learned Counsel for Defendants No.1 & 2 that the vessel in question is not a ship as defined in section 2(k) of the Ordinance, 1980, it may be observed that though

this argument has no force as such to be appreciated at this stage of the proceedings, without any evidence before the Court; however, it would suffice to observe that on the basis of record placed before the Court by the Plaintiff through its Rejoinder, it clearly reflects that **"M.V. Osam Jumbo 5"** is a 2000 BHP Supply Vessel, built in the year 1983, having a UAE Flag, built by Ishii Shipbuilding CO. Ltd., Japan, having Navigation and Communications Equipment, with all round view wheelhouse, forward and Aft Control Consoles, radar, SSB, VHF, autopilot, Gyrocompass, magnetic compass, NAVTEX Receiver, potable VHF, Eco-sounder, GPS, AIS and GMDSS system, and apparently fulfills the definition of a ship which includes any description of vessel used in navigation, whereas, the phrase "used in navigation" requires that the navigation occurs in navigable waters. When an object has the shape of a vessel (which in this case has) and is used in navigation in the navigable waters, it is called a ship within the meaning of the Admiralty jurisdiction of this Court. In the case of ***Global Marine Drilling & Co v Triton Holdings Ltd.,*** (*The Sovereign Explorer*) reported as **[2001] 1 Lloyds Rep. 60**, from the Scottish jurisdiction, a *mobile offshore drilling unit* was arrested for the purpose of obtaining security in relation to a dispute under a sub-charter party, which was referred to arbitration and an application by the defendant to set aside the arrest on the ground that the *Sovereign Explorer* was not a ship was refused by Lord Marnoch. What is navigation has been eloquently discussed and dilated upon by Sheen, J., in ***Steedman v Scofield*** **[1992] 2 Lloyds Rep 163** in the following terms;

> …..what is meant by 'used in navigation'? Navigation is the nautical art or science of conducting a ship from one place to another. The navigator must be able (1) to determine the ship's position and (2) to determine the future course or courses to be steered to reach the intended destination. The word 'navigation' is also used to describe the action of navigating or ordered movement of ships on water. Hence 'navigable waters' means waters on which ships can be navigated. To my mind the phrase 'used in navigation' conveys the concept of transporting persons or property by water to an intended destination. A fishing vessel may go to sea and return to the harbor from which she sailed, but that vessel nevertheless be navigated to her fishing grounds and back again.
>
> Navigation is not synonymous with movement on water. Navigation is planned or ordered movement from one place to another. A jet ski is capable of movement on water at very high speed under its own power, but its purpose is not to go from one place to another.

22. In view of hereinabove facts and circumstances of the case I am of the view that insofar as Plaintiffs case is concerned, though a case is made out; but only to the extent of the arrest of the Vessel and not beyond that; hence, the order passed on 20.2.2018 for arrest of Defendant No.1 and its release thereof against furnishing guarantee is hereby confirmed by allowing the listed application partly. As to the other relief of attachment before judgment under Order 38 Rule 5 CPC is concerned, the Plaintiff has failed to make out any case to that effect; hence the relief to that extent is declined. As a consequence thereof the ad-interim order passed on 02.03.2018 whereby the amount involved in Admiralty Suit No.04/2017 was attached is hereby recalled. Insofar as application under Order 12 Rule 6 CPC for passing of judgment and decree is concerned, the same also stands dismissed.

23. Application listed at Serial No.1 (CMA No.31/2018) is partly allowed in the above terms to the extent of arrest of vessel only, whereas, application at Serial No.2 (CMA No.150/2018) is dismissed.

Dated: 29.04.2019

J U D G E