

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
IInd Appeal No.115 of 2017

Date: Order with signature of Judge

1. For orders on office objection
2. For hearing of MA No.11321/17
3. For hearing of main case

30.5.2019

Mr. Muhammad Safdar for petitioner
Mr. Bashir Ahmed Rana for respondent
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This IInd appeal is arising out of concurrent findings of two Courts below. It is apparently the case of short payment of shipment of soyabean oil imported by Ms/ Interbras Petrobras Comerico International for Trading Corporation of Pakistan under contracts. The cargo was found complete on vessel "M.T BAP MALANDO" by the surveyor and/or joint surveyor as appointed by the appellant. The contracted goods were shipped in two stages. However, on its transmission through shore-line-pipes within the land tanks of Trading Corporation of Pakistan it was found short of 205.929 metric tons. It is pertinent to note that dry tank certificate was issued by three appointed surveyors certifying that whole of cargo was discharged/landed. The evidence of this alleged shortage of oil is available at page 301, relevant at page 303 where plaintiff's witness answered that the shore-pipeline through which the soyabean was transmitted belongs to Port Authority and that they were appointed by Trading Corporation of Pakistan. Apart from this evidence there is not an iota of evidence to dislodge the findings of two Courts below. There is no evidence that the vessel discharged the cargo short of the agreed and/or contracted quantity. In fact, to the contrary the cargo i.e. soyabean oil in terms of weight were found complete in all respects in terms of surveyor's reports hence the vessel has discharged its liability. The suit was rightly decreed for the cargo as the shortage was on account of

leakage of shore pipelines of which no one but the Trading Corporation of Pakistan is to be blamed and made responsible, hence the suit was rightly decreed which order was maintained by the appellate Court.

Insofar as the other point that relates to the witness who claims to have appeared unauthorizedly, no question was suggested in cross examination in this regard hence, this question is not available for the appellant now at this 3rd tier of litigation to deny rights. No interference in the impugned order is required, the 2nd Appeal is therefore, dismissed along with pending applications.

Judge