IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ADMIRALTY AND VICE ADMIRALTY JURISDICTION

LEAVE PETITION (L) NO. 16349 OF 2026
IN
ADMIRALTY SUIT (L) NO. 16347 OF 2026

Anthonythasan Decarthus ...Petitioner
V/s.
Anglo Eastern Tanker Management Hong Kong Ltd. ...Respondent

Ms. Lara A. Jesani for the Petitioner.

CORAM : ABHAY AHUJA, J.
DATE : 21st SEPTEMBER, 2026

ORAL ORDER. :

1. Pursuant to the order dated 2nd September, 2026, today when the matter is called out, Ms. Jesani, learned Counsel appears for the Petitioner and at the outset submits that a holistic reading of Section 17 of the Admiralty (Jurisdiction And Settlement Of Maritime Claims) Act, 2017 (the "Admiralty Act"), the Statement of Objects and Reasons dated 10th November, 2016 to the said Act and particularly paragraph 3 thereof, which provides that the Code of Civil Procedure, 1908 (the "CPC") shall be applicable in respect of aspects on which provisions are not laid down in the Bill and Section 7 of the Admiralty Act, which encapsulates the provisions of Section 20 of the CPC and in view of paragraphs 44, 45 and 46 of the Plaint and the annexed documents, which clearly indicate that the material part of cause of action has

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arisen in Mumbai, in India, no leave under Clause XII of the Letters Patent Act, 1865 would be necessary. Ms. Jesani submits that Section 12 of the Admiralty Act also confirms this position. That, therefore, this Court may dispense with the said objection raised by the Registry and direct the Registry to number the Suit.

2. Ms. Jesani has further taken this Court through the paragraphs 44, 45 and 46 of the Plaint as well as page 131 of the Plaint, which is of the final report of the Yellow Gate Police Station / Chargesheet to submit that since all the crew members on the New Frontier vessel were appointed by Anglo-Eastern Ship Management (India) Pvt. Ltd., the company's General Manager was issued a notice under Section 1(A), sub-Section (1) of the Code of Criminal Procedure, 1973 (the "Cr. P. C.") to appear for investigation at the Yellow Gate Police Station along with all documents and information related to the incident and he appeared at the police station and his detailed statement was recorded and that summons was also issued to Mr. Vineet Kumar, the Managing Director of the said company under Sections 91 and 160 of the Cr. P. C. to appear for further investigation and his detailed statement was recorded and that, therefore, the material part of cause of action has arisen in Mumbai, in India.

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3. This Court had on 2nd September, 2026, while hearing Ms. Jesani, recorded the brief facts leading to the filing of the Petition seeking Clause XII leave and the learned Counsel's submissions and the objections raised by the Registry, as under:-

> "1. This Petition seeks leave under Clause XII of the Letters Patent Act, 1865.
>
> 2. When the matter is called out, Ms. Jesani, learned Counsel appearing for the Petitioner submits that the claim in the Suit, which is for compensation and damages arises in view of the collision of stationary Indian Fishing Boat IFB Ruby owned by the Petitioner by the vessel viz. M. V. New Frontier owned by the Respondent off the coast of 200 Nautical Miles off the coast of Kerala and beyond 400 NM from the coast of Tamil Nadu. Ms. Jesani submits that the said collision rendered IFB Ruby a total loss and unfit for fishing operations, injuries to the Plaintiff and the crew of the IFB Ruby and depriving the Plaintiff of his sole means of livelihood and leaving him and his crew in continuing financial hardship and distress.
>
> 3. That, thereafter, legal notice was issued to the Captain of the Respondent's Vessel and the Manager and also a CR No. 7/2023 under Sections 280, 337, 427 of the Indian Penal Code, 1860 was registered on 30th March, 2023, based on the complaint of the Plaintiff with the Colachel Marine Police Station, Kanyakumari District. Ms. Jesani submits that during the investigation since it was revealed that the place of collision was beyond 200 NM from the Kerala coast and 400 NM from the Tamil Nadu coast the Yellow Gate Coastal Police Station, Mumbai, Maharashtra State, which had been declared as the jurisdictional police station to cover the entire west coast from Gujarat to Tamil Nadu by communication dated 14th February, 2024, the papers and proceedings were sent from the Director General of Police, Tamil Nadu to the Director General of Police, Mumbai, Maharashtra. Ms. Jesani submits that accordingly, the proceedings had been transferred to the Yellow Gate Coastal Police Station for further investigation after which a chargesheet had been filed in the Mazgaon Court and the case

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is going on, although the trial has not yet commenced.

4. Ms. Jesani submits that the Suit has been filed as an admiralty suit in *personam* under Section 6 of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (the "Admiralty Act"), as the claim of the Plaintiff is a maritime claim under Sections 4(1)(d), (e) and (f) of the Admiralty Act, as the same arises out of collisions between vessels, loss of property, personal injury and consequential loss.

5. Ms. Jesani has submitted that since the Respondent viz. the owner of the vessel, carries on business and exercises, management and operational control over the Respondent's vessel from Mumbai, the criminal investigation and chargesheet have been filed in the Court in Mumbai, the pre-litigation demands, negotiations and refusals have taken place with and through the Respondent's office in Mumbai and its representatives in Mumbai, a substantial part of cause of action has arisen in Mumbai, however, since the Respondent is incorporated in Hong Kong and the collision occurred in international waters, part of cause of action would have arisen outside the jurisdiction of this Court and with leave granted by this Court under Clause XII of the Letters Patent, this Court have jurisdiction to entertain, try and dispose of the Suit.

6. Ms. Jesani has relied upon the decision of a Single Judge of the Madras High Court in the case of ***Shipping Corporation of India Limited, Represented by its Regional Deputy General Manager Vs. Nicholas John Richardson***[1], to submit that in almost similar facts the Madras High Court had sustained the leave granted.

7. Ms. Jesani has further submitted that pursuant to Section 17 of the Admiralty Act, the application of the Letters Patent Act, 1865 as applicable to the admiralty jurisdiction of the Chartered High Courts including the Bombay High Court has been repealed which means that for proceedings instituted under the admiralty jurisdiction of this Court, no leave under Clause XII of the Letters Patent would be necessary. Ms. Jesani, however, fairly submits that the decision of the Madras High Court in the case of *Shipping Corporation of India Limited, Represented by its Regional Deputy General Manager Vs.*

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> *Nicholas John Richardson (supra)* has not considered the provisions of Section 17 of the Admiralty Act and if some time is granted, an endeavour would be made to consider the applicability of Section 17 of the Admiralty Act to actions in *personam* filed in the admiralty jurisdiction.
>
> 8. It has also been brought to my notice that the Registry of this Court has *inter alia* raised the following objections in this matter:-
>
> i) Leave under clause XII not obtain-required to obtain order of the Court.
>
> (ii) Cause of action does not arise in Jurisdiction of this Court."

4. As noted above, under Section 17 of the Admiralty Act, the provision of the Letters Patent Act, 1865 as applicable to the admiralty jurisdiction of this Court, Calcutta High Court and Madras High Court has been repealed.

5. From a perusal of the Statement of Objects and Reasons dated 10th November, 2016, tendered across the bar by the learned Counsel and Section 17 of the Admiralty Act, it is seen that the Letters Patent, 1865 is not applicable to the proceedings under the Admiralty Act.

6. The present Suit has been filed as a Suit in *personam* under Section 6 of the Admiralty Act in respect of purported claim for damages under Clauses (d), (e) and (f) of Section 4(1) of the Admiralty Act.

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7. As can be seen, Section 6 of the Admiralty Act is subject to the provisions of Section 7 of the Admiralty Act, which imposes restriction on action in *personam* in certain cases. For the sake of convenience the said Section 7 is extracted as under:-

> "7. Restrictions on actions in *personam* in certain cases-(1) Where any maritime claim arising in respect of a damage or loss of life or personal injury arising out of any—
> (i) collision between vessels,
> (ii) the carrying out of or omission to carry out, a manoeuvre in the case of one or more vessels,
> (iii) non-compliance, on the part of one or more vessels, with the collision regulations made in pursuance of section 285 of the Merchant Shipping Act, 1958, the High Court shall not entertain any action under this section against any defendant unless—
> (a) the cause of action, wholly or in part, arises in India; or
> (b) the defendant, at the time of commencement of the action by the High Court, actually and voluntarily resides or carries on business or personally works for gain in India:
> Provided that an action may be entertained in a case, where there are more defendants than one and where one of the defendants who does not actually and voluntarily reside or carry on business or personally work for gain in India is made a party to such action either with the leave of the court, or each of the defendants acquiesces in such action.
> (2) The High Court shall not entertain any action in personam to enforce a claim to which this section applies until any proceedings previously brought by the plaintiff in any court outside India against the same defendant in respect of the same incident or series of incidents have been discontinued or have otherwise come to an end.
> (3) The provisions of sub-section (2) shall apply to counter-claims as they apply to actions except counter-claims in proceedings arising out of the same incident or series of incidents.
> (4) A reference to the plaintiff and the defendant for the

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> purpose of sub-section (3) shall be construed as reference to the plaintiff in the counter-claim and the defendant in the counter-claim respectively.
> (5) The provisions of sub-sections (2) and (3) shall not apply to any action or counterclaim if the defendant submits or agrees to submit to the jurisdiction of the High Court.
> (6) Subject to the provisions of sub-section (2), the High Court shall have jurisdiction to entertain an action in personam to enforce a claim to which this section applies whenever any of the conditions specified, in clauses (a) and (b) of sub-section (1) is satisfied and any law for the time being in force relating to the service of process outside the jurisdiction shall apply."

8. Apropos the above Section 7, the present Suit, as can be seen is in respect of a claim for damages arising out of collision between vessels, where the purported cause of action, at least a part has arisen in India and condition (a) having been met, however, as it has been claimed that the material part of cause of action has arisen within the jurisdiction of this Court and although, the conditions (a) and (b) as quoted above are in the alternative, it appears from a perusal of paragraphs 44, 45 and 46 of the Plaint as well as Exhibits M to Q that it may be argued that the Defendant actually and voluntarily carries on business within the jurisdiction of this Court in terms of Section 7(6) of the Admiralty Act. In my view, therefore, looked from either of the conditions, this Court would have jurisdiction to entertain, try and dispose the present action in *personam.*

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9. Accordingly no leave under Clause XII of the Letters Patent is required in the facts of this case and the objection raised by the Registry with respect to the jurisdiction of this Court, is dispensed with. The Registry to number the Suit, subject to any other objections.

10. As the Madras High Court while rendering the decision in the case of *Shipping Corporation of India Limited, Represented by its Regional Deputy General Manager Vs. Nicholas John Richardson (supra)* had no occasion to consider Section 17 of the Admiralty Act, the said decision, in my respectful view, may not be of assistance.

(ABHAY AHUJA, J.)

NIKITA YOGESH GADGIL
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