

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(ADMIRALTY JURISDICTION)

ADMIRALTY SUIT NO. 30 OF 2025

In the matter:

BanBridge navigation, DMCC UAE

Versus

M.V. MAJESTIC VERA and others.

Mr. Mohammed Forrukh Rahman, Adv. with

Ms. Shahinoor Alam, Adv. with

Mr. Sk. Abdullah, Adv. with

Ms. Tanzina Sharmee, Adv.

....For the defendant No. 2/applicant.

Mr. Sajed Sami Ahammad, Adv. with

Mr. Jakaria Khan, Adv.

...For the plaintiff.

Heard on: 08.06.2026

And

Judgement on: The 10th June, 2026

1. This is an application filed by Principal Defendant No. 2, Westerly Bulkers S.A., seeking the summary rejection of the plaint and dismissal of the suit under Order VII Rule 11(a) and (d) read with section 151 of the Code of Civil Procedure, 1908. The applicant asserts a complete lack of territorial and subject-matter jurisdiction alongside a fatal non-disclosure of any valid cause of action.

2. Facts culled from the plaint and order sheet necessary for disposal of the instant application, in brief, are that the plaintiff instituted the instant Admiralty Suit seeking recovery of purported unpaid hire charges, bunker shortfalls and subsequent damages allegedly arising under a Charterparty Agreement dated 26.04.2024. The underlying Charterparty was executed exclusively between the plaintiff and Defendant No. 3, Global American Transport LLC.

The plaintiff originally instituted this suit as an action in rem against Defendant No. 1, the vessel M.V. MAJESTIC VERA, and in personam against corporate entities including Principal Defendant No. 2 and Defendant No. 3. The plaintiff sought to anchor this Court's jurisdiction by arresting M.V. MAJESTIC VERA on a “sister ship” or “alter ego” theory, alleging that Defendant No. 2 operated the vessel on behalf of Defendant No. 3.

However, upon the intervention of the true registered and beneficial owner, Vera Maritime S.A. (Defendant No. 5), the arrest was vacated on 30.06.2025, as Defendant No. 5 proved that it was the sole owner of the res. Consequently, the strike-out application was formally allowed by this Court on 11.05.2026, striking out both Defendant No. 1 and Defendant No. 5 from the proceedings entirely.

3. Mr. Mohammad Forrukh Rahman, the learned Advocate appearing on behalf of Principal Defendant No. 2-applicant, taking this Court through the statements made in the plaint and the documents relied upon by the plaintiff, submits as follows:

(a) That the moment the *res* is struck out from the proceedings and released from arrest, the Admiralty Court loses its jurisdiction over the foreign entities concerned. Any contrary approach would be legally flawed and would defy the foundational principles of maritime jurisprudence. Admiralty jurisdiction over foreign defendants is a sovereign power that acts as an exception to the normal rules of civil domicile and is triggered strictly by the arrest of the offending property. As observed by the Supreme Court of India

in *M.V. Elisabeth and Others vs. Harwan Investment and Trading Pvt. Ltd.*, reported in 1993 Supp (2) SCC 433, the power to enforce claims against foreign ships is an essential attribute of admiralty jurisdiction assumed precisely “while they are within the jurisdiction of the High Court by arresting and detaining them”. Furthermore, in the said judgment it has been held that it is only “once a foreign ship is arrested in Indian waters by an order of the High Court” that the jurisdiction of the competent Court is attracted to proceed with the trial.

(b) The rationale for such rigid jurisdictional anchor is deeply rooted in the limitations of territorial sovereignty over foreign entities. The physical presence and lawful detention of the *res* is the absolute prerequisite; without it, the Court has no nexus to the dispute. As clarified by the English Court of Appeal in *The Anna H*, at Headnotes 2 and 3, Admiralty jurisdiction *in rem* is preserved strictly as an exception to the general international rules of domicile. The Court established that this exception exists only because the physical property attached was a ship securing a maritime claim. With M.V. MAJESTIC VERA proven to be owned by a third party (Defendant No. 5) and subsequently struck out and released, the *res* is definitively gone and thereby the jurisdiction of this Court as well.

(c) The striking out of the vessel and its owner leads to a fatal jurisdictional void regarding the principal debtor, Defendant No. 3 (GAT LLC). It is an undisputed fact on record that Defendant No. 3 is incorporated in Delaware, United States of America, while Principal Defendant No. 2 is incorporated in the Marshall Islands. Neither entity maintains any business operations, registered office, branch office or corporate assets within the territorial limits

of Bangladesh. Neither is the plaintiff a Bangladeshi entity nor does it have any business operations or registered office in Bangladesh. Furthermore, the underlying contractual dispute arose entirely outside the country. The vessel was delivered in Kandla, India and redelivered in Chiba, Japan. In the absence of the arrested vessel, the general rules of civil jurisdiction under section 20 of the Code of Civil Procedure, 1908 apply, which strictly require the defendant's residence, place of business or the accrual of the cause of action within the forum State. Because the res (M.V. MAJESTIC VERA) was exonerated and struck out, the sole jurisdictional hook that artificially dragged Defendant No. 3 to Bangladesh is gone. Without territorial and subject-matter jurisdiction over the principal debtor (Defendant No. 3), the plaintiff cannot procedurally or legally sustain a derivative "alter ego" action against Defendant No. 2.

(d) That when the *res* is improperly impleaded, exonerated of maritime liability and struck out from the record, the suit instantaneously loses its character and maintainability. This proposition was unequivocally upheld by this very Court in *Global Traders vs. M.V. Guijiang VI and Others*, reported in 57 DLR (HCD) 89. In that case, because the cargo was never loaded onto the specific vessel, no maritime liability attached to that *res*. As observed in paragraph 7 of the said judgment, the Court categorically ruled:

"In view of the above discussion I find that the instant suit is liable to be dismissed as not maintainable under the Admiralty Jurisdiction."

(e) That the plaintiff seeks to artificially sustain an *in personam* action through a defunct *in rem* claim form. This is a procedural impossibility. An *in rem* claim form naming a person does not commence *in personam*

proceedings against him. This procedural fallacy was destroyed by the English Court of Appeal in the authoritative judgment of *Stolt Kestrel BV vs. Sener Petrol Denizcilik Ticaret*, reported in [2015] EWCA Civ 1035. Lord Justice Tomlinson unequivocally ruled in that judgment that the inclusion of a party's name on an *in rem* claim form does not amount to the issue or bringing of proceedings *in personam* against them, as *in personam* proceedings must be brought separately by an *in personam* claim form.(Paragraph no.10). Accordingly, the plaintiff cannot transform a failed *in rem* action into an independent *in personam* proceeding merely by naming Defendant No. 2 in the plaint.

(f) Furthermore, an action *in rem* only acquires the character of an *in personam* action if a specific procedural trigger occurs, namely, the party liable *in personam* voluntarily enters an appearance to defend the *res*. As articulated by the Court of Appeal in *The Deichland* [1 QB 361] (per Sir Denys Buckley), this procedural conversion requires the defendant's active submission. If he enters an unconditional appearance, “he becomes liable in that action as though it had been commenced *in personam*. This is a peculiarity of our rules of procedure and practice.” The learned Advocate further submits that the same principle was recognized in *The Nordglimt*, reported in [1988] QB 183 where Hobhouse J. observed that unless and until a party appears to defend an action *in rem*, the action remains purely an action against the *res* and creates no enforceable personal rights. The rule, originating from *The Dictator* [1892], has consistently been reaffirmed in English admiralty jurisprudence and is also reflected in Nigel Meeson and John A. Kimbell's *Admiralty Jurisdiction and Practice* (4th Edition),

wherein it has been stated that conversion of an action *in rem* into an action *in personam* requires active and unconditional submission to the Court's jurisdiction. In the instant suit, neither Defendant No. 2 nor Defendant No. 3 ever appeared to defend the *res*. Defendant No. 5 did, and successfully struck it out. Defendant No. 2 appears now exclusively under protest to challenge jurisdiction. Therefore, no *in personam* conversion has ever occurred. The plaintiff is left with an empty and unenforceable claim form bereft of any procedural validity.

(g) That it is a cardinal rule of civil jurisprudence that an application under Order VII Rule 11 of the Code of Civil Procedure must be adjudicated decisively to prevent abuse of the Court's process when the Court lacks jurisdiction or the plaintiff lacks privity. As held by this Court in *Madina Vegetable and Oil Refinery Industries (Pvt.) Ltd. vs. M.T. Dolores*, reported in 45 DLR (1993) 740, the Court ordered return of the plaint because “*there is no cause of action to try the suit as this Admiralty Court is lacking jurisdiction*”. This stringent requirement was further demonstrated in *Sadharan Bima Corporation vs. Bangladesh Shipping Corporation*, reported in 43 DLR (HCD) 548. The learned Advocate further submits that the same principle was reiterated in *Global Traders vs. M.V. Guijiang VI and Others*, reported in 57 DLR (2005) 89. Therefore, once Defendant No. 1-vessel and Defendant No. 5-owner has been struck out from the proceedings, no legal foundation remains for continuation of the suit.

(h) That a bare perusal of the admitted timeline exposes a fundamental chronological impossibility. The underlying Charterparty was executed on 26.04.2024 and the alleged breach occurred on 21.10.2024. However, as

evidenced by its official Entity Report, Principal Defendant No. 2 (Westerly Bulk S.A.) was incorporated in the Marshall Islands on 24.12.2024. Defendant No. 2 did not even exist as a corporate entity when the contract was signed or breached. It is a jurisprudential absurdity to suggest that a non-existent entity orchestrated a fraud or acted as an alter ego for a historic debt incurred by Defendant No. 3. The learned Advocate submits that it is a chronological, legal and physical impossibility for a non-existent corporate entity to participate in a contractual mechanism of deceit or assume retroactive liability for obligations allegedly incurred by another company before its incorporation. Accordingly, the plaint itself discloses no sustainable cause of action against Defendant No. 2.

(i) Furthermore, the plaintiff's attempt to equate commercial operation with beneficial ownership demonstrates a fatal misunderstanding of the statutory threshold. Under section 4(4)(b) of the Admiralty Court Act, 2000, sustaining a sister-ship arrest requires the person liable *in personam* to have beneficial ownership over all the shares of the ship. Defendant No. 2 holds no shares whatsoever in the vessel. The learned Advocate submits that commercial management, operation or marketing of a vessel cannot be equated with beneficial ownership contemplated by section 4(4)(b). Reliance is placed upon the decision of the English Court of Appeal in *The Eppo Agnic [1988] 1 WLR 1090* wherein Lord Donaldson M.R. held that the right to arrest sister-ship does not extend to a ship owned by a sister company of the company owning the offending vessel and that the statutory provision is confined to vessels beneficially owned by the person liable *in personam*. Therefore, the plaintiff's reliance upon alleged commercial links between

Defendant Nos. 2 and 3 cannot satisfy the statutory requirement of beneficial ownership.

(j) Additionally, under Order VI Rule 4 of the Code of Civil Procedure, allegations of a fraudulent scheme or alter ego deceit must be pleaded with specific particulars. The plaintiff's reliance on circumstantial marketing brochures constitutes a bald averment, failing the mandatory pleading requirements and rendering the plaint legally defective. The learned Advocate further submits that the law relating to separate corporate personality cannot be displaced merely on the basis of generalized allegations. Reliance is placed upon *The Maritime Trader*, reported in Lloyd's Law Reports [1981] Vol.2 wherein Sheen J. reaffirmed that a shareholder has no legal or equitable property in the assets of the company and refused to lift the corporate veil in the absence of a genuine sham or fraudulent structure. Accordingly, vague references to marketing materials, common commercial branding or alleged operational links cannot justify piercing the corporate veil or sustaining the plaintiff's alter ego theory.

(k) The severity of the plaintiff's mala fide fishing expedition is magnified by the national prejudice it caused. M.V. MAJESTIC VERA was loaded with 33,000 MT of TSP fertilizer destined for the Bangladesh Agricultural Development Corporation (BADC), cargo of critical importance for the Amon crop season. The plaintiff recklessly hijacked state-bound agricultural cargo to secure a private foreign debt without conducting basic due diligence on SOLAS/UNCLOS registries. This *crassa negligentia* (gross negligence) caused 3.167 days of unlawful detention, inflicting direct quantified damages upon Defendant No. 2 amounting to USD 80,496.14. Principal

Defendant No. 2 expressly reserves its right in law to pursue a counterclaim for such damages.

4. Per contra, Mr. Sajed Sami Ahmmad, learned Advocate appearing for the plaintiff, opposes the application and submits as follows:

(a) The learned Advocate submits that the defendants have proceeded on a fundamentally erroneous assumption regarding the scope of admiralty jurisdiction under the Admiralty Court Act, 2000. According to him, the present suit is founded upon a Charterparty Agreement involving claims for unpaid hire charges, bunker shortfalls and consequential damages, which squarely fall within section 3(2)(h) of the Admiralty Court Act, 2000 as claims arising out of an agreement relating to the use or hire of a ship. Therefore, the claim is a recognized maritime claim under the Act.

(b) Though not expressly argued by the learned advocate for the defendant-applicant, the learned Advocate next submits that section 5 of the Admiralty Court Act, 2000 has no application whatsoever to the present proceedings. Section 5 is confined to a limited category of claims arising out of collision, navigation-related incidents, personal injury, loss of life and analogous maritime torts.

(c) Referring to sections 3 and 4 of the Admiralty Court Act, 2000, the learned Advocate argues that the Act itself recognizes independent admiralty jurisdiction *in personam*. Section 4(1) expressly provides that, subject to section 5, the admiralty jurisdiction of the High Court Division may be exercised *in personam* in all cases falling within section 3. Accordingly,

once a maritime claim under section 3(2)(h) is disclosed in the plaint, the suit remains maintainable against the persons allegedly liable therefore.

(d) The learned Advocate further submits that section 4(4) merely creates an additional remedy enabling a claimant to proceed *in rem* against an offending ship or a sister ship. The provision does not extinguish or replace the independent *in personam* jurisdiction recognized by section 4(1). Therefore, even if the vessel and its owner have subsequently been struck out from the proceedings, the plaintiff's substantive claim against Defendant No. 3 survives independently as a maritime claim arising out of charterparty obligations.

(e) The learned Advocate contends that the plaint contains specific averments regarding the role of Principal Defendant No. 2 in relation to Defendant No. 3 and the operation and control of the vessels concerned. According to him, questions regarding beneficial ownership, control, operation, alter ego status and the relationship between Defendant Nos. 2 and 3 involve disputed questions of fact requiring evidence. Such issues cannot be conclusively determined at the stage of an application under Order VII Rule 11 of the Code of Civil Procedure.

(f) The learned Advocate also submits that the defendants are seeking a determination on the merits of the controversy by relying upon documents and factual assertions which are disputed by the plaintiff. Whether Defendant No. 2 was beneficial owner, operator, controller or alter ego of Defendant No. 3 are matters requiring trial and cannot furnish a basis for rejection of the plaint.

(g) The learned Advocate next argues that admiralty proceedings are not rendered non-maintainable merely because the *res* is no longer under arrest. Referring to the principles discussed in *The Linda* and *The Deichland*, he submits that admiralty proceedings recognize the coexistence of remedies *in rem* and *in personam* and that the disappearance of the *res* does not automatically extinguish the underlying maritime claim against persons otherwise liable.

(h) The learned Advocate further submits that what may begin as an action *in rem* may, after a person interested responds to the writ *in rem* and appears to defend the action, proceed as an action *in personam*. Therefore, according to him, the statutory scheme of admiralty law recognizes that jurisdiction is not dependent solely upon the continued presence of the *res* but extends independently to persons liable *in personam* in respect of maritime claims recognized by law.

(i) The learned Advocate therefore submits that the plaint discloses a clear cause of action founded upon a Charterparty Agreement, raises triable issues regarding the liability of the defendants and falls squarely within the admiralty jurisdiction conferred by sections 3 and 4 of the Admiralty Court Act, 2000. Accordingly, the application under Order VII Rule 11 of the Code of Civil Procedure is liable to be rejected.

5. I have heard the learned Advocates of both sides, perused the plaint, the application for rejection of plaint, the written objection submitted by the parties, the documents annexed thereto and the materials available on record.

6. Upon hearing the parties, it appears to this court that the following questions call for determination:

(i) Whether the present claim constitutes a maritime claim within the meaning of section 3(2)(h) of the Admiralty Court Act, 2000;

(ii) Whether, after the striking out of Defendant No. 1-vessel M.V. MAJESTIC VERA and Defendant No. 5, the jurisdiction originally invoked under section 4(4) of the Admiralty Court Act, 2000 survives;

(iii) Whether the present suit can independently continue as an action *in personam* against the remaining defendants notwithstanding the disappearance of the res;

(iv) Whether the remaining defendants possess any territorial, statutory or jurisdictional nexus with Bangladesh sufficient to attract the jurisdiction of this Court;

(v) Whether the plaint discloses a maintainable cause of action against the remaining defendants within the jurisdiction of this Court; and

7. Before entering into the principal controversy, it is necessary to observe that there is no dispute that the plaintiff's claim arises out of a Charterparty Agreement and, prima facie, falls within the category of maritime claims contemplated by section 3(2)(h) of the Admiralty Court Act, 2000. The real dispute between the parties is not regarding the maritime character of the claim but regarding the jurisdiction of this Court to continue entertaining the suit after the vessel and its owner have been excluded from the proceedings.

The controversy therefore lies at the intersection of admiralty jurisdiction, territorial jurisdiction and the continued maintainability of proceedings against foreign defendants after the disappearance of the res upon which the original jurisdiction including power to arrest was founded.

The aforesaid questions are interrelated and, therefore, are taken up together for consideration.

8. At this stage, it is necessary to examine the statutory framework of the Admiralty Court Act, 2000.

Section 4(1) of the Admiralty Court Act, 2000 provides that, subject to the provisions of section 5, the admiralty jurisdiction of the High Court Division may be exercised *in personam* in respect of the maritime claims recognized under section 3(2) of the Act. On the other hand, section 4(4) creates a special remedy *in rem* whereby, in relation to claims falling within clauses (d) to (q) of section 3(2), a claimant may proceed against the offending ship or a sister ship provided the statutory requirements regarding ownership and beneficial ownership are fulfilled.

For proper appreciation of the controversy, section 4(4) of the Admiralty Court Act, 2000 is reproduced below:

“(4) In relation to claims as mentioned in clauses (d) to (q) of subsection (2) of section 3 of the Act, the person who would be liable for the claim in an action *in personam* was, when the cause of action arose, as the owner or charterer of, or person in possession or in control of, the ship, whether the claim gives rise to a maritime lien on the ship or not, an action *in rem* can be brought in the Admiralty

Jurisdiction of the High Court Division as the Court of Admiralty against the following ships, namely—

(a) if at the time when action is brought, the person has beneficial ownership over all the shares of the ship; or

(b) if at the time when action is brought, any other ship is under the beneficial ownership of the said person.”

9. It appears from the records that the plaintiff initially invoked the admiralty jurisdiction of this Court by causing the arrest of M.V. MAJESTIC VERA on the allegation that the vessel was liable to arrest as a sister ship and that Principal Defendant No. 2 was commercially operating and controlling the vessel on behalf of Defendant No. 3. The arrest of the vessel constituted the sole jurisdictional foundation through which the plaintiff sought to bring foreign defendants before this Court.

However, that foundation no longer survives. By decision already made in this proceeding, the vessel was found not to be beneficially owned by the alleged debtor and consequently Defendant No. 1-vessel and Defendant No. 5-owner was struck out from the proceeding. As a result, the arrest order stood vacated and the *res* disappeared from the suit altogether.

10. The learned Advocate for the plaintiff has strongly contended that the disappearance of the *res* does not affect the maintainability of the suit because section 4(1) independently recognizes admiralty jurisdiction *in personam*. He further submits that section 5 of the Admiralty Court Act, 2000 has no application to a charterparty claim under section 3(2)(h) and therefore the suit may continue against the remaining defendants.

There appears to be considerable force in the submission that the present claim, being founded upon a Charterparty Agreement, does not directly fall within the category of claims contemplated by section 5 of the Admiralty Court Act, 2000. Consequently, this Court is not persuaded to hold that section 5, by itself, bars the institution of the present suit.

Nevertheless, the acceptance of that proposition does not conclude the controversy.

11. The principal issue before this Court is not whether the plaintiff has pleaded a maritime claim, nor is the issue whether section 5 directly applies to the present dispute. The real issue is whether, after the disappearance of the *res* and the striking out of Defendant Nos. 1 and 5 from the proceeding, this Court retains jurisdiction to continue adjudicating a dispute between foreign parties having no territorial nexus whatsoever with Bangladesh.

The claim pleaded in the plaint may constitute a maritime claim under section 3(2)(h) of the Admiralty Court Act, 2000. However, the existence of a maritime claim and the existence of jurisdiction over a particular defendant are two distinct legal concepts. A maritime claim may undoubtedly exist, but unless the Court possesses jurisdiction over the parties against whom such claim is asserted, the claim cannot be adjudicated by that Court.

12. During the course of hearing, this Court posed a specific question to the learned Advocate for the plaintiff. This Court asked him as to what would have been the position had there been no vessel at all within the territorial waters of Bangladesh and consequently no arrest whatsoever.

In reply, Mr. Sajed Sami Ahmmad, learned Advocate for the plaintiff, candidly submitted that in such circumstances the plaintiff would not have instituted the suit in Bangladesh and would have approached a forum possessing proper jurisdiction over the dispute. However, according to the learned Advocate, since jurisdiction had once been assumed through the arrest of the vessel, rightly or wrongly, the suit should now be permitted to continue against the remaining defendants for the ends of justice.

The submission, though appears to be attractive at first blush, cannot survive closer scrutiny.

13. The answer furnished by the learned Advocate itself demonstrates the central difficulty in the plaintiff's case. If, in the admitted absence of an arrestable vessel, the plaintiff would never have approached this Court, then the question inevitably arises whether the accidental or mistaken arrest of a vessel, subsequently found to be unrelated to the alleged liability, can permanently confer jurisdiction over foreign defendants having no independent connection with Bangladesh.

In the considered view of this Court, the answer must be in the negative.

The jurisdiction of an Admiralty Court cannot rest upon a foundation which has subsequently been judicially determined to be non-existent. Once the very basis upon which jurisdiction was assumed disappears, the Court must necessarily examine whether any independent jurisdictional foundation survives.

14. The learned Advocate for the plaintiff has argued that section 4(4) merely creates an additional remedy *in rem* and does not extinguish the independent remedy *in personam* recognized under section 4(1). In the abstract, that proposition may be correct. However, the difficulty confronting the plaintiff is that an action *in personam*, unlike an action *in rem*, remains subject to the ordinary principles governing personal jurisdiction unless the statute expressly provides otherwise.

The Admiralty Court Act, 2000 undoubtedly creates special remedies and special procedures. However, nowhere does the Act create an unrestricted universal jurisdiction permitting foreign plaintiffs to sue foreign defendants in Bangladesh in respect of disputes wholly unconnected with Bangladesh.

15. The plaintiff has also relied upon authorities such as *The Linda* and *The Deichland* to contend that admiralty proceedings may continue *in personam* after the appearance of a person interested in the *res*.

There can be no squabble with the legal proposition enunciated in those authorities. However, the factual foundation necessary for application of that principle is absent in the instant case.

The records reveal that Defendant No. 2 has appeared solely for the purpose of challenging the jurisdiction and maintainability of the suit. Such appearance cannot be construed as an unconditional submission to the jurisdiction of this Court. Defendant No. 3 has not submitted to the jurisdiction of this Court at all. Consequently, the authorities relied upon by the plaintiff do not materially advance his case.

16. The learned Advocate for the plaintiff has next argued that questions relating to beneficial ownership, commercial control, operation of the vessel, alter ego liability and corporate relationship between Defendant Nos. 2 and 3 involve disputed questions of fact which ought to be left for trial.

This Court agrees that such issues ordinarily involve evidentiary matters and that a final determination of those issues may require evidence. However, the present application can be disposed of without entering into those disputed factual controversies.

Even assuming, solely for the purpose of argument, that every factual allegation made in the plaint regarding control, operation, beneficial ownership and alter ego liability is true, the plaintiff still faces an insurmountable jurisdictional obstacle. The question is not whether Defendant No. 2 may ultimately be liable. The question is whether this Court possesses jurisdiction to adjudicate such liability after the disappearance of the *res*.

17. The Court also notes the submission of the learned advocate for Principal Defendant No. 2 regarding the chronology of events. It has been pointed out that the Charterparty Agreement was executed on 26.04.2024, the alleged breach occurred on 21.10.2024, whereas Principal Defendant No. 2 was incorporated only on 24.12.2024. According to the applicant, it is therefore impossible for Defendant No. 2 to have participated in the alleged contractual arrangements at the material time.

The submission undoubtedly raises a serious issue regarding the plaintiff's alter ego theory. However, since this application can be disposed

of on the broader question of jurisdiction, this Court refrains from expressing any concluded opinion regarding that disputed factual aspect.

18. Likewise, this Court does not consider it necessary at this stage to determine the competing allegations concerning beneficial ownership, lifting of the corporate veil, alleged fraudulent arrangements, wrongful arrest or the defendant's claim for damages arising out of the detention of the vessel. Those issues may arise in other proceedings, if any, but are not necessary for deciding the present application.

19. Having considered the submissions of both sides, this Court is of the view that after the striking out of the vessel and its owner, the legal position must necessarily be examined as if no arrestable vessel exists before the Court. The Court must therefore determine whether any independent jurisdictional basis survives enabling the suit to continue as an action *in personam* against the remaining defendants.

20. An action *in personam* is essentially a personal action directed against a defendant and, unless otherwise provided by statute, remains subject to the ordinary principles governing territorial and personal jurisdiction. Although the Admiralty Court Act, 2000 creates special remedies, including arrest of ships and actions *in rem*, it does not confer an unrestricted jurisdiction to adjudicate disputes between foreign parties having no connection whatsoever with Bangladesh in absence of the *res*.

21. As already observed, the plaintiff initially invoked the jurisdiction of this Court through the arrest of M.V. MAJESTIC VERA. The arrest of the vessel operated as the jurisdictional anchor through which the plaintiff

sought to bring the foreign defendants before this Court. The significance of section 4(4) lies in the fact that it creates a statutory exception to ordinary territorial jurisdiction by permitting a claimant to invoke admiralty jurisdiction through the arrest of a ship physically present within Bangladesh. In the present case, however, that jurisdictional anchor has disappeared upon the striking out of the vessel and its owner from the proceedings.

22. In such circumstances, the Court must ascertain whether the suit can independently survive as an action *in personam* under the ordinary rules governing jurisdiction. In this regard, section 20 of the Code of Civil Procedure, 1908 assumes considerable importance. Section 20 embodies the general principles governing territorial jurisdiction and provides that, subject to statutory exceptions, a suit may be instituted where the defendant resides, carries on business, personally works for gain, or where the cause of action wholly or partly arises.

23. Applying those principles to the present case, the following facts emerge from the plaint itself and remain substantially undisputed:

- (i) Defendant No. 3 is incorporated in Delaware, United States of America;
- (ii) Principal Defendant No. 2 is incorporated in the Marshall Islands;
- (iii) Neither defendant resides in Bangladesh;
- (iv) Neither defendant carries on business in Bangladesh;

(v) Neither defendant maintains any office, branch establishment or commercial presence within Bangladesh;

(vi) The Charterparty Agreement was executed outside Bangladesh;

(vii) The vessel was delivered in Kandla, India and redelivered in Chiba, Japan;

(viii) The alleged breaches of contract occurred outside Bangladesh;

(ix) No part of the pleaded cause of action is shown to have arisen within Bangladesh; and

(x) The plaintiff itself is a foreign entity having no pleaded business establishment in Bangladesh.

24. This Court also finds considerable force in the submission of the defendant-applicant that the plaintiff is attempting to sustain an independent action *in personam* through what has now become a defunct *in rem* proceeding. The authorities relied upon by the defendant-applicant demonstrate that an action commenced *in rem* does not automatically generate personal liability unless a party liable *in personam* voluntarily and unconditionally appears to defend the *res*. In the present case, Defendant No. 2 has appeared solely for the purpose of challenging jurisdiction and maintainability, while Defendant No. 3 has not submitted to the jurisdiction of this Court at all. Consequently, this Court finds no legal basis for treating the present proceeding as having been converted into an independent action *in personam*.

25. Therefore, viewed from any angle, whether from the perspective of admiralty procedure, principles governing conversion of actions *in rem* into actions *in personam*, beneficial ownership under section 4(4), corporate personality, or ordinary rules of territorial jurisdiction, the plaintiff has been unable to demonstrate any legally sustainable basis upon which the present proceeding may continue after the disappearance of the *res*.

26. The learned Advocate for the plaintiff has argued that once jurisdiction had been assumed through the arrest of the vessel, the suit should be allowed to continue notwithstanding the subsequent striking out of the *res*. This Court is unable to accept such contention. Acceptance of that proposition would effectively permit foreign parties having no connection with Bangladesh to maintain maritime proceedings before this Court merely because a vessel had once been arrested within jurisdiction, notwithstanding a subsequent judicial determination that the vessel was unrelated to the alleged liability.

27. Admiralty jurisdiction over foreign ships and foreign parties is undoubtedly an exceptional jurisdiction. The authorities cited by the defendant-applicant demonstrate that such jurisdiction is historically founded upon the presence of the *res* within territorial waters. Once that foundation disappears, the Court must identify some independent jurisdictional basis recognized by law. In the present case, no such basis has been shown to exist.

28. Accordingly, even after giving the plaintiff the fullest benefit of every factual assertion contained in the plaint and assuming, without deciding, the

correctness of the allegations relating to beneficial ownership, control, operation and alter ego liability, this Court remains unable to identify any legal basis upon which the remaining foreign defendants can be subjected to the jurisdiction of this Court after the disappearance of the *res*. The suit therefore lacks the jurisdictional foundation necessary to continue either as an action *in rem* or as an independent action *in personam*.

29. This Court is therefore of the considered view that once the vessel and its owner have been struck out from the proceedings, the suit loses the statutory foundation upon which admiralty jurisdiction was originally invoked. Thereafter, in the absence of any independent jurisdictional nexus recognized by law, the suit cannot survive as a standalone action *in personam*.

Accordingly, this Court finds that:

- (i) The jurisdiction originally invoked under section 4(4) of the Admiralty Court Act, 2000 was dependent upon the existence of an arrestable vessel;
- (ii) The vessel M.V. MAJESTIC VERA and its owner having been struck out from the proceedings, the jurisdictional foundation created by section 4(4) no longer exists;
- (iii) The remaining parties are foreign entities having no residence, place of business, assets or commercial presence within Bangladesh;
- (iv) No part of the cause of action arose within Bangladesh;

(v) No defendant has submitted unconditionally to the jurisdiction of this Court;

(vi) No independent statutory or territorial nexus survives after the disappearance of the res; and

(vii) Consequently, the suit is not maintainable either as an action *in rem* or as an action *in personam* before this court.

30. For the reasons stated above, I am of the view that continuation of the present suit before this court would amount to exercising admiralty jurisdiction in the absence of any statutory foundation recognized by the Admiralty Court Act, 2000.

Therefore, the plaint instead of being rejected deserves to be returned.

ORDER

Accordingly, the application is allowed in different form.

The plaint is hereby returned under Order VII Rule 10 of the Code of Civil Procedure, 1908 to be presented before an appropriate forum.

There shall, however, be no order as to costs.

(Sikder Mahmudur Razi, J:)