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The San Pedro

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Appeal No. : 223 U.S. 365

Appellant : The San Pedro

Judgement :

The San Pedro - 223 U.S. 365 (1912)
U.S. Supreme Court The San Pedro, 223 U.S. 365 (1912)

The San Pedro *

No. 155

Submitted December 22, 1911

Decided February 19, 1912

223 U.S. 365

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SYLLABUS

The manifest object of the fifty-fourth rule in admiralty cannot be defeated solely because its enforcement might involve expense, delay or inconvenience.

The limited liability proceedings under 4283 *et seq.,* Rev.Stat., is

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in its nature exclusive of any separate suit against an owner on account of the ship. The monition which issued after surrender and stipulation for value requires every person to assert his claim in that case.

One having a claim for salvage against a vessel whose owners have instituted proceedings under 4283 *et seq.,* Rev.Stat., cannot proceed in admiralty in a separate suit, and must prove his claim in the limited liability proceeding.

The issuing of an injunction in the limited liability proceeding is not necessary to stop proceedings in other courts on claims against the vessel or its owners. Power to grant an injunction exists under 4283, Rev.Stat., but when the procedure required by Rule 54 has been followed, the monition itself has the effect of a statutory injunction. *Providence & N.Y. Steamship Co. v. Hill Mfg. Co.,* 109 U. S. 578 .

Quaere whether liability for towage into port of a vessel after collision is a claim like one for repairs by reason of the collision for which the owners of the injured vessel may recover from guilty colliding vessel.

Under 4283, 4284, Rev.Stat., as amended by 18 of the Act of June 26, 1884, 23 Stat. 55, c. 12, any and all debts and liabilities of the owner incurred on account of the ship without his privity or fault are included in the limited liability proceeding, including claim for salvage after collision. *Richardson v. Harmon,* 222 U. S. 96 .

Quaere whether a highly meritorious salvage service, benefiting alike the owner and creditors of a vessel, is entitled to preference from the fund.

The facts, which involve the construction of the statutes limiting liability of vessel owners and practice and procedure thereunder, are stated in the opinion.

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MR. JUSTICE LURTON delivered the opinion of the Court.

In an independent libel proceeding instituted in the

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district court by the owner of the steamer *George W. Elder* against the Metropolitan Lumber Company, the claimant of the steamer *San Pedro,* the libellant recovered a decree for services rendered in towing her to port after she had been injured in a collision with the steamer *Columbia,* off the coast of California. This decree was rendered at a time when there was pending in the same court a separate proceeding for limitation of liability, brought by the Metropolitan Lumber Company, as owner of the *San Pedro.*

Before coming to the substantial questions, we may notice certain objections to any judgment which shall operate to set aside the decree in favor of the appellees. It is said that the appellant does not assail the decree in respect to its merits or the amount of the allowance; that nothing but further delay, expense, and inconvenience will result if appellees are required to present and again prove the claim in the liability cause; and, finally, it is said that the pendency of the other suit was not pleaded until the case was about to be heard upon immaterial objections to the commissioner's report.

Conceding all that can be said about the expense, delay, and inconvenience which will result if the salvage claimants are to be required to present their claim in the limited liability case, yet far greater confusion must result if such objections are enough to defeat the manifest object of the fifty-fourth rule. This Court, in furtherance of the apparent purpose of Congress to limit the liability of vessel owners (Revised Statutes, 4283-4285), has, by that rule, prescribed how an owner may avail himself of the benefit of the statute. The very nature of the proceeding is such that it must be exclusive of any separate suit against an owner on account of the ship. The monition which issues when the vessel has been surrendered, and a

stipulation entered into to pay the value into court, requires every person to assert his claim in that case.

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The appellant, owner of the *San Pedro,* appears to have proceeded strictly in compliance with the fifty-fourth admiralty rule. There was a due appraisement of the *San Pedro* and her pending freight, and a stipulation entered into, with sureties, for the value so appraised, and a monition duly issued requiring all persons to present their claims and make proof. In that situation, the jurisdiction of the court to hear and determine every claim in that proceeding became exclusive. It was then the duty of every other court, federal or state, to stop all further proceedings in separate suits upon claims to which the limited liability act applied.

Nor is the issuance of an injunction necessary to stop proceedings in separate or independent suits upon such claims. Power to grant an injunction exists under 4285, Revised Statutes, when necessary to maintain the exclusiveness of the jurisdiction; but when the procedure provided by Rule 54 has been followed and a monition has issued "against all persons claiming damages . . . citing them to appear before said court and make proof of their respective claims," etc., it is the duty of every other court, when the pendency of such a liability petition is pleaded, to stop. The very nature of the proceeding and the monition has the effect of a statutory injunction. Indeed, that is the express declaration of the statute.

The view we take of the statutory injunction declared by 4285, Revised Statutes, and of its application to cases where the vessel has been surrendered and a stipulation entered into, as provided by Admiralty Rule 54, as a proceeding tantamount to a "transfer" of the ship, as authorized by 4285, Revised Statutes, is fully supported by the leading case of *Providence & N.Y.S.S. Co. v. Hill Mfg. Co.* 109 U. S. 578 , 109 U. S. 594 , 109 U. S. 599 -601. That was a suit in a state court against the owner of a steamship to recover for goods lost by the burning of a steamer. While the suit was pending, the owner filed his petition

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in the proper district court for the benefit of the limited liability statute. The proceedings seem to have been conducted in accordance with Admiralty Rule 54, but, in addition, the petitioners made application, as permitted by that rule, for an order restraining the prosecution of "all and any suits" against the owner in respect of claims subject to the provisions of the act. The owner and defendant in the suit pending in the state court thereupon, by plea, set up the limited liability suit as a reason why the state court should proceed no further. This was overruled. Later the defendant therein pleaded the final decree in the liability suit as a bar to any decree in the state court against him, as owner. This too was disregarded, and a decree rendered against the owner for the claim for damages caused by the burning of the steamer and the plaintiff's goods. This was affirmed in the Supreme Judicial Court of Massachusetts, and brought here upon writ of error. After a consideration of the meaning and purpose of the limited liability act of 1851 (March 3, 1851, 9 Stat. 635, c. 43), 4283, 4284, and 4285, Revised Statutes, and of Admiralty Rule 54, the Court said:

"We have deemed it proper to examine thus fully the foundation on which the rules adopted in December Term, 1871, were based, because, if those rules are valid and binding (as we deem them to be), it is hardly possible to read them in connection with the act of 1851 without perceiving that, after proceedings have been commenced in the proper district court in pursuance thereof, the prosecution *pari passu* of distinct suits in different courts, or even in the same court by separate claimants against the shipowners is, and must necessarily be, utterly repugnant to such proceedings and subversive of their object and purpose."

Later, the Court added:

"Proceedings under the act having been duly instituted in this Court, it acquired full jurisdiction of the subject

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matter, and having taken such jurisdiction and procured control of the vessel and freight (or their value) constituting the fund to be distributed and issued its monition

to all parties to appear and present their claims, it became the duty of all courts before which any of such claims were prosecuted, upon being properly certified of the proceedings, to suspend further action upon said claims."

" * * * *"

"The operation of the act in this behalf cannot be regarded as confined to cases of actual 'transfer' (which is merely allowed as a sufficient compliance with the law), but must be regarded, when we consider its reason and equity and the whole scope of its provisions, as extending to cases in which what is required and done is tantamount to such transfer, as where the value of the owners' interest is paid into court, or secured by stipulation and placed under its control, for the benefit of the parties interested."

It was urged in that case that, by virtue of 720, Revised Statutes, the district court had no authority to issue an injunction. But as to this, the Court said:

"This view of the statutory injunction and of its effect upon separate actions and proceedings renders it unnecessary to determine the question as to the legality of the writ of injunction issued by the district court. Although we have little doubt of its legality, the question can only be properly raised on an application for an attachment for disobeying it. As the writ was issued prior to the adoption of the Revised Statutes, the power to issue it was not affected by any supposed change of the law introduced into the revision, by the 720th section of which the prohibition of the Act of 1793, in regard to injunctions against proceedings in state courts, has this exception appended to it: 'Except in cases where such injunction may be authorized by any law relating to proceedings in bankruptcy.' Under the rule of *expressio unius,* this express exception may be urged as having the effect of excluding

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any other exception, though it is observable that the injunction clause in the Act of 1851 is preserved without change in 4285 of the Revised Statutes, and will probably be construed as having its original effect due to its chronological relation

to the Act of 1793."

But, after an intimation that 720 did not apply, the Court added:

"But, as before indicated, the legality of the writ of injunction is not involved in this case. In our opinion, the state court, in overruling the plea of the defendants which set up the proceedings pending in the district court and in ordering the cause to stand for trial, and again, on the trial, in overruling as a defense the proceedings and decree of the district court, as set up in the amended answer, disregarded the due effect, as well as the express provisions, of the act of 1851, and therein committed error. It was the duty of the court, as well when the proceedings pending in the district court were pleaded and verified by profert of the record as when the decree of said court was pleaded and proved, to have obeyed the injunction of the Act of Congress, which declared that 'all claims and proceedings shall cease.'"

But it is contended that a salvage claim such as the one here involved is not a claim for "damages or injury by collision" within the meaning of 4283, Revised Statutes, and therefore not one to which the limited liability act applies; that the damages there referred to are damages by collision to other vessels and their cargo, and that the expense of being towed to port is a claim like one for repairs. It is also said that, even if the vessel owners may be able to include what they must pay for such a service in the damages recoverable from the guilty vessel, it is, notwithstanding, not a damage arising from collision within the meaning of that section.

But we need not consider whether the claim is one against the owner of the character described either in

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4283 or the succeeding section, 4284. Those sections have been amended by the eighteenth section of the Act of June 26, 1884, 23 Stat. 57, c. 121, so as to include "any or all debts and liabilities" of the owner, incurred on account of the ship, without his privity or fault. *Richardson v. Harmon,* 222 U. S. 96 .

The service was rendered to the *res,* benefiting alike owner and creditors. The claim is therefore of a highly meritorious character. But the question of preference in payment out of the fund is one to be determined in the limited liability case. We therefore express no opinion as to whether such a claim may be preferred, or must share *pro rata* with others.

The court below erred in proceeding to render a decree after the pendency of the suit for a limitation of liability was pleaded.

Decree reversed.

* Docket title: Metropolitan Redwood Lumber Co., Claimant of the Steamer " *San Pedro,* " Appellant v. Charles P. Doe, Owner of the American Steamer "George W. Elder," *et al.*

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