

Federal Court of Canada
Trial Division



Section de première instance de
la Cour fédérale du Canada

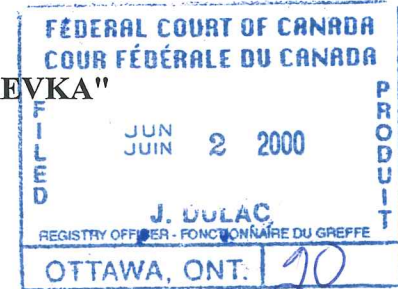
Date: 20000602

Docket: T-926-00

Action *in rem* against the ships "MERAК" and "GORNOSTAEVKA"

BETWEEN:

CAMPBELL'S MEAT MARKET LIMITED



Plaintiff

-and-

THE SHIP "MERAК"

First Defendant

-and-

THE SHIP "GORNOSTAEVKA"

Second Defendant

- and -

ZAO BAZA FLOTA

Third Defendant

REASONS FOR ORDER

DUBÉ J. :

[1] This motion by O.K. Enterprises Ltd., the Charterer, is for the release of a portion of the arrested property consisting of 97,929 kg (97,929 m.r.) of frozen shrimp in cartons ex. the M.V. "Merak" (the "cargo"), for delivery to the Buyer thereof, which frozen shrimp cargo is presently stored at a cold storage owned by Seaxx Ltd. at Holyrood, Newfoundland, Canada.

[2] This motion was heard in Ottawa, this 2nd day of June 2000 by way of telephone conference. Four claimants objected to the release of the seized cargo. The plaintiff, Campbell's Meat Market Limited, disputes that a *bona fide* sale of the cargo occurred and states that a full hearing is required in order to establish the validity and timing of the alleged sale. Electro Mechanical Services Ltd., Icedan (Canada) Inc. and O.W. Icebunker claim to have provided goods and/or services to the vessels "Merak" and "Gornostaevka" and have not been paid for same. The crew of the "M.V. Merak" also has an unpaid wage claim in relation to services provided aboard the said vessel.

[3] Both vessels are under arrest by the plaintiff and there is no question that the value of the sale of the vessels is not sufficient to cover these claims.

[4] The applicant O.K. Enterprises Ltd. claims that shortly before the vessels were arrested the cargo of frozen shrimps was discharged and sold to F. Uhrenholt Seafood A/S of Middlefart, Denmark. Obviously, if the sale was completed before the arrest of the vessel, that cargo should be released and I intend to order such a release.

[5] However, should the plaintiff, now having heard counsel for the applicant at this hearing, still claim that the sale was invalid, it is entitled to pursue the matter in Court other than by this urgent telephone conference. Consequently, I will order that the shrimp cargo be released forthwith and delivered to the purchasers in Denmark, but that all proceeds from the sale be deposited in Court pending the resolution of the dispute regarding the timing and the

validity of the sale. Should the plaintiff intend to pursue this matter it will so inform the Court within 10 days and seek for directions. If the plaintiff fails to do so within that period, the proceeds of the sale will be remitted to the applicant O.K. Enterprises Ltd.

[6] Consequently, the motion for release is granted under these conditions.

OTTAWA, Ontario

June 2, 2000

Judge