MALTA

QORTI CIVILI
PRIM' AWLA

ONOR. IMHALLEF
JOSEPH ZAMMIT MC KEON

Seduta tal-31 ta' Lulju, 2013

Citazzjoni Numru. 610/2013

Av. Dott. Abigail Bugeja (Karta tal-Identita` Numru 74986M) ghan-nom u in rappresentanza tas-socjeta` estera Assuranceforeningen Gard – gjensidig (Company Code : 939717609)

kontra

Il-Bastiment 'Pacific Future' irregistrat taht il-bandiera tal-Belize (IMO Number : 9177636)

Il-Qorti :

Rat ir-rikors guramentat imressaq bil-procedura sommarja specjali fl-24 ta` Gunju 2013 li jaqra hekk –

1. Illi s-socjeta` esponenti pprovdiet diversi poloz assikurattivi lill-bastiment intimat, liema poloz kienu jkopru l-perjodu ta` bejn l-ghoxrin (20) ta` Frar tas-sena elfejn u hdax (2011) u l-ghoxrin (20) ta` Frar tas-sena elfejn u tnax (2012), l-ghoxrin (20) ta` Frar tas-sena elfejn u tnax (2012) u l-ghoxrin (20) ta` Frar tas-sena elfejn u tlettax (2013) u l-ghoxrin (20) ta` Frar elfejn u tnax (2012) u t-tletin (30) ta` Mejju tas-sena elfejn u tlettax (2013) ;

2. Illi l-valur u l-ispejjez relatati u mgarrba mal-imsemmija poloz assikurattivi jammontaw komplessivament ghas-somma ta` mija u wiehed u ghoxrin elf u tlieta u tmenin Dollaru Amerikan u disa` u sebghin centezmu (USD 121,083.79) ekwivalenti llum ghal tnejn u disghin elf sitt mija u seba` u sebghin Ewro u tmienja u disghin centezmu (€92,677.98) u dan skond varji debit notes mahruga mis-socjeta` esponenti u li qed jigu hawn annessi u mmarkati minn Dok 'B' sa Dok 'V' ;

3. Illi skond is-Certificate of entry li qed jigi hawn anness u mmarkat bhala Dok 'W' f`pagna 2 hemm ukoll imnizzel is-segwenti :

"All persons and/or companies named as Assured(s) and/or Co-Assured(s) in this Certificate of entry shall be jointly and severally liable for all sums due to the Association in respect of this entry pursuant to Rule 79.1"

Fil-fatt l-istess Certificate of entry jelenka l-Co-Assured(s) li jinkludu lil : (a) Sea Management Limited (Managers) ; (b) Machiko Carrier Inc. (Owners) u (c) UMS (Technical Manager) ;

4. Illi sal-gurnata tal-prezentata ta` dan ir-rikors, is-socjeta` esponenti baqghet ma thallsietx ghall-ammont hawn fuq indikat, liema dejn huwa cert, likwidu u dovut ;

5. Illi qieghed jigi pprezentat kontestwalment ma` dan ir-rikors, mandat ta` arrest kawtelatorju kontra l-imsemmi bastiment u dan sabiex jigi kkawtelat l-kreditu pendenti u dovut lis-socjeta` esponenti ;

Ghaldaqstant, tghid l-bastiment intimat prevja kwalsiasi dikjarazzjoni necessarja u opportuna u ddispensata mis-smiegh tal-kawza a tenur tal-Artikolu 167 tal-Kapitlu XII tal-Ligijiet ta` Malta ghaliex dina l-Qorti m`ghandhiex :

(i) Tiddikjara illi l-bastiment intimat huwa debitur tas-socjeta` esponenti fl-ammont ta` mija u wiehed u ghoxrin elf u tlieta u tmenin Dollaru Amerikan u disa` u sebghin centezmu (USD 121,083.79) ekwivalenti llum ghal tnejn u disghin elf, sitt mija u seba` u sebghin Ewro u tmienja u disghin centezmu (€92,677.98) ;

(ii) Tikkundanna lill-bastiment intimat sabiex ihallas lis-socjeta` esponenti s-somma ta` mija u wiehed u ghoxrin elf u tlieta u tmenin Dollaru Amerikan u disa` u sebghin centezmu (USD 121,083.79) ekwivalenti llum ghal tnejn u disghin elf, sitt mija u seba` u sebghin Ewro u tmienja u disghin centezmu (€92,677.98).

Bl-ispejjez komprizi dawk tal-mandat ta` arrest kawtelatorju li qieghed jigi pprezentat kontestwalment ma` dan ir-rikors, u bl-imghaxijiet legali mid-data ndikata fuq l-imsemmija debit notes sal-gurnata tal-pagament effettiv kontra l-bastiment intimat illi huwa minn issa ngunt ghas-subizzjoni.

Rat il-lista tax-xhieda indikati mir-rikorrenti u l-elenku tad-dokumenti li kienu prezentati flimkien mar-rikors guramentat.

Rat illi r-rikors guramentat flimkien mal-avviz tas-smigh tal-kawza kienu debitament notifikati lill-intimat skond il-ligi ;

Rat illi l-intimat naqas li jidher ghall-udjenza tal-lum l-Erbgha 31 ta` Lulju 2013 meta ssejhet il-kawza fid-9.00 a.m. ;

Ezaminat l-atti tal-kawza ;

Billi mill-provi mhux kontradetti, it-talbiet dedotti fir-rikors guramentat jirrizultaw ippruvati ;

Fil-kontumacja tal-intimat, tiddeciedi billi –

(1) Tiddikjara illi l-bastiment intimat huwa debitur tas-socjeta` esponenti fl-ammont ta` mija u wiehed u ghoxrin elf u tlieta u tmenin Dollaru Amerikan u disa` u sebghin centezmu (USD 121,083.79) ekwivalenti ghal tnejn u disghin elf sitt mija u seba` u sebghin Ewro u tmienja u disghin centezmu (€92,677.98).

(2) Tikkundanna lill-bastiment intimat sabiex ihallas lis-socjeta` esponenti s-somma ta` mija u wiehed u ghoxrin elf u tlieta u tmenin Dollaru Amerikan u disa` u sebghin centezmu (USD 121,083.79) ekwivalenti ghal tnejn u disghin elf sitt mija u seba` u sebghin Ewro u tmienja u disghin centezmu (€92,677.98), bl-imghaxijiet legali kif mitluba.

(3) Tikkundanna lill-bastiment intimat sabiex ihallas l-ispejjez kollha ta` din il-kawza, komprizi dawk tal-mandat ta` arrest kawtelatorju li kienipprezentat kontestwalment mar-rikors guramentat.

< Sentenza Finali >

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