

Case Comment

CONSENT STAY ORDER AFTER SHIP ARREST

The “Hong Chang Sheng” [2025] SGHCR 31

[2026] SAL Prac 8

The “Hong Chang Sheng” [2025] SGHCR 31 concerns the effect of a consent stay order issued after a ship arrest where the underlying dispute was subject to arbitration. The General Division of the High Court examined the parties’ negotiation history and draft exchanges and concluded that the stay order was a contractual consent order that preserved the owner’s right to pursue wrongful arrest and wrongful detention claims in court. The judgment serves as a timely reminder of the need for precision when drafting stay orders, particularly regarding carve-outs for matters such as wrongful arrest or wrongful detention claims.

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I. Introduction

1 Ship arrests are a common occurrence in Singapore. In many cases, ships are arrested as security for the substantive claims that are subject to an arbitration agreement providing

for disputes to be resolved by way of arbitration in Singapore or elsewhere. Under Singapore law, the arresting party is allowed to retain the security obtained by way of the ship arrest even if the substantive claim is subject to arbitration.¹ What typically happens is that parties will agree to stay the Singapore court proceedings (commenced in order to obtain the arrest against the ship) in favour of arbitration. To that end, it is common for parties to negotiate and agree to the terms of the stay order, which will be filed and eventually be issued as a consent order by the court.

2 Most of these cases concerning a stay of proceedings are uncontroversial; the entire action is stayed in favour of arbitration. In some cases, however, it is less straightforward, for instance, where a party wants to “carve-out” certain aspects relating to the ship arrest (*eg*, moderation of security, setting aside and claim for wrongful arrest) such that they are not stayed in favour of arbitration, but instead remain before the Singapore court. And in such cases, parties may occasionally disagree on, *inter alia*, the scope of the stay.

3 *The “Hong Chang Sheng”*² is an unfortunate case where both parties agreed on the wording of the stay order (which was later recorded as a consent order) but later disagreed on what it meant. This case comment examines the court’s discussion and findings on the nature and scope of the stay order. This is a timely reminder of the importance of parties’ negotiations and the wording of the stay order agreed.

II. Factual background

4 The dispute arose out of a time charterparty (“Time Charter”) for a container vessel, the *Hong Chang Sheng* (“Vessel”). It was supposed to be a relatively long charter, of about 42 to 44 months. However, roughly a year into the Time Charter, certain disputes arose between the owner (“Owner”) and the charterer (“Charterer”), eventually resulting in the Charterer terminating

1 International Arbitration Act 1994 (2020 Rev Ed) ss 6 and 7.

2 [2025] SGHCR 31.

the Time Charter and arresting the Vessel in Singapore in March 2023 (“First Arrest” or “ADM 23”).

5 The parties could not agree on, among other things, the quantum of security the Charterer was entitled to. The Owner felt the Charterer’s security demand was excessive and unjustified. The Charterer was not prepared to reduce its security demand. Accordingly, the Owner took out an application in Singapore relating to security (“Security Application”). Upon hearing both sides, the learned assistant registrar fixed the quantum of security (based on the Charterer’s reasonably best arguable case)³ and ordered the Vessel’s release upon provision of security by or on behalf of the Owner.

6 In deciding the Security Application, the learned assistant registrar noted that part of the Charterer’s claims had not been verified in the affidavit filed in support of the First Arrest. As such, relying on the authority of *The “Jeil Crystal”*,⁴ the learned assistant registrar declined to allow security for (among others) that part of the Charterer’s claims.⁵

7 The Owner provided security on 28 June 2023, and the Vessel was released on 29 June 2023. However, on the same day, the Charterer arrested the Vessel again (“Second Arrest” or “ADM 56”). This time, it was to obtain security in respect of the part of its claims that had not been verified in the affidavit filed in support of the First Arrest.⁶

8 The Owner provided further security on 5 July 2023, and the Vessel was released (again) from arrest the same day. But the Vessel only managed to leave Singapore on 12 July 2023, for reasons the Owner said were attributable to the Charterer. Overall, the Vessel was under arrest and detained in Singapore for around 112 days.

3 Toh Kian Sing, *Admiralty Law and Practice* (LexisNexis, 3rd Ed, 2017) at p 220; *The “Tina I”* [2025] 3 SLR 121 at [24]; *The “Arktis Fighter”* [2001] 2 SLR(R) 157 at [7].

4 [2022] 2 SLR 1385.

5 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [2].

6 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [2].

9 On 10 August 2023, the Charterer filed consented applications to stay the Singapore proceedings in both ADM 23 and ADM 56, in favour of arbitration (“Stay Applications”).⁷ The court issued consent orders in the Stay Applications (“Consent Orders”), based on consent summonses filed by the Charterer following the parties’ negotiations and agreement. The Consent Orders (which were identical in both actions, save for logical amendments) state, among other things:⁸

(a) Paragraph 1: ‘All further proceedings in this action, save as set out in paragraph 3 herein, be stayed in favour of arbitration in Singapore pursuant to Section 6 of the International Arbitration Act 1994.’

(b) Paragraph 3: ‘Notwithstanding paragraph 1 above, the parties shall have liberty to file any application(s) in this action (including any appeal(s)) in relation to or in connection with the arrest of ‘HONG CHANG SHENG’ (the ‘Vessel’) pursuant to HC/WA 7/2023 and/or the security provided for the release of the Vessel.’

10 Thereafter, the Owner applied to court for the wrongful detention and/or continuance of the arrest of the Vessel in relation to the two arrests (“Wrongful Detention Applications”). The Charterer then sought to strike out the Wrongful Detention Applications or stay them in favour of arbitration (“Striking Out Application”). The General Division of the High Court’s decision in *The “Hong Chang Sheng”*⁹ was solely on the Striking Out Application – the court did not make any finding on the Wrongful Detention Applications.

11 However, in deciding the Striking Out Application, the court conducted a thorough examination of the Stay Applications and the Consent Orders. The court noted that the determination of the Striking Out Application must take into account all existing facts and circumstances, and that the Consent Orders formed part of the context.

7 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [3].

8 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [4].

9 [2025] SGHCR 31.

12 The court had to consider various issues in the Striking Out Application, but for present purpose, the first issue is discussed, namely, whether the Consent Orders were contractual or uncontested or “no objection” consent orders.

III. Law on consent orders

13 The law on consent orders is fairly well established in Singapore.¹⁰

14 To briefly recapitulate, consent orders are split into two broad categories, namely, contractual consent orders and uncontested or “no objection” consent orders. The former evidences a contract between parties whereas the latter is granted where a party has failed to object to a consent order.¹¹

15 The effect of the distinction is that the court will generally only interfere with a contractual consent order if there are vitiating factors, but may alter or vary an uncontested consent order in the same circumstances as any order made without parties’ consent.¹²

16 To determine the nature of a consent order, the court will look at whether parties entered into a “real contract”, *ie*, whether there was a *consensus ad idem*.¹³ The court should have regard to, among others, prior negotiations or clear written correspondence between parties or the existence of consideration.¹⁴ The court is to adopt an objective approach to ascertain parties’ intentions to determine “precisely what transpired between the parties”¹⁵ and pay close attention to the parties’ own actions in the context of

10 See, *eg*, *Blomberg, Johan Daniel v Khan Zhi Yan* [2024] 3 SLR 1079; *Turf Club Auto Emporium Pte Ltd v Yeo Boong Hua* [2017] 2 SLR 12; *Wellmix Organics (International) Pte Ltd v Lau Yu Man* [2006] 2 SLR(R) 117; and *Wiltopps (Asia) Ltd v Drew & Napier* [1999] 1 SLR(R) 252.

11 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [13].

12 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [13].

13 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [14].

14 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [14].

15 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [14].

the relevant surrounding circumstances, and to the language and terms of the actual orders made.¹⁶

IV. Application to facts of this case

17 In this case, the parties disagreed on whether there was *consensus ad idem*, with the Charterer mainly relying on parties' negotiations and deletions made in the drafts exchanged to posit there was no meeting of the minds. The Charterer also had an alternative argument that para 3 of the Consent Orders was a "liberty to apply" clause which could not vary or change the effect of para 1 of the Consent Orders. And since para 1 provided for the stay of the proceedings, it meant para 3 could not entitle the Owner to bring the Wrongful Detention Applications in court.¹⁷

18 To fully appreciate the Charterer's arguments and the court's eventual decision, it is important to understand the facts leading up to the Consent Orders in some detail.

A. Chronology of the Stay Applications and Consent Orders

19 Following the First Arrest, the Charterer informed the Singapore court that the Vessel was arrested in support of an arbitration and that a stay application would be filed.¹⁸ The terms of the stay would then become a major point of contention between parties.

20 On 19 June 2023, the Charterer invited the Owner to consent to the wording of a draft stay summons in relation to ADM 23.¹⁹ The summons cited, as grounds of the application, s 6 of the International Arbitration Act 1994 and the fact that the disputes between parties were subject to an arbitration agreement in cl 51 of the Time Charter ("Grounds for the Stay"). The summons sought:

16 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [14].

17 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [15].

18 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [3].

19 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [18].

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- (a) a stay of all proceedings in favour of arbitration (“Stay Prayer”); and
- (b) liberty to apply, including but not limited to, judicial sale of the Vessel *pendente lite*, preservation and/or maintenance, her crew, and her machinery and equipment, and/or determination of priorities and payment out (“Exceptions Prayer”).

21 On 17 July 2023, the Charterer invited the Owner to consent to the wording of a draft stay summons in relation to ADM 56, mirroring the summons in ADM 23, save for the Exceptions Prayer, which was omitted.²⁰

22 On 27 July 2023, the court directed any stay applications in ADM 23 and ADM 56 to be filed by 10 August 2023.²¹

23 On 28 July 2023, the Owner responded to the Charterer, proposing amendments to both draft stay summonses.²² The Owner proposed three main amendments, namely:

- (a) First, the Owner redrafted the Exceptions Prayer entirely and provided for two types of “liberty”. One, the liberty to apply or appeal in relation to or in connection with the arrest of the Vessel and/or security provided for the release of the Vessel. Various applications were listed out, including applications to strike out or set aside the originating claims, to set aside, return or moderate security, or to revise the terms or forms of security. Two, the liberty to bring a claim for damages for wrongful arrest of the Vessel.
- (b) Second, the Stay Prayer was amended to refer to the amended Exceptions Prayer.
- (c) Third, the Grounds for the Stay were amended such that disputes subject to the arbitration agreement in cl 51 were those arising out of or in connection with the Time Charter, and that disputes arising out of or in

20 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [19].

21 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [20].

22 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [20].

connection with the arrest and/or the security provided for release of the Vessel were *not* subject to cl 51.

24 On 7 August 2023, the Charterer responded with further amendments to the draft summonses.²³ For ADM 56:

- (a) The Charterer accepted the amended Stay Prayer.
- (b) The Charterer accepted the first type of “liberty” in the Exceptions Prayer but deleted the listed applications. The second type of “liberty” was deleted entirely.
- (c) The Charterer accepted the amended Grounds for the Stay, save for the express statement that disputes arising out of or in connection with the arrest and/or the security were not subject to cl 51.

25 The draft summons in ADM 23 was to be largely similar to the draft summons in ADM 56, except that the Exceptions Prayer was deleted entirely.²⁴

26 The Charterer argued that the arrest of the Vessel was closely connected with arbitration, and as such, the tribunal had jurisdiction to hear such disputes, referring to statements allegedly made by the Owner’s solicitors at a registrar’s case conference on 27 July 2023 (“27 July 2023 RCC”).²⁵

27 On 9 August 2023, the Owner responded:²⁶

- (a) The Owner disagreed with the Charterer’s latest round of proposed amendments to the draft stay summonses.
- (b) The Owner clarified that at the 27 July 2023 RCC, the Owner’s solicitors had said that, while the Owner did not have instructions to file any application, and did not in principle object to a stay of ADM 23, more time was required to review the terms of the Charterer’s

23 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [21].

24 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [22].

25 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [23].

26 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [24].

stay application. The Owner also made clear that any in-principle agreement to a stay was without prejudice to the Owner's right to bring a "separate claim"²⁷ for wrongful arrest (including wrongful detention and/or wrongful continuance of arrest), and that the Owner did not restrict the claim to only being brought in arbitration (because, logically, if it had done so, there would have been no need to reserve its rights as was done at the 27 July 2023 RCC). The Charterer's solicitors later termed this the "1st Bullet Point".

(c) The Owner further stated that various observations had also been made by the court during the 27 July 2023 RCC concerning, among other things, whether matters relating to ship arrests were within a tribunal's jurisdiction or part of the court's own processes. The court therefore was clearly alive to the context of the Owner's reservation of rights, and the Charterer's solicitors also agreed with the court's observations (and therefore, were also clearly aware of the context and the Owner's intentions).

(d) As such, the Owner invited the Charterer to file stay applications on a *contested* basis.

28 On the same day, the Charterer's solicitors responded.²⁸ They highlighted that the deadline to file the stay applications was near (*ie*, the next day) and proposed, on a subject to instruction basis, revisions to the draft stay summonses in light of the 1st Bullet Point, which aligned the draft stay summons in ADM 23 to that in ADM 56, as proposed by the Charterer on 7 August 2023. No changes were proposed to the draft summons in ADM 56.

29 Crucially, the Charterer's solicitors then invited the Owner to consent to the stay applications on these terms to save time and costs, given that the wording adequately protected

27 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [24(a)].

28 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [25].

both parties' interests²⁹ – a point which the court went on to highlight in its decision. To put a marker, the court considered that this e-mail of 9 August 2023 from the Charterer's solicitors (and the events immediately preceding and after) formed the crux of the case.

30 Finally, on 10 August 2023 (*ie*, the deadline for filing the stay applications), the consent summonses were endorsed by both sides and filed by the Charterer. The Charterer also filed an affidavit stating the stay was sought because parties' disputes arose out of or in connection with Time Charter and were subject to arbitration under cl 51.³⁰

31 On 22 August 2023, the Consent Orders were issued by the court on terms as outlined at para 9 above.³¹

B. Court disagreed with Charterer's argument that there was no consensus ad idem

32 The Charterer argued, among other things, that the Consent Orders were not *contractual* consent orders because there was no *consensus ad idem*. To this end, the Charterer sought to rely on parties' negotiations and deletions made in the drafts exchanged.

33 As the court noted, the crucial period was the e-mail from the Charterer's solicitors on 9 August 2023 and the events immediately before and after that.³² The court noted it was clear from the parties' negotiations that the Owner was ready to walk away from any agreement before that e-mail. The e-mail was essentially the Charterer's last-ditch effort to reach an agreement and it changed the course of events (having led to the Consent Orders).³³

29 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [25].

30 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [26].

31 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [26].

32 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [25] and [27].

33 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [27].

34 According to the court, a close examination of the 9 August 2023 e-mail showed the Charterer’s solicitors had made three key statements:³⁴

(a) First, the Charterer’s proposal was sent on a “subject to instructions” basis.³⁵ The e-mail was sent at 6.08pm (after business hours) on 9 August 2023, a public holiday in Singapore. This was a little over two hours after the Owner had basically walked away from the negotiating table. The e-mail also emphasised that the stay applications must be filed by the next day and the Owner was invited to agree to the draft summonses *to save time and costs*. The court’s view was that these factors clearly indicate the Charterer’s solicitors (and by extension the Charterer) were keen to obtain stays of the substantive proceedings on a consented basis and to avoid having to fight a contested application.

(b) Second, the Charterer’s solicitors took the 1st Bullet Point into account and proposed revisions on that basis. Crucially, the Owner made two key points in the 1st Bullet Point:

(i) First, the Owner did not in principle object to a stay.

(ii) Second, crucially, is that any stay must be on terms allowing the Owner to bring a claim for wrongful arrest in court or in arbitration. If not, the Owner would rather have the application proceed on a contested basis. So, notwithstanding any stay, the Owner must be able to bring an action for wrongful arrest wherever it deemed fit. By their admission, the Charterer’s solicitors (and by extension the Charterer) took this into account. The Charterer well knew the Owner’s position on its right to bring a claim for wrongful arrest in court.

34 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [28]–[31].

35 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [29].

(c) Third, the Charterer’s solicitors said the proposed wording of the draft stay summonses *adequately protected both parties’ interests*. The Charterer’s interest was to not have to fight a contested stay application. The Owner’s interest was to be able to seek relief for wrongful arrest in court notwithstanding the stay. This understanding of parties’ respective interests and the claim that the proposed stay summonses protected those interests are part of the clear and obvious context, available to both parties, of the circumstances surrounding the language and terms used in the stay summonses proposed by the Charterer.

35 At this point in time, the stay summonses for both actions provided:³⁶

(a) first, proceedings to be stayed in favour of arbitration – this eventually became para 1 of the Consent Orders; and

(b) second, parties’ rights to file applications in court in relation to or in connection with arrest were preserved – this eventually became para 3 of the Consent Orders.

36 It is clear that para 1 of the Consent Orders, especially when read with the Grounds for the Stay (which stated that disputes between parties *arising out of or in connection with the Time Charter* were subject to cl 51), was meant to protect the Charterer’s interest in obtaining stay of substantive proceedings without having to do so on a contested basis.³⁷

37 As for para 3 of the Consent Orders, on a plain reading, the reference to any application in relation to or in connection with the arrest of the Vessel would naturally cover an application for damages for wrongful arrest, and by extension, for wrongful continuance of arrest and/or detention.³⁸ This reading is

36 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [32].

37 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [32(a)].

38 *The “Hong Chang Sheng”* [2025] SGHCR 31 at [32(b)].

corroborated by the Grounds for the Stay which limited the disputes subject to arbitration to disputes between parties arising out of or in connection with the Time Charter. This is further corroborated by the Charterer's solicitors' own statement that the wording of the summonses adequately protected both parties' interests (*ie*, including the Owner's interests to seek relief for wrongful arrest in court notwithstanding the stay).³⁹

38 The court noted the evidence therefore points towards parties having reached a *consensus ad idem*, in particular, on whether applications for damages for wrongful arrest could be made in court proceedings or had to be referred to arbitration.⁴⁰

39 In response, the Charterer focused on the following differences between the wording of the Consent Orders (which track the Charterer's wording for the summons in ADM 56 proposed on 7 August 2023) and the wording of the Owner's last proposed draft summonses on 28 July 2023 – in particular, focusing on the changes to the Owner's proposals on the Exceptions Prayer and Grounds for the Stay.⁴¹

(a) Although the Charterer had accepted that the Exceptions Prayer would state that parties could apply or appeal in relation to or in connection with the arrest of the Vessel and/or security, the Charterer had deleted the Owner's proposed express references to various applications and bringing a claim for damages for wrongful arrest.

(b) Although the Charterer had accepted that the Grounds for the Stay would state that disputes between parties arising out of or in connection with the Time Charter (and not those between them generally) were subject to arbitration, the Charterer also deleted the Owner's proposed express statement that disputes arising out of or in connection with the arrest of the

39 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [32(b)].

40 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [33].

41 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [34].

Vessel and/or the security provided for the release of the Vessel were not subject to cl 51.

40 The Charterer argued the deletions showed that the Charterer was insisting that claims to damages for wrongful arrest should be referred to arbitration, and therefore, there was no meeting of the minds on whether the Owner could seek relief for wrongful arrest in court.⁴²

41 The court disagreed with the Charterer.⁴³ Preliminarily, the court noted that particular caution is required when considering deleted words,⁴⁴ and this was such a case. Although the deletions *in isolation* may tend to support the Charterer's argument that claims for damages for wrongful arrest should be referred to arbitration (as of 7 August 2023), the court observed it was not the offer (subject to instructions) made by the Charterer's solicitors on 9 August 2023.⁴⁵

(a) First, as mentioned above at para 34(c), the Charterer's solicitors admitted that they had taken into account the Owner's interests, which were sufficiently protected by the proposed wording in the draft stay summonses circulated by the Charterer on 9 August 2023. To insist that claims for damages for wrongful arrest be referred to arbitration is clearly at odds with the Owner's stated interests.

(b) Second, the 9 August 2023 offer was a last-ditch effort by the Charterer's solicitors to bring the Owner back to the negotiating table. The court observed that it beggars belief that the Charterer's solicitors would attempt to do so by asking the Owner to accept the same terms offered earlier (on 7 August 2023) that the Owner had just walked away from hours earlier.

42 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [35].

43 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [36].

44 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [37], citing Kim Lewison, *The Interpretation of Contracts* (Sweet & Maxwell, 8th Ed, 2023).

45 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [37], in general.

(c) Third, the Owner also agreed to the wording. The court noted it was inconceivable that the Owner, who showed it was willing to go to court to protect its interests, would not have simply objected to orders being made, which would (if the Charterer is to be believed) have had the effect of depriving the Owner of its right to seek relief in court.

42 As such, the court found that the clear and obvious context to the proposal arising out of the parties' negotiations renders it far more likely the Charterer offered, and the Owner accepted, a stay of substantive proceedings in favour of arbitration, which nevertheless preserved the Owner's right to seek relief in court for wrongful arrest. The context thus points to a meeting of minds.⁴⁶

43 The court found that the reason for the changes relied on by the Charterer, which was consistent with the surrounding circumstances, was to delete superfluous elaboration in the stay summonses – the parties' interests were already provided for. The deletions were not evidence that the parties failed to reach a meeting of minds on whether the Owner could seek relief for wrongful arrest in court.⁴⁷

C. Court disagreed with Charterer's argument on "liberty to apply"

44 The Charterer also raised an alternative argument. Put simply, the Charterer argued that para 3 of the Consent Orders was only a "liberty to apply" clause that could not vary or change the effect of para 1 of the Consent Orders, and since para 1 provided for the stay of the proceedings, para 3 could not entitle the Owner to bring the Wrongful Detention Applications in court.

45 The court observed that the surrounding circumstances made the Charterer's interpretation of the Consent Orders unlikely. To limit the Owner's right to seek relief for wrongful

⁴⁶ *The "Hong Chang Sheng"* [2025] SGHCR 31 at [37].

⁴⁷ *The "Hong Chang Sheng"* [2025] SGHCR 31 at [38].

arrest in court is inconsistent with the clear and obvious context in which the Consent Orders were made.⁴⁸

46 Further, the court considered that para 3 does not vary or change the effect of para 1. In the court's view, "[a] finding of wrongful arrest is the means by which the court expresses its opprobrium for an arresting party's use of the draconian remedy of ship arrest with 'so little colour' or 'so little foundation' as to imply malice on its part".⁴⁹ It is the means by which the court controls the use of the arrest procedure found in O 33 r 4 of the Rules of Court 2021. It does not mean the stay of the substantive dispute arising out of or in connection with the Time Charter in favour of arbitration will be affected. This was no different from the other applications the Charterer sought to exclude from the scope of the stay in its own draft wording⁵⁰ (eg, judicial sale of the Vessel *pendente lite*).

47 The court also reiterated the Wrongful Detention Applications were for damages for wrongful detention and/or continuance of the arrest of the Vessel in relation to the two arrests, and that the continuance of the arrest and detention of the Vessel in this case could be wrongful even if the tribunal found in favour of the Charterer on the substantive dispute and the Charterer had valid grounds to arrest the Vessel in the first place.⁵¹

D. Consent Orders were contractual consent orders

48 After a thorough examination of the facts, the court concluded that the Consent Orders were *contractual* consent orders.⁵²

49 Based on the parties' negotiations, and in particular, the Charterer's solicitors' email on 9 August 2023 and the parties'

48 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [39]–[40].

49 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [41]; *The "Xin Chang Shu"* [2016] 1 SLR 1096 at [1]–[4].

50 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [41].

51 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [42].

52 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [43].

actions and words before and after as well as the language and terms of the summonses proposed and agreed by the parties, there was a true meeting of minds between the parties. The parties did not just have a vague notion of what was being proposed. Drafts were exchanged and amendments tracked. The parties' actions and written correspondence show they turned their minds to and understood each other's interests. In the end, after negotiations, the parties reached an agreement which was recorded by an order of court made "by consent". The agreement was for the stay of substantive proceedings, but the parties could still seek relief in court in relation to and in connection with the arrest.⁵³

50 To the extent inconsistent, the Consent Orders superseded cl 51 of the Time Charter and provided that the parties agreed for matters falling within the scope of para 3 to be heard and determined in court. The court held that such matters included relief for wrongful arrest, with the wrongful continuance of an arrest and/or detention being a species of wrongful arrest.⁵⁴

51 Given the Wrongful Detention Applications concern wrongful continuance of the arrest and/or detention of the Vessel, the court found it was not necessary to consider the scope and effect of cl 51 on the Wrongful Detention Applications.⁵⁵

V. Conclusion

52 What this decision makes abundantly clear is that parties must approach the drafting of consent stay orders with precision and care. In cases where a stay is sought in favour of arbitration following a ship arrest, the scope of the stay, especially the carve-outs, will be critical in determining whether certain disputes are to be resolved in court or arbitration. Where parties genuinely diverge on the intended scope of a stay, forcing

53 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [43].

54 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [43]; *The "Evmar"* [1989] 1 SLR(R) 433 at [29].

55 *The "Hong Chang Sheng"* [2025] SGHCR 31 at [43].

agreement may prove counterproductive; it may be preferable to proceed with a contested stay application rather than agree to language that later becomes fertile ground for disagreement or litigation. Where parties do agree to the scope of the stay, the court will uphold that agreement and will not permit parties to renege on the agreed consent order.

53 However, this decision leaves open an important question for future determination, namely, whether the Singapore court's jurisdiction extends to hearing claims for wrongful detention or wrongful continuance of an arrest where the underlying dispute is subject to arbitration. Although the court did not need to reach a conclusion on this point, its observations hint at the possibility that such claims, being closely tied to the court's supervisory control over the arrest jurisdiction, may remain within judicial purview notwithstanding an arbitration clause. That issue, however, ultimately awaits clarification in a suitable case.