

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE M.A.ABDUL HAKHIM

Thursday, the 12th day of June 2025 / 22nd Jyaishta, 1947

IA.NO.1/2025 IN ADML.S. NO. 4 OF 2025 J

APPLICANT/PLAINTIFF

MR.SAJI SURENDRAN, PROPRIETOR, MANGALATH CASEHEWS, AGED 56
YEARS, S/O SURENDRAN, RESIDING AT 637, TP VI, MELEPLAVILA VEEDU,
CHERIKONAM, KANNANALLOOR P.O, KOLLAM, KERALA, PIN - 691576.

DEFENDANTS/DEFENDANT AND THIRD PARTY

1. OWNERS AND PARTIES INTERESTED IN THE VESSEL M.V MSC MANASA F(IMO 9238882), A VESSEL FLYING THE FLAG OF LIBERIA, TOGETHER WITH HER HULL, TACKLE, ENGINES, MACHINERY, PARAPHERNALIA AND ALL HER APPURTENANT ON BOARD PRESENTLY/SCHEDULED TO BE WITHIN THE TERRITORIAL WATERS OF INDIA AT THE PORT/ANCHORAGE OF VIZHINJAM REP BY HER MASTER.
2. THE CHIEF EXECUTIVE OFFICER, VIZHINJAM INTERNATIONAL SEAPORT LTD, (A GOVT OF KERALA UNDERTAKING), 9TH FLOOR, KSRTC BUS TERMINAL COMPLEX THAMPANOOR, THIRUVANANTHAPURAM-695001. E-mail: ceo@vizhinjamport.in; mail@vizhinjamport.in, TEL/FAX: +91 471 2328616.

Application praying that in the circumstances stated in the affidavit filed therewith the High Court be pleased to issue a warrant of arrest of the respondent vessel "M.V. MSC MANASA F" (IMO 9238882) flying Flag of Liberia along with her hull, tackle, engine, machinery spares, gear, apparels, paraphernalia, furniture, etc, presently/scheduled to be within the Territorial Waters of India at the Port/Anchorage of Vizhinjam and direct the 2nd respondent (The Chief Executive Officer, Vizhinjam International Seaport Ltd) to keep the vessel under safe arrest until further orders of this Hon'ble Court and also prayed that this Hon'ble Court may be pleased to communicate the order of arrest to the 2nd respondent by email/fax/phone and direct the 2nd respondent to act upon the email/fax copy of the order, in the interest of justice.

This Application coming on for orders upon perusing the application and the affidavit filed in support thereof, and upon hearing the arguments of M/S.JOY THATTIL ITTOOP, BIJISH B.TOM, UTHARA A.S, KRISHNA KUMAR T.K., BABY SONIA, KARUN MAHESH, MEGHA JOSEPH, NEVIS CASSANDRA L CAXTON LORETTA, GOVIND VIJAYAKUMARAN NAIR, ROSHNI MANUEL, JACOB TOMLIN VARGHESE, Advocates for the petitioner, and of SRI.PRANOY KOTTARAM, Advocate for the 1st respondent(By order) and SRI. ROSHEN D ALEXANDER, Advocate for 2nd respondent (B/O), the court passed the following:

M.A. ABDUL HAKHIM, J.

Adml.S.No.4 of 2025

Dated this the 12th day of June, 2025

ORDER

Admiralty Suit admitted. Adv.Sri. Pranoy Kottaram appears for the respondent. Post the suit for the Written Statement of the defendant on 15.07.2025.

I.A.No.1 of 2025 in Adml.S.No.4 of 2025:

1. This Application is filed by the plaintiff in the above Admiralty Suit to issue Warrant of Arrest against the vessel "M.V. MSC MANASA F" (IMO 9238882), Flying Flag of Liberia with all accessories, which is presently anchored at Vizhinjam Port, which is within the territorial waters of India and within the admiralty jurisdiction of this Court.
2. I heard the learned Counsel for the Applicant, Sri. Joy Thattil Ittoop and the learned Counsel for the 1st respondent,

Sri. Pranoy Kottaram and the learned counsel for the second respondent-Vizhinjam International Seaport Ltd., Sri. Roshen D. Alexander.

3. The learned counsel for the 2nd respondent contended that the 2nd respondent is not the competent authority in this matter. The competent authority is the Adani Vizhinjam Port (P) Ltd. The Applicant is directed to make the necessary corrections in the cause title showing the competent authority.
4. The Applicant/plaintiff has certain maritime claim against MSC MEDITERRANEAN SHIPPING CO S.A as the Applicant lost certain containers containing his cargo on account of the sinking of the foreign vessel 'MV MSC ELSA 3' operated by MSC MEDITERRANEAN SHIPPING CO S.A. The allegation is that the said vessel sank due to its mechanical, technical defects/failure on account of lack of proper care and the unseaworthiness of the vessel, and/or due to improper stowage of the containers in the vessel on account of crew incompetence. As per the plaint allegations, 'MV MSC ELSA 3'

and “M.V. MSC MANASA F” are managed/ operated/ controlled/ owned by MSC MEDITERRANEAN SHIPPING CO S.A, though the said Vessels are registered in the name of its two sister/subsidiary companies, viz, ‘ALION MARITIME LTD LIB’ and ‘ELSA 3 MARITIME INC’, and that both these vessels are sister vessels.

5. According to the Applicant, MSC MEDITERRANEAN SHIPPING CO S.A does not have any movable or immovable properties within the territory of India and hence the Applicant is entitled to invoke admiralty jurisdiction of this Court for the arrest and detention of the vessel “M.V. MSC MANASA F” in order to obtain security for the plaint claim. The Applicant has filed the suit with respect to his maritime claim of INR.1,54,71,443/- with interest @ 18% per annum against the 1st respondent since its Vessel “M.V. MSC MANASA F” entered into the admiralty jurisdiction of this Court.

6. The learned counsel for the first respondent submitted that there need not be any order of conditional arrest of the vessel

and that they are ready to furnish security for the plaint claim today itself, but the same shall be without prejudice to the contentions of the 1st defendant in the suit.

7. The learned counsel for the Applicant pointed out that the vessel is scheduled to leave today, and if adequate safeguards are not made till the furnishing of the security, the Applicant will be put to irreparable loss and injury.
8. In view of the said submission of the Counsel for the Applicant, I am of the view that no harm would be caused by passing a conditional order of arrest till the furnishing of the security.
9. Hence, the following Order is passed in this Application.
 - a. The vessel of the 1st respondent by name **“M.V. MSC MANASA F” (IMO 9238882)**, Flying Flag of Liberia, along with her hull, tackle, engine, machinery spares, gear, apparel, paraphernalia, furniture, etc., presently anchored in the Vizhinjam Port is ordered to be arrested until INR.1,54,71,443/- is deposited by the 1st respondent in this Court or until security for the said amount is

furnished by the 1st respondent to the satisfaction of this Court.

- b. It is made clear that the Warrant of Arrest would be withdrawn and the conditional order of arrest would automatically be vacated once the amount is deposited or security is furnished by the 1st respondent in this Court, without any further order.
- c. It is further made clear that the deposit/security made by the 1st respondent shall be without prejudice to its contentions in the suit.

List the I.A. for further consideration on 16.06.2025.

Sd/-

M.A. ABDUL HAKHIM

JUDGE

Shg/