

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI
Adm. Suit No.09 of 2025

Date	Order with Signature of Judge
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- 1. For hearing of CMA No.529/25 (151)
- 2. For hearing of CMA No.523/25 (149)
- 3. For hearing of CMA No.524/25 (u/r 731 SCCR)
- 4. For orders on CMA No.537/2025 (151)
- 5. For orders on CMA No.538/2025 (151)
- 6. For orders on CMA No.539/2025 (O 1 Rule 10)

29.09.2025

M/s. Danish Nayyar and Abdul Haseeb Qazi, Advocates for Plaintiff.

M/s. Agha Shahid Majeed Khan, Muhammad Zakir Shehzeb, Sheikh Haris Ahmed, Advocate for Defendant No.1.

Mr. Muhammad Tahir Advocate, holding brief for Mr. Fasih-uz-Zaman Abbasi, Advocate for defendant No.3.

Agha Zafar Ahmed, advocate for defendant No.2.

- 2. Court fee has been deposited. Application stands disposed of.
- 3. The hearing of the arrest application is deferred. The counsel for the defendant No.1 is concerned regarding the arrest of the vessel and the increasing costs of its retention in Pakistan. He intends to bring on record certain additional documents for consideration of the Court at the time of the hearing of the arrest application. Counsel may file such documents subject to all just exceptions.
- 4. This application has been moved by defendant No.3 to deposit with the Nazir certain original documents pertaining to defendant No.1. As counsel is out of station, the matter is deferred.
- 5. This application is moved by defendant No.1 seeking orders from this Court to enable the defendant No.1-vessel to furnish the Bank Guarantee in Pak rupees. Counsel for the plaintiff waives notice and files a counter affidavit, which is taken on record, a copy of which has been supplied to the counsel for the defendants.
- 6. This application is moved by defendant No.2. Issue notice to the plaintiff.
- 1. On 22.09.2025, this bench passed an ad-interim order whereby defendant No.1-vessel was ordered to be arrested in terms of the claim agitated by the plaintiff set out in its plaint, subject to release of the said vessel upon furnishing a solvent surety in the sum of US\$1,180,000 or equivalent Bank Guarantee in foreign currency to be deposited with the Nazir/Marshal of the

Court. Thereafter, the defendant No.1-vessel filed CMA No.529 of 2025 on 23.09.2025 seeking review of the order dated 22.09.2025 passed by this bench. Additionally, during the course of arguments on 22.09.2025, counsel for defendant No.1-vessel also made certain oral motions recorded in the said order seeking a reduction in the quantum of security. This matter, including the application, is now being taken up and heard.

The plaintiff's counsel has contended that, based on the commercial invoices available from pages 59 to 67, the total tonnage of the cargo was 29,500M.T. He submitted that out of 29,500M.T., according to the joint survey report available on page 165, the remaining cargo, as per the short tally, the cargo onboard the vessel, which was 4,687M.T., was off specification as a result of the negligence of defendant No.1-vessel. He contended that this cargo was allegedly off specification as part of the total cargo, which was found to be off specification, which was 11,800M.T. He claimed that ultimately the vessel discharged a cargo of 11,800M.T., which was off specification. Therefore, he argued that the order passed by this bench on 22.09.2025 does not merit any review.

The counsel for defendant No.1-vessel objected to plaintiff's submissions and argued that the quantum of 11,880 M.T. is arbitrary; it does not find any mention in the plaint, it is an exaggerated amount. He contends that the alleged quantum of damage should be limited to the amount mentioned in the joint survey report, which is 4,687M.T., and not 11,800M.T., which is artificial. He relies on the interim order passed by this Court on 25.01.2025 in another case, namely, Admiralty Suit Nos.13 and 15 of 2022 wherein the Court had made a tentative assessment of the amount of security to be furnished by the defendant No.1-vessel. He seeks modification of the arrest order in the like manner, and that the security amount to be arranged for the release of the vessel may be reduced.

Heard Counsel viz.CMA No.529/2025 and oral motion as recorded in order dated 23.09.2025. I have reviewed the documents available on file, and it appears that the total tonnage of the cargo, as stated by the plaintiff, is 29,500 metric tons. It is common ground that, as per the joint cargo condition survey, 4,687M.T. was found onboard the defendant No.1-vessel which according to the surveyor's findings was that the, "general cargo in 1, 3 and 5 holds found not to be with free flow condition with various sizes of hard and soft cargo lumps were found mixed with sound/free flowing cargo which consisted of unbreakable lumps in the cargo at scattered places as far as visible". At the same time, I do not find sight of any document which provides any explanation as to how the plaintiff has arrived at the sum of 11,800M.T. of cargo to be off specification,

which the plaintiff claims to be the quantum of damaged cargo on account of actions of defendant No.1-vessel. Be that as it may, it is the plaintiff's case to prove its claim. At this stage, the arrest order remains in the nature of an ad-interim order, pending the hearing of the arrest application. The purpose of the arrest order is to facilitate the release of the arrested vessel before it is ripe for hearing. For the moment, I have to make a tentative assessment of Plaintiff's claim based on the documents available on record. In case of the Cress LPG (Pvt.) Ltd. vs. M.T. Maria III, PLD 2018 Sindh 569, and Messrs. Resoe International Trading (Pvt.) Ltd. vs. Messrs. ARK Global DWC-LLC and five others, PLD 2019 Sindh 344, the High Court exercising admiralty jurisdiction accepted the value of the claim as articulated by plaintiff to be the value of the security to be arranged by the defendant vessel for its release. The bench has yet to hear the application for the arrest of defendant no.1-vessel. At this stage of proceedings, it is not necessary to go into a deep dive into the assessment of the plaintiff's claim. Given the above, I do not find any reason to modify the arrest order dated 22.09.2025.

The matter is already listed for hearing on 06.10.2025, when it will be taken up at 11:00 a.m.

J U D G E

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