

The "Pontianak Caraka Jaya Niaga III-34"
[2012] SGHC 176

Case Number : Admiralty in Rem No 181 of 2009 (SUM 698/2011)
Decision Date : 29 August 2012
Tribunal/Court : High Court
Coram : Judith Prakash J
Counsel Name(s) : Leong Kah Wah and Dedi Affandi (Rajah & Tann LLP) for the plaintiff; Prem Gurbani and Tan Hui Tsing (Gurbani & Co) for the second intervener, Kim Tiong Enterprises Pte Ltd; Leonard Chia (Asia Ascent Law Corporation) for the third intervener, Megastar Shipping Pte Ltd
Parties : The "Pontianak Caraka Jaya Niaga III-34"

Admiralty and shipping – sheriff's expenses

29 August 2012

Judgment reserved.

Judith Prakash J:

1 The vessel *MV Pontianak Caraka Jaya Niaga III-34* ("the Vessel") was arrested by the plaintiff in this action, ANL Singapore Pte Ltd, in June 2009 to answer a claim for unpaid slot charter-hire. Just prior to commencing this action, the same plaintiff commenced Admiralty in Rem 175 of 2009 ("Adm 175") against the vessel *MV Makassar Caraka Jaya Niaga III-39* ("*MV Makassar*"), a sister ship, to enforce recovery of a similar claim in respect of the *MV Makassar*. The *MV Makassar* was also arrested by the plaintiff.

2 This action and Adm 175 thereafter took a similar course. In September 2009, PT Djakarta Lloyd (Persero) ("DJL") intervened in both actions and thereafter applied to have the arrests set aside. These applications were heard together as the same issues were involved and were initially successful. Eventually, upon appeal and upon further arguments being made to the High Court judge who heard the appeal, DJL's applications were dismissed. The arrests of the Vessel and *MV Makassar* therefore remained in place.

3 The summons before me was filed in February 2011 by Megastar Shipping Pte Ltd ("Megastar") which had, prior to the arrest of the Vessel, acted as the Vessel's agent in Singapore pursuant to an agency agreement dated 28 October 2008 between DJL and itself. Under the same agreement, Megastar had also provided agency services to *MV Makassar*. Megastar's application in the summons was, firstly, for liberty to intervene and, secondly, for an order that the sum of US\$471,815.59 being expenses that it had incurred in respect of the Vessel whilst she was under arrest should rank as Sheriff's expenses. I granted Megastar liberty to intervene.

4 Subsequently, I heard Megastar's application in respect of the second prayer in the summons. At the same time, I heard a similar application made by Megastar in Adm 175 in respect of expenses it had incurred for the *MV Makassar* while the latter vessel was under arrest.

5 The issues that arose in this application and the application in Adm 175 were the same and the facts were similar as well although they differed in relation to the quantum of the claims and, of course, in the documentation supporting the expenditure.

6 In my judgment in summons 699 of 2011 filed in Adm 175 ([2012] SGHC 175) I considered the evidence and the arguments and came to the conclusion that Megastar's expenditure on the *MV Makassar* should not be allowed to rank as Sheriff's expenses. For the reasons given in that judgment, I have come to a similar conclusion in this case.

7 Accordingly, Megastar's application must be dismissed with costs. I will hear the parties on the quantum of the costs to be awarded.

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