

## LANDMARK DECISION OF SRI LANKAN COURTS IN RESPECT OF AN ADMIRALTY CASE.

1. Luna Shipping of Cyprus instituted Action in Rem No. 8/2014 on 15<sup>th</sup> September 2014 to obtain an order of the Admiralty Court (Commercial High Court sitting in the Admiralty Jurisdiction) to arrest the Vessel M.T. AGROS owned by Agros Shipping Co. Ltd., in Liberia.
2. The owners of the Vessel Agros Shipping Co. Ltd., furnished security for USD One Million to secure the release of the Vessel and made an application on 12<sup>th</sup> October 2015 to make an order to direct Luna Shipping to furnish security for its Counter Claim on the basis that the arrest of Luna was with the malicious intention. Both parties Written Submissions were and the then Commercial High Court Judge sitting in the Admiralty Jurisdiction, Dr. Ruwan Fernando on 6<sup>th</sup> October 2017 made his order and directed Luna Shipping to provide security for Counter Claim of the owners of the vessel Agros Shipping Company Ltd of Liberia in a sum of USD One Million by depositing that sum by means of a Bank guarantee on or before 20<sup>th</sup> November 2017. The Court further held that if security is not provided within the said period, the Court will make an appropriate order on 20<sup>th</sup> November 2017 for non-compliance with the order for counter security.
3. Luna Shipping filed a Leave to Appeal Application No. 10/2017 in the Court of Appeal. Court of Appeal made its order on 8<sup>th</sup> November 2022 refusing the application of Luna Shipping.
4. Thereafter, Luna Shipping preferred its leave to appeal application to the Supreme Court Number SC/SPL/LA 353/2022. The Supreme Court comprising the Bench of Honourable Justices Yasantha Kodagoda PC, Achala Wengappuli and K. Priyantha Fernando made the order on 19<sup>th</sup> February 2024 dismissing the application of Luna Shipping.
5. In the aforesaid, circumstances, now it is incumbent on Luna Shipping in compliance with the order of the Admiralty Court dated 6<sup>th</sup> October 2017 by Honourable Justice Dr. Ruwan Fernando to deposit a sum of USD One Million as security for counter claim or to tender a Bank Guarantee for the said sum.
6. This is a Landmark decision of the Sri Lankan Court. On the instruction of **M/s. Julius & Creasy**, Mr. Nihal Fernando PC with Mr. Murshid Maharoo, Mr. Dushantha De Silva and Mr. Harshula Seneviratne Attorneys-at-Law appeared for the owners of the Vessel Agros. Mr. Faisz Musthapa PC with Dr. Nirnanjan Abeyratne, Attorney-at-Law on the instructions of KP Law Associates appeared for Luna Shipping.

Julius & Creasy team comprising Mr. S.A. Cader – Senior Partner, Ms. Upeksha Weerasinghe – Partner, Ms. Sumudu Dissanayake, Farha Huzair – Associates fully supported by the Firm’s Shipping Department to achieve this historical decision of the Court.