

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No.895 of 2019 a/w
Admiralty Suit No.9 of 2019 and Admiralty Suit Nos.1, 2, 3 of 2020

Date	Order with Signature of Judge
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1. For hearing of CMA No.11030/2019.
2. For hearing of CMA No.7529/2019.
3. For orders on Official Assignee Reference No.04/2020.
4. For order on CMA No.15126/2022.

24.02.2025

Mr. Shaiq Usmani, Advocate for the plaintiff a/w
Mr. Muhammad Nawaz Mirza Advocate in Suit No.895 of 2019.
Ms. Mamuna Nasreen, Advocate for defendants No.1 to 8 in
Suit No.895 of 2019.
Mr. Bashir Ahmed, Advocate for defendant No.9 / KPT in
Suit No.895 of 2019.
M/s. Aga Zafar Ahmed and Adnan Ahmed Zafar, Advocates
for the plaintiffs in connected Admiralty Suit No.9 of 2019 and
Nos.1 to 3 of 2020.

On the last hearing date in Civil Suit No.895 of 2019, i.e. 19.10.2020, this Court passed orders identifying as “connected suits”, the said Civil Suit and four (4) admiralty suits, namely Admiralty Suit No.9 of 2019 and Admiralty Suit Nos.1 to 3 of 2020 (hereinafter referred to as the “four admiralty suits”). This order seeks to clarify further and future proceedings of the above matters. Heard Counsel.

Earlier in Civil Suit No.895 of 2019, pursuant to the orders passed by this Court (attachment before judgment), the Official Assignee was appointed to auction the marine vessel, “M.T. Al-Rahman”, which auction was successfully completed, and the sale proceeds from the sale were deposited with and are presently lying with the Official Assignee of the High Court. The stage of filing of written statements has yet to be completed, and its determination against the nine (9) defendants are still pending, viz., its next steps before the Addl. Registrar, including evidence, ex-parte or otherwise, etc.

Meanwhile, it transpires that after the filing of Civil Suit No.895 of 2019, four admiralty suits were also instituted against the vessel, “M.T. Al-Rahman”, which are currently pending further proceedings in the admiralty jurisdiction of the High Court. Counsel for the plaintiffs of the said four admiralty suits submits that the defendants/owners have so far not appeared and are allegedly avoiding appearance in

the said admiralty suits, notwithstanding that only the Defendant vessel was served through the Official Assignee appointed as Commissioner vide Order dated 29.09.2019 in the said Civil Suit. Neither the Owner of the Vessel nor the local agent authenticating the Seafarer's Agreement for Employment of Ships before the Shipping Master, Government Shipping Office, Ministry of Maritime Affairs, Government of Pakistan nor anyone else was impleaded as defendant in the said Admiralty Suits. Applications for arrest of the vessel under Rule 731 of the Sindh Chief Court Rules (O.S.) have been filed, but no Order(s) have been passed thereon, and they are still pending hearing.

Civil Suit No.895/2019 was filed in the ordinary civil jurisdiction of the High Court of Sindh for recovery of necessaries supplied to the vessel, whereas the four admiralty suits were filed for recovery of wages of the seafarer/seamen under the admiralty jurisdiction of the High Court Ordinance, 1980. All five (5) lis essentially seek a claim in the sale proceeds lying with the Official Assignee subject to its proof thereof under two different regimes selected/elected by the Claimant, the issue of which has its distinct consequences yet to be determined. Meanwhile, the Sindh Civil Courts (Amendment) Act 2025 is likely to come into force, and the High Court may no longer exercise original civil jurisdiction, whereas the High Court exercises exclusive jurisdiction in the subject matter in all the four admiralty suits under the 1980 Ordinance.

Therefore, in the presence of Counsels in all five lis, to facilitate smooth proceedings in the civil suit and the four admiralty suits, Civil Suit No.895/2019 is hereby separated from and not to be connected with the four admiralty suits. All previous orders of this Court passed in Suit No.895/2019, which are in relation to and/or arising out of and/or in connection with the rights of the plaintiffs in the admiralty suits, will continue to operate in the civil suit until further orders. The Additional Registrar is directed to complete the next stage of procedural steps of filing of written statement(s).

Meanwhile, the four admiralty suits will continue to proceed in the High Court's admiralty jurisdiction. The four admiralty suits are connected to each other and the

Admiralty Suit No.09/2019 will be treated as the lead suit. Office is directed to list the CMAs concerning the vessel's arrest on the next hearing date.

Meanwhile, as the High Court today, exercises jurisdiction over the subject matter both in Civil Suit No.895 of 2019 and in the four admiralty suits, therefore, it is hereby ordered that the disbursement of the sale proceeds arising from the sale of the vessel in Civil Suit No.895 of 2019 shall be subject to the final outcome of the said civil suit and the four admiralty suits as proved by the plaintiffs therein, including judicial determination of whether the law of priorities under the Admiralty jurisdiction will apply to the distribution of the sale proceeds after all the claimants and the parties impleaded in the Civil Suit No.895/2019 and the four admiralty suits have proven their claim, and if so, its effect.

Finally, the Official Assignee is directed in all five cases to submit to the Court in each suit, three (3) days prior to the fixation of the suit(s), an updated consolidated report as of today's date, i.e. 24.02.2025, regarding the funds of the sale proceeds lying with the Official Assignee, including the breakup of the year-wise profit accrued on the sale proceeds in Civil Suit No.895 of 2019.

Before the matters are separated today, Office is directed to make available in the record of each suit file, a copy of the plaint(s) along with annexures filed in the other suits. Copy of today's Order is to be placed in each of the five (5) lis listed for hearing today. No observation made in this Order will be interpreted as detrimental of any of the parties.

Civil Suit 895/2019 is adjourned to a date in office.

The four admiralty suits are listed for hearing of the arrest applications on 03.03.2025.