

COMMONWEALTH OF THE BAHAMAS

1992

IN THE SUPREME COURT

No. 772

Admiralty Side

ADMIRALTY ACTION IN REM AGAINST THE M/V "EAST TRADER"

B E T W E E N

AUG 18 1992

GLOBAL TERMINAL & CONTAINER SERVICES INC.

Plaintiff

AND

THE OWNER AND ALL OTHER PERSONS INTERESTED

IN THE M/V "EAST TRADER"

Defendants

O R D E R

BEFORE His Lordship the Honourable Mr Justice
Joseph C. Strachan the 12th day of August, A.D. 1992

UPON MOTION this day made unto this Court by
Counsel for the Plaintiff

AND UPON HEARING Michael R. Scott, Esquire of
Counsel for the Plaintiff, Peter D. Maynard, Esquire of
Counsel for the Intervener, North American Refractories
Company, H. Campbell Cleare, III, Esquire of Counsel for
the Intervener, Marcard, Stein & Company and Ms. Edda
Dummont of Counsel for the Cavetors, Transamerica
Container Leasing Inc. and Textainer Equipment
Management B.V.

AND the Defendants having been served with Notice of this Motion but not appearing at the hearing

AND UPON READING the Affidavit of Michael R. Scott, Esquire sworn to and filed herein on the 30th July, A.D. 1992

IT IS ORDERED that Alconia Shipping Management Company Limited be at liberty to make payments to the Master, officers and crew of the M.V. "EAST TRADER" ("the vessel") on account of repatriation expenses and to be subrogated to the rights of the said Master and crew against the vessel

AND IT IS DIRECTED that the Admiralty Marshal be at liberty to permit the discharge of all or any of the cargo presently on board the vessel (if appropriate, to be stored by him) on proof of title by the cargo owner or cargo owners applying to reclaim his, its or their cargo and on proof that the freight in relation to the carriage of his, its or their cargo has been paid

AND IT IS ORDERED that the costs of the Admiralty Marshal occasioned in the discharge and storage of cargo be paid in the first instance by those interested in the same on application to reclaim the same from him without prejudice to the rights of such persons to apply to recover the same on further application to this Court or as they may be advised

AND IT IS DIRECTED that prayer Number 4 of this Motion be stood over

AND IT IS ORDERED that the vessel be appraised and sold by the Admiralty Marshal at the best possible price, not to be less than its appraised value, save with leave of this Court

AND IT IS DIRECTED that the Admiralty Marshal do select at least one shipbroking firm of international repute to provide an appraisal in relation to the vessel

AND IT IS DIRECTED that the Admiralty Marshal advertise the sale of the vessel in at least two international maritime publications of repute

AND IT IS DIRECTED that the sale of the said vessel be by way of sealed tender or private treaty at a price not to be less than the appraised value, save with leave of this Court

AND IT IS DIRECTED that the proceeds of such sale be paid into an interest bearing account in a bank to be selected by the Admiralty Marshal in the names of the Admiralty Marshal, Counsel for the Plaintiff and Counsel for the several Interveners to await an order for payment out upon the determination of priorities

AND IT IS ORDERED for the purposes of Section 32 of the Merchant Shipping Act 1976 as amended ("the Act") that the Owner whether by itself, its officers, servants or agents or howsoever otherwise be restrained from disposing of or otherwise dealing with the vessel or any share therein and that the Registrar of Bahamian Ships be notified accordingly

AND IT IS DECLARED for the purposes of Section 31 of the Act and in furtherance of the sale hereby ordered and directed that the right to transfer title to the vessel shall vest in the Admiralty Marshal

AND IT IS DIRECTED that the said Registrar of Bahamian Ships be notified accordingly

AND IT IS ORDERED that the Admiralty Marshal procure a policy of insurance covering the hull, machinery and appurtenances of the vessel from a marine insurer of international repute and, should a loss occur covered by that policy the proceeds of the policy be paid into an interest bearing account and be treated, for all purposes, in the same manner as proceeds of the sale of the vessel would be treated

AND IT IS ORDERED that the parties be at liberty to apply and restore

AND IT IS ORDERED that the costs of and occasioned by this Motion be costs in the cause

BY ORDER OF THE COURT

REGISTRAR

COMMONWEALTH OF THE BAHAMAS

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