

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.386 OF 2001

M/s Vikrant Shipping Ltd.,
A Company registered under
the Companies Act, 1956 having
its registered office at
Melquiedes Building,
Vasco-da-Gama, Goa,
represented herein by its
Chairman Captain H.S. Maini,
resident of Bangalore ...PETITIONER

versus

1. The State of Goa,
by the Chief Secretary,
Secretariat,
Panaji, Goa;
2. The Captain of Ports,
Government of Goa,
Captain of Ports Dept.
Panaji, Goa;
3. The Deputy Captain of
Ports, Government of Goa,
O/o the Deputy Captain
of Ports, Mormugao Harbour,
Mormugao, Goa ...RESPONDENTS.

Shri P.A. Kholkar, Advocate for the Petitioner.

Shri A.N.S. Nadkarni, Advocate General, with Shri
M.J. Rane, Addl. Government Advocate, for the
Respondents.

CORAM : A.S. AGUIAR &
P.V. HARDAS, JJ.

DATED : JANUARY 16, 2002.

ORAL JUDGMENT (PER A.S. AGUIAR, J.)

Rule. Rule returnable forthwith.

2. Heard the learned Advocates.

3. Petitioner seeks an order directing Respondent No.1 to issue of transfer forms to the Petitioner for sale of inland water vessel **M.V. Janardhanan** registered under No. PNJ 126 with the Respondent No.2. Despite several requests for issue of the said prescribed form, the Respondent No.2 has failed and neglected to issue the same. From the Affidavit-in-reply filed on behalf of Respondent No.2 today it appears that the only reason for withholding the form is that the Chairman, Captain H.S. Maini, of the Petitioner, namely, **Vikrant Shipping Co. Pvt. Ltd.** is also Chairman and Director of **Maini Shipping Company** and that Maini Shipping Company owes to the Captain of Ports an amount of Rs.81,38,995/-. Since the said amount is outstanding, the Respondent No.2 is entitled to withhold the issuance of the said transfer form. Reliance is placed on a Notification published in the Official Gazette dated 14th January, 1999 of Draft Rules called the Inland Steam Vessels (Construction and Survey) Rules, 1965, upon Clause E(i) and (iv) which entitled the Captain of Ports to detain any inland vessel if and when found plying in the inland waters of Goa without payment

of dues/fees as prescribed under the Inland Vessels Act, 1917.

4. No amount is due from the present Petitioner Shipping Company or in respect of the vessel for which the transfer form is sought. The amount allegedly due by the Chairman M.S. Maini is a separate matter altogether and, obviously, the Respondents cannot enforce payment of that amount by recourse to an action not permissible in law. In any event, all that the Petitioner is seeking herein is the issue of a transfer form. There is no justifiable reason why the said transfer form should not be issued. We, therefore direct the Respondent No.2 to issue the transfer form within a week from today.

5. With the above directions, the Petition stands disposed of. Rule made absolute accordingly.

ac. { A. SUDASANI }
{ P. V. JUDASANI }