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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM ARBITRATION APPLICATION (L) NO. 53 OF 2019**

Giraffe Developers Private Limited & Ors	...Applicants
<i>Versus</i>	
L & T Finance Limited & Ors	...Respondents

Mr Ashish Kamat, *with Mr Prakash Shinde & Ms Swati Deshpande, i/b MDP & Partners, for the Applicants.*

Dr Birendra Saraf, *with Ms Shruti Maniar and Ms Saumya Brajmohan, i/b M/s Solomon & Company, for Respondents Nos. 1 and 5.*

Mr Roop M Vasudeo, *for Respondent No.2.*

Mr Anukul B Seth, *i/b Pooja V Thorat, for Respondent No.3.*

Ms Madhura Deshmukh, *for Respondent No.4.*

CORAM: G.S. PATEL, J
DATED: 1st March 2019

PC:-

1. It is agreed that all disputes and differences not only in this Commercial Arbitration Application (which is under Section 11 of the Arbitration and Conciliation Act 1996), and notwithstanding the contents of the arbitration invocation of 28th January 2019 at Exhibit “L” pages 465 to 468 of the present Application, but also in Commercial Suit No. 1160 of 2018 be referred to the arbitration of a sole arbitrator. The reference will be to all disputes and differences

arising from the transactions in question, including the documents listed in the Debenture Trust cum Subscription Agreement (“DTSA”) dated 30th April 2015; the Amendment and Restatement agreement dated 24th September 2015; the Joint Venture Agreement dated 8th December 2011; the undertaking dated 24th September 2015; the security documents as defined in the DTSA and Schedule 6 to the DTSA; as also in all incidental and ancillary documents executed pursuant to this DTSA; as also regarding the validity of the Assignment Agreement dated 28th September 2018 between L&T Finance Limited and Phoenix ARC Private Limited be referred to the composite arbitration of a learned sole Arbitrator.

2. The disputes referred extend to all disputes and differences between the parties to these documents. Mr Kamat for the Applicants tenders 17 Affidavits filed by various persons said to be named in or connected with one or more of the documents referred to above. One of the parties, Jiriki Global Limited, is a foreign entity. Mr Kamat confirms that he has received e-mail instructions that Jiriki Global Limited is agreeable to this order. A copy of that e-mail is taken on record and marked “X1” for identification with today’s date.

3. Parties are agreed that they will obtain the necessary orders in this view of the matter from the appropriate Bench to which Commercial Suit No. 1160 of 2018 (under Section 8 of the Arbitration Act) is presently assigned.

4. Parties are also agreed that the reference be made to the sole Arbitration of Mr Justice SJ Vazifdar (former Chief Justice of Punjab and Haryana High Court).

5. All interim applications made in the High Court (whether by means of Motions or a substantive Petition under Section 9 of the Arbitration Act) are also agreed to be made as interim applications before the learned sole Arbitrator. All existing orders passed will continue pending confirmation by the learned sole Arbitrator.

6. Consequently, Commercial Arbitration Petition (L) No. 89 of 2019 under Section 9 of the Arbitration Act will be treated as an Interim Application before the learned Sole Arbitrator. It is also disposed of in these terms.

7. Specific orders are required in respect of two of the entities in this Section 11 Application namely 2nd Respondent, Atul Projects India Limited represented by Mr Vasudeo, and Cello Finance Corporation represented by Ms Thorat. Both entities have filed Affidavits in the Section 8 Commercial Suit (L) No. 841 of 2018 indicating their willingness to proceed to Arbitration. For completeness I will require these two entities to file a short Affidavit in the present Arbitration Application not only confirming their consent to the Arbitration but also annexing a copy of the respective Affidavits filed in the suit. Copies of these Affidavits have been shown to me.

8. The Arbitration Application is disposed of in these terms. NO costs.

(G. S. PATEL, J)