IN THE SUPREME COURT OF BANGLADESH

HIGH COURT DIVISION

(ADMIRALTY JURISDICTION)

ADMIRALTY SUIT NO. 69 OF 2015

IN THE MATTER OF:
Md. Zakir Hossain and another
.......Plaintiffs
-Versus-
M.V. CRYSTAL GOLD and others
......Defendants
Mr. Mohiuddin Abdul Kadir, Adv. with
Ms. Zinia Amin, Adv. with
Mr. Noor Mohammad Mojumder Roney, Adv.
…For the plaintiff.
No one appears
…For the defendants.

Heard on: ***16.06.2026***
And
Judgment on: ***The 7th July, 2026***

Present.
Justice Sikder Mahmudur Razi

1. This Admiralty Suit has been instituted by the plaintiffs for recovery of their outstanding seamen's wages and other consequential benefits allegedly earned by them while serving on board the defendant vessel M.V. CRYSTAL GOLD.

2. The case of the plaintiffs, in short, is that plaintiff No.1, Md. Zakir Hossain, is a Bangladeshi national and an experienced Master Mariner. Pursuant to an Appointment Letter dated 01.08.2012 issued by defendant No.3, the registered owner of the vessel M.V. CRYSTAL GOLD, he was appointed as Master of the said vessel with a monthly salary of US$ 8,500.00. Thereafter, on 02.08.2012, he executed an Afloat Officers Service Agreement with defendant No.4, the ISM and Ship Manager of the vessel, and joined the vessel on the same date. According to the plaintiffs, plaintiff No.1 continued to discharge his duties as Master until 31.03.2015.

It is further stated that plaintiff No.2, Iqbal Hossain, is also a Bangladeshi national and a Marine Engineer by profession. By an Appointment Letter dated 25.05.2014 issued by defendant No.3, he was appointed as Chief Engineer of the defendant vessel with a monthly remuneration of US$ 8,500.00. On the same day he executed an Afloat Officers Service Agreement with defendant No.4 and joined the vessel on 28.05.2014. He continued to serve as Chief Engineer until 19.02.2015.

The plaintiffs assert that throughout their respective periods of service they faithfully discharged all duties entrusted to them and performed their responsibilities to the satisfaction of the owners and managers of the vessel. However, according to the plaintiffs, from November, 2014 the defendants stopped paying their monthly wages although the plaintiffs continued to serve on board the vessel. The plaintiffs repeatedly requested the defendants through telephone calls, messages and personal communications to clear their outstanding wages, but the defendants paid no heed to such requests.

Finding no positive response from the defendants, plaintiff No.1 approached the Shipping Master by a letter dated 01.07.2015 claiming his outstanding wages amounting to US$ 41,928.00. The Deputy Shipping Master thereafter addressed a communication to the defendant owner requesting settlement of the outstanding dues. Plaintiff No.1 also informed the Manager of Basic Bank, the Director General of the Department of Shipping and the Bangladesh Merchant Marine Officers' Association regarding the matter. Likewise, plaintiff No.2 informed the Shipping Master and other competent authorities by separate letters claiming his outstanding wages amounting to US$ 30,896.66. Despite such interventions by the statutory authorities, the defendants neither replied satisfactorily nor settled the dues of the plaintiffs.

Ultimately, on 23.08.2015, the plaintiffs caused a legal notice to be served upon the defendants demanding payment of their outstanding wages. The defendants, through their learned Advocate, replied to the said notice on 07.09.2015 denying liability and, instead, levelled various allegations against the plaintiffs. The plaintiffs claim that such allegations are false, fabricated and invented only to avoid payment of their legitimate wages.

According to the plaintiffs, the total outstanding wages payable to plaintiff No.1 amount to US$ 41,928.00 and those payable to plaintiff No.2 amount to US$ 30,896.66, aggregating to US$ 72,824.66. Together with legal expenses and other consequential claims, the total claim in the suit has been quantified at US$ 82,824.66 equivalent to BDT 64,39,617.32. It is pleaded that the claim being one for seamen's wages constitutes a maritime lien recognised under maritime law and is enforceable against the defendant vessel under the Admiralty jurisdiction of this Court. Accordingly, the plaintiffs have prayed for a decree for the aforesaid amount together with pendente lite and future interest and costs of the suit.

3. Defendant No.4 entered appearance and contested the suit by filing a written statement. The principal defence is that the suit is not maintainable either in law or on facts and that this Court lacks Admiralty jurisdiction to entertain the present claim. The defendant further contends that the plaintiffs have no cause of action, no locus standi and that the suit is bad for misjoinder and non-joinder of parties and is also barred by the principles of estoppel, waiver and acquiescence.

The defendant admits that the plaintiffs had served on board the vessel but emphatically deny that they discharged their duties honestly or efficiently. According to the defendant, the plaintiffs, being the two highest-ranking officers on board the vessel, were entrusted with the management and operation of the ship but they grossly abused such trust. It is alleged that the plaintiffs intentionally delayed loading and unloading operations at various ports, stole and sold spare parts, fuel and other valuable stores belonging to the vessel, regularly misbehaved with other crew members, engaged in various unlawful and antisocial activities and thereby caused enormous financial loss and damage to the reputation of the defendants. The defendants contend that because of such misconduct the plaintiffs forfeited any right to claim wages and, on the contrary, became liable to compensate the defendants for the losses suffered by them.

The defendants further state that following an internal inquiry the plaintiffs were informed about the allegations against them but failed to offer any explanation. It is also pleaded that plaintiff No.1 was apprehended by the police on 27.03.2015 while allegedly carrying valuable articles belonging to the vessel without authority. Thereafter, according to the defendant, plaintiff No.1 was dismissed from service and an inquiry committee constituted by the defendant found both plaintiffs guilty of theft, unlawful activities and serious irregularities causing financial loss to the defendants. The defendants assert that they intended to resolve the matter amicably but, as the plaintiffs failed to cooperate, they reserved their right to initiate appropriate civil and criminal proceedings against them. On these assertions, the defendants have prayed for dismissal of the suit with costs.

4. On the basis of the respective pleadings of the parties, the following issues were framed for determination:

(i) Is the suit is maintainable before this Court in its present form and manner?

(ii) Whether the plaintiffs were employed in the vessel M.V. CRYSTAL GOLD *and have not been paid their due wages and other benefits?*

(iii) Whether the defendant vessel M.V. CRYSTAL GOLD *and her owners are liable to pay the claims of the plaintiffs?*

(iv) Whether the plaintiffs' claims are maritime liens?

(v) Whether the plaintiffs is entitled to the reliefs as prayed for?

5. In support of the plaint case the plaintiffs offered themselves as PW-1 and 2 before the court. They adduced documents in support of their respective claims and those were marked as Exhibit 1 to 19. Although the defendant cross examined the said witnesses however, the said defendant did not produce any evidence either oral or documentary to substantiate its case. From record the said defendant also found to be indifferent in pursuing the suit.

6. Discussion and Findings

Issue No. (i) Is the suit is maintainable before this Court in its present form and manner**?**

This issue goes to the very root of the suit. The defendants have challenged the maintainability of the suit both in law and on facts. In the written statement, the defendants have pleaded that the suit is not maintainable under the Admiralty jurisdiction of this Court, that the plaintiffs have no locus standi, that no cause of action has arisen in their favour and that the suit is bad for misjoinder and non-joinder of parties. The defendants have further asserted that the suit is barred by the principles of estoppel, waiver and acquiescence. However, except making such averments in the written statement, the defendants did not adduce any oral evidence in support of those pleas.

The plaintiffs, on the other hand, have instituted the present suit for recovery of their outstanding wages earned while serving as Master and Chief Engineer respectively on board the defendant vessel M.V. *CRYSTAL GOLD*. The plaint specifically states that the claim is one for recovery of seamen's wages which constitutes a maritime lien enforceable against the defendant vessel and her owners within the Admiralty jurisdiction of this Court.

In support of the said pleading, both P.W.1 and P.W.2 have deposed that they were appointed as officers of the defendant vessel by the registered owner and the Ship Manager, that they served on board the vessel during the relevant periods and that their wages from November, 2014 remained unpaid despite repeated demands. Their testimony is fully supported by the Appointment Letters (Exhibit-3 and 14), Afloat Officers Service Agreements (Exhibit-4 and 15), Continuous Discharge Certificates (CDC) (Exhibit- 1 and 11), final portage bills (Exhibit- 10 series and 19), correspondence with the Shipping Master and other statutory authorities and the legal notice issued prior to institution of the suit (Exhibit 5 series, 6 series, 7, 8, 16, 17, 18).

The evidence further discloses that after the defendants failed to clear the outstanding wages, the plaintiffs approached the Shipping Master, the Department of Shipping and other competent authorities seeking intervention. When those efforts proved unsuccessful, they served a legal notice upon the defendants demanding payment of their dues. Only after the defendants refused to honour their claim the plaintiffs instituted the present suit. These facts clearly disclose a complete cause of action in favour of the plaintiffs.

It is also evident from the record that the defendant vessel, her registered owner and the ISM & Ship Manager have all been impleaded as defendants. The remaining defendants are public authorities connected with the administration and operation of the vessel and have been impleaded as proforma defendants for effective implementation of the orders that may be passed by this Court. Thus, I do not find any substance in the objection regarding misjoinder or non-joinder of parties.

The defendants have also pleaded that the suit is barred by estoppel, waiver and acquiescence. These are mixed questions of law and fact. A party who raises such pleas is under a legal obligation to establish the factual foundation thereof by leading cogent evidence. Surprisingly, although the defendants filed a detailed written statement, cross examined the plaintiffs' witnesses but they did not examine any witness whatsoever. Consequently, no evidence has been brought on record to establish that the plaintiffs had at any point waived their claim or were estopped from enforcing their legal rights. It is trite law that pleadings are not evidence. Unless the facts pleaded are proved by admissible evidence, the Court cannot act upon such pleadings merely because they have been incorporated in the written statement.

Equally it is not tenable that this Court lacks Admiralty jurisdiction. The claim in the instant suit is admittedly a claim arising out of wages allegedly earned by the plaintiffs while serving on board the defendant vessel. The plaintiffs' claim is founded upon their contracts of employment as Master and Chief Engineer and the services admittedly rendered by them on board the vessel. Such a claim squarely falls within the recognized jurisdiction of the Admiralty Court relating to claims for seamen's wages. The defendants have neither produced any legal authority nor adduced any evidence to demonstrate that such a claim is outside the Admiralty jurisdiction of this Court.

Having carefully considered the pleadings, the evidence on record and the submissions advanced by the learned Advocate for the plaintiff, I am of the considered opinion that the defendants have utterly failed to substantiate any of the preliminary objections raised in the written statement. On the contrary, the plaintiffs have successfully established that they were employed on board the defendant vessel, that disputes regarding their unpaid wages have arisen out of such employment and that the present suit has been instituted for enforcement of those rights before the competent forum.

Accordingly**,** Issue No. (i) is answered in the affirmative and decided in favour of the plaintiffs.

Issue No. (ii) Whether the plaintiffs were employed in the vessel M.V. *CRYSTAL GOLD* and have not been paid their due wages and other benefits?

This issue encompasses two distinct questions, namely, whether the plaintiffs have been able to establish their employment on board the defendant vessel and whether they have further proved that the defendants failed to pay their outstanding wages and other contractual benefits. Since both questions are closely interwoven, they are taken up together for consideration.

At the very outset, it is pertinent to note that the defendants have not seriously disputed that the plaintiffs were employed on board the defendant vessel. In paragraph Nos. 8 and 10 of the written statement, the defendants merely put the plaintiffs to strict proof regarding their appointments and the allegation relating to non-payment of wages. Indeed, the entire defence has been built upon the premise that although the plaintiffs were employed as the Master and the Chief Engineer respectively, they committed various acts of misconduct during their tenure of service. Therefore, the relationship of employer and employees substantially remains undisputed.

Be that as it may, the plaintiffs have independently proved their appointments by adducing both oral and documentary evidence.

P.W.1, Iqbal Hossain, deposed that pursuant to an Appointment Letter dated 25.05.2014 issued by defendant No.3, he was appointed as the Chief Engineer of the defendant vessel. On the same day, he entered into an Afloat Officers Service Agreement with defendant No.4 and joined the vessel on 28.05.2014 with a monthly salary of US$8,500.00. He also proved his Appointment Letter, Service Agreement, CDC, passport and other supporting documents (Exhibit- 3, 4, 1, 2)

Likewise P.W.2, Md. Zakir Hossain, deposed that he was appointed as the Master of the defendant vessel by Appointment Letter dated 01.08.2012 issued by defendant No.3. He further stated that on the following day he executed an Afloat Officers Service Agreement with defendant No.4 and joined the vessel on 02.08.2012 with a monthly remuneration of US$8,500.00. In support of his testimony, he produced his Appointment Letter, the Service Agreement, his Continuous Discharge Certificates (CDC), passports and other contemporaneous documents, all of which were admitted into evidence without any legal objection (Exhibit- 14, 15, 11, 12, 13)

The oral testimony of both witnesses finds complete corroboration from the documentary evidence exhibited during the trial. I find no inconsistency whatsoever between their oral evidence and the documents brought on record. On the contrary, the documents reinforce the version narrated by the witnesses regarding the dates of their appointment, their designation, their remuneration and the period during which they remained on board the vessel.

The next question is whether the plaintiffs have been able to establish that their wages remained unpaid.

P.W.1 deposed that despite serving on board the vessel until 19.02.2015, his wages from November, 2014 onwards remained unpaid. According to him, the outstanding amount payable to him stood at US$30,896.66. He also produced the relevant portage bills, reminder letters, correspondence with the Shipping Master and other authorities and the legal notice together with the defendants' reply thereto. (Exhibit 5 series, 6 series, 7, 8, 10).

Similarly, P.W.2 categorically stated that although he continued to serve on board the vessel until 31.03.2015, the defendants stopped paying his monthly wages from November, 2014. According to him, his outstanding wages at the time of signing off amounted to US$41,928.00. To substantiate his claim, he proved his final portage bill and the previous portage bills, which disclose the computation of the wages claimed by him. He also proved the correspondence exchanged with the Shipping Master, the legal notice served upon the defendants and the reply sent on behalf of the defendants. (Exhibit- 16, 17, 18, 19).

A careful examination of the documentary evidence further reveals that the plaintiffs did not remain inactive after their wages became due. Rather, immediately after signing off from the vessel, they repeatedly approached the defendants requesting payment of their outstanding dues. When those requests yielded no result, they approached the Shipping Master, the Department of Shipping, Basic Bank and the Bangladesh Merchant Marine Officers' Association seeking intervention. Ultimately, they caused a legal notice to be served upon the defendants before instituting the present suit. Such conduct, in my view, is wholly consistent with the conduct expected from employees genuinely seeking recovery of their unpaid wages and lends considerable assurance to the truthfulness of their claim.

The learned Advocate appearing for the defendants, during cross-examination, attempted to show that the contractual tenure of both plaintiffs had expired long before they actually signed off from the vessel and, therefore, they were not entitled to wages beyond the contractual period. It is true that both P.W.1 and P.W.2 admitted that their initial contracts were for a fixed period and did not contain any express renewal clause. However, both witnesses consistently explained that notwithstanding the expiry of the original contractual term, they continued to remain on board the vessel because the defendants neither arranged their relievers nor permitted them to sign off. P.W.1 specifically stated that although he had requested the company one month before expiry of his contract to relieve him, the defendants kept him on board and compelled him to continue his service. P.W.2 similarly explained that in the maritime industry it is a common practice for Masters to continue in service beyond the original contractual tenure as required by the owners or managers until proper relief arrangements are made. These explanations appear to be natural, plausible and in consonance with commercial maritime practice. Significantly, no evidence whatsoever has been adduced by the defendants to prove that the plaintiffs had actually ceased rendering services immediately upon expiry of the original contractual period. Mere suggestions put in cross-examination cannot displace the positive evidence adduced by the plaintiffs.

The principal defence, however, is not founded merely upon expiry of the contractual term. The defendants have alleged that the plaintiffs committed theft of vessel's property, misappropriation of fuel and spare parts, delay in loading and unloading cargo, insubordination and various other irregularities causing substantial financial loss to the owners. These allegations are undoubtedly serious in nature. Had they been established by reliable evidence, they would certainly have required careful consideration by this Court. Unfortunately for the defendants, the allegations have remained completely unsupported by evidence.

Although the written statement refers to an internal enquiry committee, meeting minutes, investigation reports and even an alleged dismissal of plaintiff No.1, none of those facts has been proved in accordance with law. No officer of the defendant company entered the witness box. No member of the alleged enquiry committee was examined. The alleged enquiry report, minutes of meetings or other contemporaneous records have not been proved by any competent witness. In fact, after completion of the plaintiffs' evidence, the defendants chose not to adduce any oral evidence whatsoever. Consequently, the serious allegations of misconduct remain nothing more than unproved averments made in the written statement.

It is by now a settled principle of the law of evidence that pleadings are not evidence. Equally settled is the principle that suggestions put to a witness during cross-examination do not constitute proof unless accepted by the witness or otherwise established by independent evidence. In the present case, every suggestion regarding theft, misconduct, financial loss and other irregularities was categorically denied by both P.W.1 and P.W.2. Once those suggestions were denied, the burden shifted upon the defendants to establish those allegations by leading affirmative evidence. The defendants, however, completely failed to discharge that burden.

I have carefully gone through the entire cross-examination of both P.W.1 and P.W.2. In my considered opinion, nothing substantial has been elicited therein to shake their credibility. Their testimony regarding their appointment, the period of service, the wages agreed upon, the non-payment of wages from November, 2014, the repeated demands made by them and the ultimate institution of the suit has remained consistent throughout. Their evidence also receives substantial corroboration from the documentary evidence exhibited in the suit. I do not find any material contradiction, omission or improbability which would persuade this Court to discard their testimony.

Accordingly, upon an independent assessment of the oral and documentary evidence on record, I have no hesitation in holding that the plaintiffs have successfully established that they were employed as the Master and the Chief Engineer respectively on board the defendant vessel M.V. *CRYSTAL GOLD* and that their outstanding wages from November, 2014 remained unpaid. Conversely, the defendants have failed to establish any lawful justification for withholding such wages.

Accordingly**,** Issue No. (ii) is decided in favour of the plaintiffs.

Issue No. (iii) Whether the defendant vessel M.V. *CRYSTAL GOLD* and her owners are liable to pay the claims of the plaintiffs?

In view of the finding arrived at under Issue No. (ii), it is now established that the plaintiffs served on board the defendant vessel and that their wages remained unpaid. The next question is whether the defendant vessel and her owners are liable for such dues.

The evidence on record shows that defendant No.1 is the vessel M.V. *CRYSTAL GOLD*, defendant No.3 is the registered owner, and defendant No.4 is the ISM and Ship Manager of the said vessel. The appointment letters and service agreements were issued and executed in connection with service on board the defendant vessel. The plaintiffs rendered their services for the benefit of the vessel and her owners. Therefore, the wages earned by them arose directly out of their service on board the vessel.

The defendants have not proved that the plaintiffs were paid their dues. Nor have they proved any lawful ground for withholding or forfeiting the same. The allegations of misconduct and financial loss, as already discussed, have remained unproved in absence of any oral or documentary evidence from the defendants.

In such circumstances, the liability of the vessel, her registered owner and the ship manager follows as a necessary consequence. The plaintiffs were employed for the vessel, served the vessel, and their wages became due by reason of such service. Therefore, the defendant vessel and her owners cannot avoid liability merely by making unproved allegations in the written statement.

Accordingly, I hold that defendant No.1 vessel M.V. *CRYSTAL GOLD*, defendant No.3, being her registered owner, and defendant No.4, being her ISM and Ship Manager, are liable to pay the proved outstanding wages of the plaintiffs.

Therefore, issue No. (iii) is decided in favour of the plaintiffs.

Issue No. (iv) Whether the plaintiffs' claims is maritime liens?

The plaintiffs' claim is for recovery of seamen's wages earned on board the defendant vessel. In maritime law, a claim for seamen's wages has always been treated with special protection. Such a claim is not merely an ordinary contractual debt. It attaches to the vessel by reason of the service rendered by the seamen for the preservation, navigation and operation of the vessel. The plaint specifically pleads that the plaintiffs' claim, being a claim for seamen's wages earned on board M.V. *CRYSTAL GOLD*, is enforceable within Admiralty jurisdiction and constitutes a maritime lien.

The evidence of P.W.1 and P.W.2 establishes that the claims arose from their service as Chief Engineer and Master respectively on board the defendant vessel. The wages claimed were not collateral or remote claims; they were directly connected with the operation and employment of the vessel.

A maritime lien is a privileged claim upon a vessel arising by operation of law. A claim for seamen's wages is one of the classic categories of maritime lien. It travels with the vessel and may be enforced by an action in rem. The reason is obvious: without the labour and service of the Master, officers and crew, the vessel cannot sail, trade or earn freight. Therefore, the law gives special security to their wages.

Since the plaintiffs' dues arose out of their service on board the defendant vessel as Master and Chief Engineer, their claim falls within the category of seamen's wages and constitutes a maritime lien against the vessel.

Issue No. (iv) is accordingly decided in favour of the plaintiffs.

Issue No. (v) Whether the plaintiffs are entitled to get relief as prayed for?

In view of the findings arrived at under the preceding issues, it is clear that the plaintiffs have successfully proved their employment, service on board the vessel, non-payment of wages and the liability of the vessel and her owners.

P.W.2 proved that his outstanding wages amounted to US$41,928.00, and P.W.1 proved that his outstanding wages amounted to US$30,896.66. The total claim stated in the plaint is US$82,824.66 equivalent to BDT 64,39,617.32 at the pleaded exchange rate of US$1 = BDT 77.75.

The defendants did not adduce any evidence to disprove the computation of the claim. They did not produce any payment voucher, bank record, wage receipt, settlement document or release certificate showing that the plaintiffs had been paid. In such circumstances, the plaintiffs' proved claim cannot be denied.

Accordingly, the plaintiffs are entitled to a decree for their proved outstanding seamen's wages, with reasonable interest.

Issue No. (v) is decided accordingly in favour of the plaintiffs.

6. <u>Order</u>

In the result, the suit succeeds.

The plaintiffs have been able to prove that they were employed on board the defendant vessel M.V. *CRYSTAL GOLD* as Master and Chief Engineer respectively, that they rendered services on board the vessel, that their wages from November, 2014 remained unpaid, and that their claim for seamen's wages constitutes a maritime lien enforceable against the defendant vessel. The defendants, although filed written statement, did not adduce any oral evidence to prove their allegations or rebut the plaintiffs' case.

Accordingly, the suit is decreed with costs.

The plaintiffs are entitled to recover their outstanding seamen's wages from the defendant vessel M.V. *CRYSTAL GOLD*, her registered owner and her ISM and Ship Manager, jointly and severally with *pendentilite* interest at the rate of 6% till realization of the decreetal amount.

Let a decree be drawn up accordingly.

The plaintiffs shall be at liberty to realize the decretal dues in accordance with law.

(Sikder Mahmudur Razi, J:)