

1981 July 13

[A. LOIZOU, J.]

CYPRUS PORTS AUTHORITY,

Plaintiffs,

v.

THE SHIP "ZENOBIA", AND HER CARGO ON BOARD,

Defendants.

(Admiralty Action No. 163/80).

Admiralty—Salvage—Sunk vessel—Salving or refloating—Subject to terms safeguarding rights of persons who had previously rendered salvage services to the vessel—Whether salvage has priority over an earlier salvage.

The applicants as owners of the defendant ship which sank on or about the 7th June, 1980, within the port area of Larnaca, sought an order of the Court allowing them to "take all and any necessary action for the salvage and/or refloating of the said ship". The application was opposed by the plaintiffs in this action and by the plaintiffs in Action No. 92/81 whose claim was for remuneration for salvage services rendered by them to the ship and her cargo. The purpose of their objection was the imposition of a number of conditions by the Court in granting the application, so that their rights, if any, and the liabilities that may be incurred, especially by the plaintiffs in this action, as a result of the salvage and/or refloating operations, will be met by the applicants.

According to the terms agreed between the owners of the defendant ship and the salvors the maximum remuneration that the salvors will be entitled to receive for the salving and or refloating was 55% of the salvaged value of the ship.

Held, that considering the value of the defendant ship, there will obviously remain an amount for the two respondents to recover that may be awarded to them in respect of their salvage claims, inasmuch as in the order of priorities, salvage has priority over an earlier salvage if distinct and on a different

Master and the crew of one of the two tugs involved in the aforesaid salvage operation.

The two respondents, in fact, do not object to the granting of the order; what they are asking is that a number of conditions be imposed by the Court in granting same, so that their rights, if any, and the liabilities that may be incurred, especially by the plaintiffs in Action No. 103/80, The Cyprus Port Authority, as a result of the salvage and/or refloating operations, will be met by the applicants. In so far as their respective claims are concerned, it has been made clear by the supplementary affidavit filed on behalf of the applicants, that according to the terms agreed between the owners of the defendant ship and the salvors, the maximum remuneration that the salvors will be entitled to receive is 55% of the salvaged value which fact was communicated by the applicants-owners to the respondent Authority by telex dated 5.5.1981. Considering the value of the defendant ship, there will obviously remain an amount for the two respondents to recover that may be awarded to them in respect of their salvage claims, inasmuch as in the order of priorities, salvage has priority over an earlier salvage if distinct and on a different occasion; in support of this proposition reference may be made to *The British Shipping Laws*, Admiralty Practice, para. 1574, at p. 743, and the cases of *The Veritas* [1901] P. 304, and *The Rusland* [1924] P. 55.

With regard to the liabilities of the respondent Port Authority that may be incurred on account of the operations to be undertaken by the applicants, which naturally involve risks, some provision has to be made for the existence of ready cash over and above the value of the res that may in law be found liable for the compensation to which such respondents may be found in law to be entitled to.

In the circumstances, I grant the application on the following terms:

- (a) That the salvage and/or refloating operations be carried out under the supervision of the Marshal of this Court.
- (b) That the salvage and/or refloating operations will be done at the salvors' and or owners' risks jointly and severally in accordance with the accepted standards

5 of work and subject to the laws and regulations of
Cyprus pertaining to the matter, and that the owners
and/or salvors will indemnify the respondent Authority
for any damage which it may suffer as a result of such
operations, which will be done in such diligent manner
as to avoid any damage to the respondent Authority
and to the property of third parties to whom the Autho-
rity may be answerable in damages for any damage
that may be caused to them as a result of these opera-
10 tions.

(c) That the applicants give a Bank Guarantee in favour
of the Port Authority for the sum of C£100,000.—
(one hundred thousand Cyprus pounds) answerable
for any damage and any liability that the respondent
15 Authority may suffer or incur as a result of these
operations, without this meaning that their claim,
if any, will be limited to the amount of this Bank
Guarantee.

(d) That the total remuneration and expenses of the person
20 or persons that will undertake to carry out the salvage
and/or refloating operations of the defendant ship
will not exceed in all 55% of her salvaged value and that
no such operation will be undertaken by anyone unless
the contents of this order are brought to his or their
25 knowledge and they undertake to abide by its terms
and by undertaking the operations in question they
will be considered as consenting to be bound by them.

In the result, order is made accordingly with costs
in cause.

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Application granted.
Costs in cause.