

1/83

CASE

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

APPEAL NO. 17 OF 1981

B E T W E E N :

The Owners of the ship "AUGUST 8TH" Appellants

and

"COSTAS BACHAS" Respondent

In the Matter of the Motion in Admiralty in Rem No.
37 of 1978

Admiralty action in rem against
the ship "AUGUST 8TH"

Between

"COSTAS BACHAS" Plaintiff

And

The Owners of the ship "AUGUST 8TH" Defendants

C A S E

Lloyd Denby Neal
37 St. Mary at Hill
London EC3R 8DU

Solicitors for the Respondent

CASE

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

APPEAL NO. 17 OF 1981

B E T W E E N :

The Owners of the ship "AUGUST 8TH" Appellants

and

"COSTAS BACHAS" Respondent

In the Matter of the Motion in Admiralty in Rem No.
37 of 1978

Admiralty action in rem against
the ship "AUGUST 8TH"

Between

"COSTAS BACHAS" Plaintiff

And

The Owners of the ship "AUGUST 8TH" Defendants

CASE

1. On 13th January 1978 the Respondent issued a
Writ in the Admiralty action in rem claiming wages
and other emoluments due to him together with disburse-
ments made by him as Master of the motor "AUGUST 8TH".
The Appellants entered appearance on 2nd February 1978.
The Respondent then took out an Order 14 application

Writ

Pages 1 to 4 of
the Record

under the Singapore Rules of the Supreme Court for summary judgment.

Summons

Page 5 of the Record

2. The application was heard by the Registrar who gave leave to the Appellants to defend the action on condition that the Appellants provided security for the sum of \$ 95,909.18 within 14 days failing which the Respondent was to be at liberty to enter final judgment against the Appellants for the sum claimed in the Writ. The Appellants failed to comply with the order of the Registrar and judgment was entered for the Respondent against them on 31st July 1978.

Order of Court

Dated 10.5.78
in page 6 of the Record

Judgment

Page 7 of the Record

3. On 8th August 1978 the Appellants filed a motion to set aside the judgment entered against them on the ground, inter alia, that the Registrar had no power in an Admiralty action in rem to hear an application for summary judgment under Order 14 of the Rules of the Supreme Court, 1970 and to make any orders thereon. The motion was dismissed by the High Court. The Appellant appealed to the Supreme Court of Appeal and their appeal was again dismissed and the Appellants now appeal to this Court.

Notice of Motion

Page 8 of the Record

Notes of Arguments and

Judgment

Pages 9 to 16
of the Record

4. The sole question before this Court is whether or not Order 14 procedure under the Singapore Rules

of the Supreme Court is available to a Plaintiff in an Admiralty action in rem. Order 14 Rule 1 of the Singapore Rules of the Supreme Court reads as follows:-

"1.-(1) Where in an action to which this Rule applies a Statement of Claim has been served on a Defendant and that Defendant has entered an appearance in the action, the Plaintiff may, on the ground that the Defendant has no defence to a claim included in the Writ, or to a particular part of such a claim, or has no defence to such a claim or part except as to the amount of any damages claimed, apply to the Court for judgment against that Defendant.

(2) Subject to Paragraph (3), this Rule applies to every action begun by Writ other than one which includes -

- (a) a claim by the Plaintiff for libel, slander, malicious prosecution, false imprisonment, seduction or breach of promise of marriage; or
- (b) a claim by the Plaintiff based on an allegation of fraud.

(3) This Order shall not apply to an action to which Order 81 applies."

5. The Appellants contend that Order 14 procedure under the Singapore Rules of the Supreme Court does not apply to an Admiralty action in rem although it is an action begun by Writ. They rely on the fact that in England it was the settled practice that in Admiralty actions the procedure for summary judgment provided

by the English Order 14 is not applicable until Rule 1(2) of that Order was recently amended. Prior to the recent amendment the English Order 14 Rule 1(2) did not contain the words "(including the Admiralty Court)" and "(c) an Admiralty action in rem".

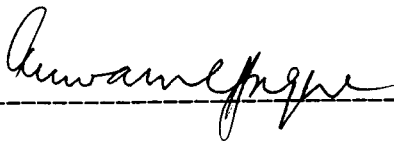
6. The Respondents contend that on a plain reading of the Singapore Rules of the Supreme Court Order 14 Rule 1, a Plaintiff in any Admiralty action, can avail himself of its provisions. Rule 1 "applies to every action begun by Writ" other than one which includes a claim referred to in rule 1(2)(a) and (b) and Rule 1(3). Under Order 70 Rule 2 of the Singapore Rules of the Supreme Court an Admiralty action in rem must be begun by Writ and is therefore an action to which Order 14 Rule 1 applies. There is no provision in Order 70, which is the order which applies to Admiralty causes and matters, which provides for summary judgment in Admiralty cases and matters.

7. In England there is procedure for speedy despatch of Admiralty actions under Order 75 Rule 31 where Admiralty Trials can be dealt with quickly as an Admiralty Short Cause Trial. In Singapore no such procedure is available and it is all the more reason why the Order 14 procedure should be available.

8. The High Court in England has various Divisions for the more convenient despatch of business and Order 14 procedures were available only in the Division specified in the English Order 14 because of the historical development of the separate Courts in England. In Singapore the Supreme Court (which comprises the High Court and the Court of Appeal) have always dealt with all legal business whether by their nature Common Law, Chancery or Admiralty.

9. Further the question before this Honourable Court is a question of procedure and this Honourable Court has time and again explained that they will accept the decision of the Local Court on a question of procedure.

10. For the reasons set out above we humbly urge this Court to dismiss this Appeal with costs to the Respondents.



Counsel for Respondent

Anwarul Haque



Counsel for Respondent

Ajaib Haridass