

Case No. 1,384a. BIBBINS V. THE CITIZEN ET AL.  
[9 Betts, D. C. MS. 14.]

District Court, S. D. New York.

March 1, 1847.

SEAMEN—WAGES—ASSIGNMENT—SUIT BY ASSIGNOR.

[A seaman cannot maintain a suit for wages where the pleadings show an assignment of such wages for a bona fide consideration, which has been duly assented to by the owners of the vessel, and in pursuance of which certain payments have been made, none of the parties having received notice to disregard such assignment.]

[In admiralty. Libel by John W. Bibbins against the ship Citizen and Mulford and Sleight for wages. Libel dismissed.]

It appearing to the court, upon the pleadings and proofs in this case, that the libellant, before the commencement of this suit, for a bona fide consideration had duly transferred and assigned to E. Mulford & Co., of Sag Harbor, all his right and interest in the adventure and wages belonging and accruing to him on the whaling voyage in the pleadings mentioned, and had also executed to said assignee a full power to sue for and receive the same. And it further appearing to the court that the owners of said ship, and respondents in this case, had due notice in writing of said transfer and assignment and power, and gave their assent thereto, and have, since the completion of said voyage, accounted with the said assignees therefor, and in part paid and satisfied to them the earnings and compensation accruing to the libellant therein. And it not appearing to the court that the libellant has revoked or rescinded the said transfer, assignment, and power, or forbidden the said assignees and attorneys to act therein, or that the claimants have received any notice from him not to regard or observe the same on then part It is considered by THE COURT that the libellant has no competent authority to arrest the said ship or the respondents in his own name, or for his benefit, upon the claims aforesaid, and cannot maintain the present action in his own right against the said ship in rem, nor against the respondents in personam.

Wherefore it is ordered, adjudged, and decreed by THE COURT that the libel in this cause be dismissed, with costs to be taxed, and that the said ship be discharged from arrest thereon, unless the said assignees shall, within ten days after notice of this decree, elect to continue and prosecute the action under

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their aforesaid assignment and power. And it is further ordered, in case such election be made by the assignees, that within the said ten days aforesaid they give stipulation in this cause, according to the course and practice of the court.