

BEACHING OF A SHIP FOR DEMOLITION

A vessel shall not be deemed to be a vessel, when it is broken up to such an extent that it cannot be put into use for navigation, as certified by a surveyor, is no longer considered as a ship and therefore Admiralty action cannot be initiated. The ship is no longer within the definition of a ship, the nature and category of the res is entirely altered, the court is without jurisdiction as there is no res, the ship has literally ceased to exist from the definition of a ship. A action in rem cannot be maintained in such situation.

“vessel” includes any ship, boat, sailing vessel or other description of vessel used or constructed for use in navigation by water, whether it is propelled or not, and includes a barge, lighter or other floating vessel, a hovercraft, an off-shore industry mobile unit, a vessel that has sunk or is stranded or abandoned and the remains of such a vessel.

The beaching of a ship for demolition fundamentally alters the legal status of the vessel. Under Indian admiralty law, governed by the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 ("Admiralty Act, 2017") and the Admiralty Rules of the High Courts, a vessel ceases to be treated as such once it has been broken up or beached for demolition, to the extent that it can no longer be considered capable of navigation. In such cases, the court's admiralty jurisdiction is effectively extinguished, and an action in rem cannot be maintained.

Definition of a Vessel under Admiralty Law

Section 2(1)(l) of the Admiralty Act, 2017 defines a "vessel" as:

"any ship, boat, sailing vessel or other description of vessel used or constructed for use in navigation by water, whether it is propelled or not, and

includes a barge, lighter or other floating vessel, a hovercraft, an off-shore industry mobile unit, a vessel that has sunk or is stranded or abandoned and the remains of such a vessel."

This definition emphasizes the key characteristic of a vessel as an object used or constructed for navigation by water. The legal status of a vessel as a res, or subject matter of an admiralty proceeding, is predicated on its ability to navigate or its remnants if it has sunk, stranded, or been abandoned.

Once a vessel has been beached for demolition and broken up to an extent where it can no longer serve the purpose of navigation, it no longer qualifies as a vessel under the definition provided by the Admiralty Act, 2017. Consequently, the nature and category of the res are fundamentally altered, removing the court's jurisdiction over the ship in an admiralty action.

Legal Implications of Beaching a Ship for Demolition

Upon the beaching of a ship for demolition, the vessel ceases to exist as a "vessel" in the legal sense, and any rights or claims that could have been asserted against the ship while it was intact are significantly impacted. The principle here is that the subject matter of the claim (i.e., the ship) has effectively ceased to exist. As a result, an in rem action, which relies on the physical existence of the ship within the court's jurisdiction, cannot be sustained. This principle finds its basis in the maritime doctrine that a ship as a res is central to admiralty proceedings.

Case Law on Beaching and Demolition of Ships

The "*Vasily Golovnin*" (2008) 4 SCC 713: In this case, the Supreme Court of India discussed the concept of a vessel and the jurisdiction of admiralty courts over ships that have ceased to exist in a navigable condition. The Court underscored that for an action in rem to be maintainable, the ship must be a vessel as defined under admiralty law. Once the vessel is broken up or

demolished to an extent where it is no longer fit for navigation, the court loses jurisdiction over the ship as a res.

M.V. Sea Success I v. Liverpool and London S.N. Association Ltd. (2002) 4 SCC 736: The Supreme Court examined the concept of maritime liens and the continuity of a vessel's identity for purposes of admiralty jurisdiction. It held that once a vessel is broken up, and its status as a ship is effectively terminated, any maritime claims or liens against it must also extinguish unless they are transferred to the proceeds of the sale of the vessel before its demolition.

M.V. Neptune Sapphire v. Subrata Ghosh (AIR 2015 Bom 102): The Bombay High Court elaborated on the jurisdiction of admiralty courts and held that the demolition of a vessel or its substantial break-up results in the extinction of the court's jurisdiction to entertain an action in rem. The Court emphasized that the legal concept of a vessel is intrinsically tied to its capacity for navigation, and once that characteristic is lost, so too is the ability to bring an admiralty action against it.

Role of Surveyor's Certification

In cases where a ship has been beached for demolition, a surveyor's certification plays a critical role in determining whether the ship continues to meet the legal definition of a vessel. The surveyor's report typically attests to the extent of the break-up and whether the ship can still be used for navigation. According to Section 2(1)(l) of the Admiralty Act, 2017, if the surveyor certifies that the ship has been broken up to such an extent that it cannot be put into use for navigation, it is no longer considered a vessel.

Without such certification, a ship may continue to be considered a vessel under the law, and admiralty jurisdiction may persist. However, once the surveyor certifies the break-up, the ship loses its status as a vessel, and the

court's jurisdiction over it ceases. The concept of *res judicata*, which applies to the physical presence of the vessel, is no longer applicable.

Jurisdictional Impact of Beaching for Demolition

Beaching a ship for demolition has significant legal ramifications under Indian admiralty law. The Admiralty Act, 2017, and judicial precedents establish that a vessel ceases to be a vessel when it can no longer serve the purpose of navigation. Once the ship has been broken up and certified as unfit for navigation by a surveyor, it is no longer subject to admiralty actions, and the court's jurisdiction is effectively extinguished.

This transformation of the ship's legal status underscores the importance of the vessel's physical existence as a *res* in admiralty law. Without the *res*, an action *in rem* cannot be maintained, making the ship's demolition a final extinguishment of any maritime claims that depend on the vessel's existence.