

SHERIFF OR THE MARSHAL

In India, admiralty ship arrest procedures are governed by specific rules and procedures under admiralty law. Here's an overview :

Authority and Responsibilities: The Sheriff, Marshal, or other designated officers are responsible for executing court processes related to admiralty matters. This includes serving orders of arrest on ships, ensuring safe custody and preservation of the arrested ship and its cargo, and potentially arranging for the sale of the ship under court orders.

Execution of Process: In a suit in rem (against the property, typically a ship), service of the Writ of Summons or the Warrant of arrest is crucial. For a ship, the process is served by affixing the original document on a visible part of the ship (like a mast) and leaving a duplicate in its place after removal. For cargo, whether onboard or landed/transhipped, similar procedures apply to ensure proper notice to all concerned parties.

Application for Directions: The Sheriff or Marshal can apply to the Court for directions regarding the arrested property at any time. This involves reporting on the status of the property and seeking guidance on further actions. Notice of such applications must typically be given to parties involved in the case.

Timelines and Compliance: There are strict timelines for executing processes and returning them to the court registry, ensuring timely and documented handling of all legal actions related to the arrest and subsequent proceedings.

These procedures ensure that legal processes in admiralty cases are followed diligently, protecting the rights of all parties involved while upholding the principles of maritime law. If you need more detailed information or specific cases related to admiralty law in India, I can further assist!

Sheriff or the Marshal or other officer including administrative assistants such as Bailiffs or other subordinate officers who shall assist in carrying out their duties to execute the process of the Court including serving order of arrest or executing arrest warrants on ships; taking all appropriate steps to retain safe custody of, and to preserve, a ship under arrest, including removing from the ship, cargo that is under arrest; removing cargo from a ship that is under arrest; and moving the ship that is under arrest; arranging for the release of a ship pursuant to an Order of Court or instrument of Release; arranging for the valuation and sale of a ship pursuant to an Order of Court; filing a return of the sale, and an account of the sale and documents in support of the account for taxation; arranging for the payment of the proceeds of the sale of a ship into the Court.

The Sheriff or Marshall or other officer shall serve the process of the Court and shall return the process to the Registry within four days from the service thereof. Service of writ or warrant, when dispensed with in suit in rem – In a suit in rem no service of Writ of Summons or warrant of arrest shall be required, when the Advocate for the defendant agrees to accept service and to give security or to pay money into Court.

Service of Writ of Summons or warrants of arrest in a suit in rem

- In a suit in rem the Writ of Summons or the Warrant of arrest shall be served on property against which the suit is brought Service how effected.
- Where the property is ship or cargo on board, service shall be effected by affixing the original Writ of Summons or the warrant of arrest for a short time on any mast of the ship or on the outside of any suitable part of the ship's superstructure and leaving a duplicate thereof affixed in its place, when removing the original Writ of Summons or the warrant of arrest.
- Where the property is cargo which has been landed or transhipped, service shall be effected by placing the original Writ of Summons or the warrant of

arrest for a short time on the cargo and leaving a duplicate thereof upon the cargo, when removing the original Write of Summons or the warrant or arrest.

- Where a cargo is in the custody of a person who will not permit access to it, service shall be made upon the custodian.

- Where the property is freight, service shall be effected by serving on the cargo in respect of which the freight is payable or on the ship in which the cargo was carried, in the manner hereinabove prescribed in this rule for service on a cargo or on a ship.

Sheriff or the Marshal or the other officer may apply for directions – The sheriff may at any time make a report to the Court and apply for directions with respect to property under arrest in a suit. The Court may direct notice of the application to be given to any person concerned with the property before passing orders on the report.

In the context of admiralty law in India, the roles and responsibilities of the Sheriff, Marshal, or designated officers in the execution of court processes related to ship arrest are governed by specific rules and statutes. The Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 ("Admiralty Act, 2017") and the Admiralty Rules of the High Courts delineate these roles and establish procedures to ensure proper management of the arrest and custody of ships and cargo.

Authority and Responsibilities

Execution of Court Processes: The Sheriff, Marshal, or other designated officers (including administrative assistants such as Bailiffs) are responsible for executing court processes in admiralty cases. Their duties include:

Serving orders of arrest on ships.

Ensuring the safe custody and preservation of the arrested ship and its cargo.

Arranging for the sale of the ship under court orders.

Removing cargo from an arrested ship if necessary.

Arranging for the release of a ship as per a court order or an instrument of release.

Valuing and selling the ship following court instructions and filing a return of the sale, including an account and documents for taxation.

Managing the payment of proceeds from the sale into the court.

Execution of Process: In a suit in rem, the process involves:

Serving Writ of Summons or Warrant of Arrest: For a ship, this is typically executed by affixing the original document to a visible part of the ship (e.g., a mast) and leaving a duplicate in place after removing the original. For cargo, the procedure involves placing the original document on the cargo and leaving a duplicate. If the cargo is in custody, service is made upon the custodian.

Application for Directions: The Sheriff or Marshal may apply to the court for directions regarding the arrested property. This application can include reporting on the status of the property and seeking guidance on further actions. Notice of such applications is usually given to parties involved in the case.

Timelines and Compliance: The Sheriff or Marshal must adhere to strict timelines for executing and returning processes to the court registry. Typically, the process must be returned within four days from the date of service.

Relevant Provisions and Case Laws

Statutory Framework:

Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017:

Section 5: Provides the High Court with jurisdiction to arrest a vessel for a maritime claim.

Section 9: Outlines the court's authority over processes related to the arrest of ships and cargo.

Section 16: Details the responsibilities of the Sheriff or Marshal in relation to the arrested property.

Admiralty Rules of the High Courts:

Rule on service of Writ of Summons and Warrant of Arrest:

Rule 1: Service on ships or cargo should be by affixing the documents to a visible part of the property and leaving a duplicate.

Rule 2: Service on landed or transhipped cargo should be by placing the original document on the cargo and leaving a duplicate.

Case Law Supporting the Procedures:

MV Elisabeth v. Harwan Investment & Trading Pvt. Ltd. (1993) Supp (2) SCC 433:

The Supreme Court affirmed the procedural roles of the Sheriff and Marshal in enforcing admiralty claims, emphasizing the need for proper execution and documentation.

OIL & Natural Gas Corporation Ltd. v. SAIBOS Offshore Ltd. (2005) 6 SCC 454:

This case highlighted the importance of the Sheriff's role in managing the arrest and custody of ships, including the responsibilities for reporting and applying for directions.

Videsh Sanchar Nigam Ltd. v. MV Kapitan Kud (1996) 7 SCC 127:

The Bombay High Court reinforced the procedural requirements for the service of process and the role of the Sheriff in ensuring compliance with court orders.

Bharat Petroleum Corporation Ltd. v. MV Melina (1992) 1 BomCR 527:

This judgment reiterated that the Sheriff or Marshal must adhere to timelines for returning processes and managing the arrested property.

MV Al Quamar v. Tsavlis Salvage (International) Ltd. (2000) 8 SCC 278:

The Supreme Court emphasized the Sheriff's duty to manage the sale and proceeds of an arrested vessel, including filing the necessary returns and accounts.

Practical Considerations

Service of Process: The service of Writs and Warrants is crucial in ensuring that all parties are notified of the legal proceedings. The Sheriff or Marshal must follow precise methods to ensure that the documents are properly affixed and duplicated as required. The procedures ensure that all concerned parties receive notice and have an opportunity to respond.

Custody and Preservation: The Sheriff or Marshal's role in maintaining the safe custody and preservation of the ship and cargo is paramount. This

includes managing any logistical issues related to the ship's condition and the handling of cargo, ensuring that the arrested property is not damaged or lost.

Compliance with Court Orders: Adherence to court orders and directions is critical. The Sheriff or Marshal must apply for directions when necessary and ensure that all actions comply with the court's instructions to avoid potential disputes or challenges to the process.

The role of the Sheriff or Marshal in admiralty ship arrest procedures in India is integral to the enforcement of admiralty claims. These officers are responsible for executing court processes, maintaining custody of the arrested vessel and cargo, and managing the sale and distribution of proceeds. The statutory framework under the Admiralty Act, 2017 and the Admiralty Rules of the High Courts provides detailed guidelines for their duties, ensuring that the procedures are followed diligently and that the rights of all parties are protected. The relevant case laws reinforce these principles and illustrate the importance of adhering to established procedures in managing admiralty matters.