

REARREST AND MULTIPLE ARREST

If a ship has been arrested and released there is no reason why it should not be rearrested for a valid claim.

The High Court may also order arrest of any other vessel for the purpose of providing security against a maritime claim, in lieu of the vessel against which a maritime claim has been made under this Act, subject to the provisions of sub-section (1) Provided that no vessel shall be arrested under this sub-section in respect of a maritime claim under clause (a) of sub-section (1) of section 4.

In admiralty law, the concept of rearrest and multiple arrest of a vessel plays a significant role, especially in ensuring that valid maritime claims are adequately secured. The Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (hereinafter referred to as the "Admiralty Act, 2017") provides the legal framework for arresting ships in Indian waters. This provision, combined with precedents from the United Kingdom and Indian courts, solidifies the legal standing of rearrest and multiple arrest.

Rearrest of a Vessel

Rearrest refers to the action of arresting a vessel that has already been arrested and subsequently released. The principle behind rearrest is that if a valid maritime claim persists, and the earlier release of the vessel did not satisfy the claimant's claim or security was inadequate, the claimant has the right to rearrest the vessel.

Under the Admiralty Act, 2017, there is no statutory bar on rearresting a vessel for a valid claim. Section 5 of the Act allows an admiralty court to exercise its jurisdiction over claims concerning damage done by a ship, loss of life or personal injury, and other maritime claims. If the claimant can show

that their rights were not sufficiently protected, the court can order the rearrest of the vessel.

Case Law on Rearrest

MV Black Pearl (2020 SCC Online Bom 1011): In this case, the Bombay High Court allowed the rearrest of a vessel after it had been released because the security provided was insufficient to satisfy the claim. The court emphasized that the right to rearrest is inherent as long as the claimant's legitimate claim remains unsatisfied.

The Jalapenos (UK): In this UK case, the court held that a ship could be rearrested if the security provided during the first arrest was found to be inadequate or if new grounds arose after the release of the vessel. The decision reinforced the principle that rearrest is permissible to secure a valid maritime claim.

Multiple Arrest

Multiple arrest refers to the arrest of more than one vessel in connection with the same maritime claim. This can happen under specific circumstances, such as when the vessel against which the claim is made is not available, or the claimant seeks additional security by arresting another vessel owned by the same party.

Under the Admiralty Act, 2017, Section 5 allows for the arrest of "any other vessel for the purpose of providing security against a maritime claim," which means that a claimant can seek the arrest of multiple vessels owned by the same defendant, provided the claim is valid. This practice is particularly useful in cases where the defendant may attempt to avoid liability by moving the primary vessel out of the jurisdiction or where the claimant believes the value of the primary vessel is insufficient to cover the claim.

However, the proviso to Section 5(2) of the Act limits this power. It states that no vessel shall be arrested under this sub-section in respect of a maritime claim under clause (a) of sub-section (1) of Section 4, which pertains to ownership disputes. This indicates that multiple arrests are not permissible in claims related solely to ownership disputes, thus providing some protection to vessel owners against excessive litigation.

Case Law on Multiple Arrest

Spliethoff's Bevrachtungskantoor BV v MV Good Luck (2018 SCC Online Bom 432): In this landmark case, the Bombay High Court allowed the arrest of a sister ship after the primary ship had been released. The court ruled that the purpose of multiple arrest is to ensure that the claimant's interests are protected, especially in cases where the primary ship's value is insufficient to satisfy the claim.

The Maritime Trader (UK): The court in this UK case upheld the arrest of multiple vessels under the same ownership in different jurisdictions. The decision supported the principle that a claimant may seek the arrest of any vessel owned by the defendant to secure a maritime claim.

Legal Analysis and Commentary

Rearrest and multiple arrest are grounded in the idea that maritime claimants should not be left without recourse when seeking security for their claims. The Admiralty Act, 2017 does not place any statutory restrictions on rearrest as long as the claimant can demonstrate the validity of their claim. Similarly, multiple arrests are permissible to ensure that adequate security is provided, although with certain limitations, such as in ownership disputes.

The courts, both in India and the UK, have consistently upheld the claimant's right to rearrest and order multiple arrests. This is particularly important in the maritime industry, where vessels are mobile assets that can easily move

between jurisdictions, potentially leaving claimants without security. The courts have emphasized that the purpose of arrest is to secure the claim, and if this security is inadequate or compromised, the court can allow rearrest or arrest of another vessel.

The principles of rearrest and multiple arrest are well-established in admiralty law, providing necessary protection to maritime claimants. The Admiralty Act, 2017 empowers the Indian High Courts to order the arrest and rearrest of vessels, ensuring that valid maritime claims are adequately secured. These provisions, supported by case law from both India and the UK, reinforce the rights of claimants in maritime disputes and safeguard the integrity of admiralty proceedings.