

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT**

THE HONOURABLE MR. JUSTICE T.R.RAVI

Friday, the 2nd day of February 2024 / 13th Magha, 1945

IA.NO.3/2024 IN ADML.S. NO. 2 OF 2024

APPLICANT/DEFENDANTS NO 1 TO 3:

- 1. OWNERS AND PARTIES INTERESTED IN THE VESSEL, NOURINMOL (KL-04-MM-3621) AN INDIAN FISHING BOAT ALONG WITH HER HULL, ENGINES, MACHINERY, APPAREL, NETS, FISHING GEARS AND OTHER PARAPHERNALIA PRESENTLY ANCHORED WITHIN THE MUNAMBAM FISHING HARBOUR, MUNAMBAM, PIN - 683515**
- 2. NOURINMOL (KL-04-MM-3621) AN INDIAN FISHING BOAT ALONG WITH HER HULL, ENGINES, MACHINERY, APPAREL, NETS, FISHING GEARS AND OTHER PARAPHERNALIA PRESENTLY ANCHORED WITHIN THE MUNAMBAM FISHING HARBOUR, MUNAMBAM, PIN - 683515**
- 3. ARSHAD OWNER OF INDIAN FISHING BOAT, NOURINMOL (KL-04-MM-3621) THALAKKATTU HOUSE, EDAVANAKKAD P.O., ERNAKULAM DISTRICT, PIN - 682502**

RESPONDENT/ PLAINTIFF:

RAJU THOMAS AGED 63 YEARS S/O THOMAS, H.NO. 23/99, ANTONY P NIVAS, K R PURAM WEST, ERAVIPUTHANTHURAI, THUTHUR P.O., KANYAKUMARI DISTRICT, TAMILNADU STATE, PIN - 629176

Application praying that in the circumstances stated in the affidavit filed therewith the High Court be pleased to cancel security amount of Rs.65,00,000/- mentioned in the interim order dated 26.01.2024, 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 YASH THOMAS MANNULLY, SOMAN P.PAUL, G.SANTHOSH KUMAR (P)., Advocates for the petitioner in AdmlSuit 2/2024 and respondent in IA 3/2024 and of AKBAR K.A., DEEPAK RAJ, Advocates for the respondents in Adml.Suit 2/2024 and applicants in IA 3/2024, the court passed the following:

ORDER

T.R.RAVI.J

Adml.S.No.No.2 of 2024

Dated this the 02nd day of February, 2024

ORDER

IA No.1/2024 & IA No.3/2024

The defendant has filed counter affidavit and the plaintiff has filed reply affidavit. It is contended by the defendant that there was no collision at all and when the vessel capsized, they had only helped the fishermen. It is also stated that when this Court had ordered arrest, the vessel 'Nourinmol' had already gone fishing and was not anchored in the Munambam Port as contended. It is further contended that as per the First Information Report, the plaintiff had only stated that there has been a loss of Rs.20 lakhs. It is hence submitted that the direction to produce security for Rs.65 lakhs is not justified. The counsel for the defendant further submits that 'Nourinmol' has returned today morning after fishing.

2. The question regarding the actual worth of the

vessel and whether the vessel which capsized had licence at the time of the alleged accident are all aspects which can be gone into later. At present what is required is only to protect the interest of either side. The amount of Rs.65 lakhs was arrived at based on the value of the vessel 'Nourinmol' and not the capsized vessel; which is a mistake. Since the plaintiff himself had assessed the damage only at Rs.20 lakhs in the FIR which is the earliest document, I find justification in the modification sought for. The interim order is hence modified by replacing the amount "Rs.65 lakhs" by the amount "Rs.20 lakhs". There will be a further direction to the Assistant Director of Fisheries, Fisheries Station, Vypin, Ernakulam to report whether arrest has been effected and if not, the reason for the same.

Post on 07.02.2024.

H/o

Sd/-

T.R.RAVI
JUDGE

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